

**TEXT AMENDMENTS TO COUNCIL BILL 12-152**

**TITLE 14. USE STANDARDS**

**(1<sup>st</sup> Reader Copy)**

Proposed by: Various

{To be offered to the Land Use and Transportation Committee}

**Amendment No. 1 (T-487) {Banquet Halls}**

On page 214, after line 13{sic}, insert:

“(A) FINDINGS REQUIRED FOR APPROVAL.

APPROVAL OF A BANQUET HALL MUST INCLUDE THE FOLLOWING MINIMUM FINDINGS:

(1) THE PROPOSED BANQUET HALL HAS A CAPACITY OF 300 OR MORE;

(2) THE BANQUET HALL HAS ADEQUATE OFF-STREET PARKING TO ACCOMMODATE AT LEAST 150 VEHICLES, EITHER ONSITE OR UNDER CONTRACT OR WRITTEN AGREEMENT WITH AN OFF-STREET PARKING FACILITY OWNER WHOSE LOT OR GARAGE IS WITHIN 1,000 FEET OF THE BANQUET HALL;

(B) ?????.

AFTER TWO UNRULY SOCIAL EVENTS WITHIN 6 MONTHS, AS VERIFIED BY THE LOCAL POLICE COMMANDER, THE ZONING ADMINISTRATOR SHALL TERMINATE THE BANQUET HALL’S USE AND OCCUPANCY PERMIT, WITH A STAY OF RENTAL OPERATIONS IN EFFECT THROUGH ANY APPEAL OF THAT ACTION.

(C) ?????.

THE PROPOSED BANQUET HALL OWNER AGREES TO PROVIDE DIRECT SUPERVISION OF ALL EVENTS HELD AT THE FACILITY AND TO ENGAGE PROFESSIONAL SECURITY FOR ALL EVENTS AT THE FACILITY;

(D) ?????.

CONTRACTS FOR EVENTS WILL INCLUDE CHARGES FOR THE OWNER'S ADEQUATE OVERTIME STAFFING INCLUDING SUPERVISORY STAFF AND ADEQUATE CONTRACTUAL SECURITY:

(E) ?????.

THE OWNER PROVIDES WRITTEN EVIDENCE THAT THE LOCAL POLICE DISTRICT COMMANDER HAS APPROVED THIS USE AND THESE CONDITIONS AND HAS RECEIVED THE BANQUET HALL OWNER'S PLEDGE OF ADVANCE NOTICE OF EVERY EVENT SCHEDULED.

**{DLR QUERIES: The preceding is an unedited transcription of T-487. AMONG ITS MANY FLAWS, THIS AMENDMENT CONTAINS AT LEAST 3 SERIOUS SUBSTANTIVE DEFECTS – ANY 1 OR ANOTHER OF WHICH COULD WELL PRECLUDE THE LAW DEPARTMENT FROM APPROVING THIS AMENDMENT FOR FORM AND, ESPECIALLY, “LEGAL SUFFICIENCY”:**

**FIRST, IT BEGINS WITH A NEW SUBSECTION (A), TO BE PLACED AFTER A LENGTHY PARAGRAPH THAT CURRENTLY COMPRISES § 14-302, WITHOUT (I) ANY INSTRUCTIONS TO IDENTIFY THAT CURRENT PARAGRAPH'S STATUS IN THE EXPANDED SECTION, OR (II) ANY HINTS AS TO HOW THAT PARAGRAPH COMPORTS WITH ¶ (1)(I) OF A PROPOSED REVISED DEFINITION, BY THE SAME PROPONENT, OF “BANQUET HALL”. SEE AMENDMENT #5 TO TITLE 1, AND QUERIES TO THAT AMENDMENT.**

**SECOND, IN SUBSECTION (B) IT PROVIDES FOR TERMINATION OF THE USE AFTER 2 “UNRULY SOCIAL EVENTS” WITHIN 6 MONTHS, WITHOUT PROVIDING ANY STANDARD OR EVEN A HINT AS TO WHAT AN “UNRULY SOCIAL EVENT” IS. AS SUCH, THE ENTIRE SUBSECTION IS A CLASSIC CANDIDATE TO BE DECLARED VOID FOR VAGUENESS, A FORBIDDEN DELEGATION OF LEGISLATIVE AUTHORITY TO AN EXECUTIVE AGENCY. AND, EVEN IF THIS TERM IS INTENDED AS, OR EXPRESSLY STATED TO BE, A REFERENCE TO THE SAME TERM USED AND DEFINED IN ART. 19, SUBTITLE 43B, THE PHRASE “AS VERIFIED BY THE LOCAL POLICE COMMANDER” RAISES ITS OWN PROBLEMS. WHAT IS TO BE “VERIFIED”? AND WHAT ABOUT THE ENFORCEMENT PROCEDURES SPELLED OUT IN SUBTITLE 43B: DO THEY NOT APPLY?**

**THIRD, IN SUBSECTIONS (B) AND (E), THIS AMENDMENT PURPORTS TO ASSIGN MINISTERIAL ADMINISTRATIVE DUTIES TO OFFICIALS OF THE BALTIMORE POLICE DEPARTMENT (SUCH AS OBTAINING “THE OWNER'S PLEDGE OF ADVANCE NOTOTICE, IN VIOLATION OF STATE LAW DESIGNED TO PREVENT SUCH INTERFERENCE.**

**Beyond these debilitating problems, the new section is little more a disorganized hodgepodge of misplaced –**

**“minimum findings” (subsection (a) and its minimum 300-[person?] capacity and minimum of 150 space off-street parking requirements), which are *not* “findings” at all, but operating standards. [NOTA BENE: As to the off-street parking requirements, those belong somewhere in Title 16 and Table 16-406,**

not this Title 14. And, in any event, why should this one use alone be subject to different off-street parking standards than so many other like uses], other required so-called “findings” (or, maybe, “operating standards” or, maybe, “qualifications”), inconsistently worded, with varied substantive meanings [“the proposed ... owner *agrees* to provide” (subsection (c)); “the contracts for events *will include*” (subsection (d)); and “the owner *provides* written evidence” (subsection (e))], one-off grounds for termination of a use (subsection (b)), with (as previously mentioned) key words (“unruly social events”) left undefined, vagues referents with no apparent antecedent (“the police ... commander has approved ... *these conditions*”), and arbitrary directives, as in subsection (d), governing what “charges” must be borne by customers.

**DLR RECOMMENDATION: DEFER THIS AMENDMENT UNTIL COHERENT REVISIONS OF § 1-303(C) AND THIS § 14-302 CAN BE SUBMITTED AND CONSIDERED BY THE COUNCIL.**

#### **Amendment No. 2 (T-490) {Easements for Energy Systems}**

On page 215, in line 30, after “THE CITY”, strike beginning with “WILL NOT” through “PLAN” and substitute “DOES NOT ENFORCE THESE EASEMENTS, AGREEMENTS, OR MANAGEMENT PLANS”.

#### **Amendment No. 3 (T-491, T-627) {Community-Managed Open Spaces}**

On page 216, in line 4, strike “OPEN SPACES” and substitute “OPEN-SPACE GARDENS AND FARMS”; and, on the same page, strike line 5 through 15, in their entirety; and, in line 16 and in line 20, strike “(B)” and “(C)”, respectively, and substitute “(A) OPEN-SPACE GARDENS AND FARMS –” and “(B) OPEN-SPACE GARDENS AND FARMS –”, respectively; and, in line 17, strike “OPEN SPACE” and substitute “OPEN-SPACE GARDEN OR FARM”; and, in line 20, strike “PERMANENT STRUCTURES” and substitute “STRUCTURES”; and, in line 24, after “GAZEBOS”, insert a comma; and, in line 25 and in line 32, strike “(D)” and “(E)”, respectively, and substitute “(C) OPEN-SPACE FARMS –” and “(D) OPEN-SPACE FARMS –”, respectively; and, in line 26, strike “FARMSTANDS” and substitute “ON A COMMUNITY-MANAGED OPEN-SPACE FARM, TEMPORARY FARMSTANDS”; and, in line 28, strike “FARMSTANDS” and substitute “THESE FARMSTANDS”; and, in line 33, after “ON-SITE”, insert “OF A COMMUNITY-MANAGED OPEN-SPACE FARM”; and, on page 217, after line 6, insert:

“(E) OPEN-SPACE FARMS - LIVESTOCK AND ANIMALS.”

THE KEEPING OF LIVESTOCK AND ANIMALS MUST ADHERE TO ALL APPLICABLE REGULATIONS OF THE BALTIMORE CITY HEALTH DEPARTMENT AND THE MARYLAND DEPARTMENT OF AGRICULTURE.”

**{DLR NOTE: The proposed amendment has been revised here to (i) delete the unnecessary (and, given inconsistencies, potentially dangerous) repetition of the uses already listed in the definitions of these open spaces (as amended by Amendment #10 to Title 1), and (ii) correct some other serious inconsistencies between this section and those definitions.}**

**Amendment No. 4 (T-492) {Drive-Thru Facilities}**

On page 218, in line 7 and in in line 8, in each instance, strike “PERMITTED” and substitute “ELIGIBLE FOR”.

**Amendment No. 5 (T-493 and T-494(part)) {Fraternity, Sorority Houses - Location}**

On page 219, at the beginning of line 21, insert the paragraph number “(1)”; and, in lines 21 and 22, strike “EDUCATIONAL FACILITY” and substitute “EDUCATIONAL CAMPUS DISTRICT IN WHICH IS LOCATED THE COLLEGE OR UNIVERSITY WITH WHICH THE FRATERNITY’S OR SORORITY’S LOCAL CHAPTER IS AFFILIATED”; and, after line 22, insert:

“(2) (I) NO FRATERNITY OR SORORITY HOUSE IS PERMITTED IN ANY RESIDENTIAL DISTRICT, UNLESS THE HOUSE:

(A) WAS ESTABLISHED PRIOR TO ENACTMENT OF THE BALTIMORE CITY ZONING CODE OF 1971 AND HAS MAINTAINED UNINTERRUPTED USE AND OCCUPANCY SINCE THEN; OR

(B) SINCE THAT 1971 ENACTMENT, HAS OBTAINED A USE PERMIT AS A FRATERNITY OR SORORITY HOUSE.

(II) WITHIN 2 YEARS OF THE EFFECTIVE DATE OF THIS CODE. ALL FRATERNITY OR SORORITY HOUSES MUST EITHER SECURE A USE PERMIT OR TERMINATE THE FRATERNITY OR SORORITY USE.”.

**Amendment No. 6 (T-494(part)) {Fraternity, Sorority Houses - Presumption}**

On page 219, after line 25, insert:

“(C) PRESUMPTION OF STRUCTURE STATUS.

FOR PURPOSES OF ZONING ENFORCEMENT, A STRUCTURE THAT HOUSES COLLEGE AND UNIVERSITY UNDERGRADUATES MAY BE PRESUMED TO BE A FRATERNITY OR SORORITY HOUSE IF:

(1) THE HOUSE IS AFFILIATED WITH A LOCAL CHAPTER OF A FRATERNAL OR SORORAL ORGANIZATION; AND

(2) THAT AFFILIATION IS ACKNOWLEDGED BY THE COLLEGE OR UNIVERSITY.”.

**Amendment No. 7 (T-782) {Gas Stations - Pumps}**

On page 219, after line 26, insert:

“(A) PUMP LIMITS.

A GAS STATION THAT ABUTS A RESIDENTIAL DISTRICT MAY NOT HAVE MORE THAN 8 PUMPS.”;

and, beginning on page 219, in line 27, through page 220, in line 21, reletter subsections “(A)” through “(G)”, respectively, to be subsections “(B)” through “(H)”, respectively.

**Amendment No. 8 (T-495 and T-497) {Gas Stations - As Accessory to Service & Repair Est’t}**

On page 220, strike lines 9 through 13, in their entirety; and, on the same page, in line 14 and line 21, reletter the two remaining subsections as appropriate to follow on from this and any other amendments to § 14-314; and, on page 226, strike lines 7 through 10, in their entirety.

**Amendment No. 9 (T-786) {Junk ... Yards}**

On page 221, after line 2, insert:

“(1) A JUNK OR SCRAP STORAGE AND YARD MUST COMPLY WITH ALL FEDERAL, STATE, AND LOCAL ENVIRONMENTAL LAWS, RULES, AND REGULATIONS, INCLUDING THOSE INVOLVING THE MANAGEMENT OF STORMWATER RUN-OFF AND THE DEVELOPMENT AND MAINTENANCE OF A POLLUTION PREVENTION PLAN.”;

and, in line 3 and in line 5, strike “(1)” and “(2)”, respectively, and substitute “(2)” and “(3)”, respectively.

**Amendment No. 10 (DLR; but cf. T-783, T-785, and T-792) {Industrial Landfills}**

On page 222, in line 3, strike “(1)”; and, in line 4, strike “(I)” and substitute “(1)”; and, strike lines 5 through 11, in their entirety, and substitute:

“(2) COMPLY WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL ENVIRONMENTAL, HEALTH, AND OTHER LAWS, RULES, AND REGULATIONS; AND”;

(3) OBTAIN A STATE REUSE DISPOSAL PERMIT AND ALL OTHER APPLICABLE STATE AND LOCAL PERMITS.”.

**{DLR NOTE: This amendment revises § 14-318(a) to conform with like provisions governing “materials recovery facilities” (Amendment #11), “recyclable materials recovery facilities” (Amendment #18), and “resource recovery facilities” (Amendment #19).}**

**Amendment No. 11 (T-783) {Materials Recovery Facilities}**

On page 225, strike lines 2 through 8, in their entirety, and substitute:

“(A) COMPLIANCE WITH STATE AND LOCAL LAWS.

A MATERIALS RECOVERY FACILITY MUST:

(1) COMPLY WITH ALL APPLICABLE STATE AND LOCAL LAWS, RULES, AND REGULATIONS; AND

(2) OBTAIN ALL APPLICABLE STATE AND LOCAL PERMITS.”.

**Amendment No. 12 (T-790) {Multi-Family Dwellings – Accessory Non-Res’l Uses – Districts in which Allowed}**

On page 226, in lines 13 and 14, strike “AND R-10 DISTRICT” and substitute “R-10 AND OR-2 DISTRICTS”.

**{DLR NOTE: The initial proposal also suggested adding the I-MU District to this section. The proponent has since advised that this suggestion was in error.}**

**{REMINDER NOTE TO PLANNING: Prepare amendments to delete Table references to these standards as applicable to an I-MU district.}**

**Amendment No. 13 (T-781) {Multi-Family Dwellings – Accessory Non-Res’l Uses – Aggregate Area}**

On page 226, strike lines 22 through 24, in their entirety, and substitute:

“THE AGGREGATE OF ALL THESE USES MAY NOT EXCEED THE FOLLOWING:

(1) IN THE R-8 AND R-9 DISTRICTS, 5% OF THE GROSS FLOOR AREA OF THE BUILDING;  
AND

(2) IN THE R-10 AND OR-2 DISTRICTS, THE GREATER OF:

(I) 10% OF THE GROSS FLOOR AREA OF THE BUILDING; OR

(II) IF ALL THESE USES ARE LOCATED EXCLUSIVELY ON THE GROUND FLOOR OF THE BUILDING, THE FLOOR AREA OF THE ENTIRE GROUND FLOOR.”.

**Amendment No. 14 (T-949) {Multi-Family Dwellings – Accessory Non-Res’l Uses – Wall Signs}**

On page 227, in line 4, strike “DISTRICT” and substitute “AND OR-2 DISTRICTS”.

**Amendment No. 15 (T-498) {Neighborhood Commercial Establishments}**

On page 227, after line 12, insert:

“(A) IN GENERAL.

NEIGHBORHOOD COMMERCIAL ESTABLISHMENT USES ARE LIMITED TO THE REUSE OF EXISTING BUILDINGS THAT WERE ORIGINALLY CONSTRUCTED AND USED FOR NON-RESIDENTIAL USES IN WHAT ARE NOW RESIDENTIAL OR OFFICE- RESIDENTIAL ZONING DISTRICTS. BECAUSE THESE USES ARE FOR EXISTING BUILDINGS, THEY ARE NOT SUBJECT TO THE MINIMUM LOT AREA REQUIRED FOR NON-RESIDENTIAL USES IN RESIDENTIAL OR OFFICE-RESIDENTIAL ZONING DISTRICTS.”;

and, beginning on page 227, in line 13, through page 228, in line 5, reletter subsections “(A)” through “(G)”, respectively, to be subsections “(B)” through “(H)”, respectively.

**DLR NOTES: Several inconsistencies between the language proposed for this amendment and language use in the counterpart definition of “neighborhood commercial establishment” required correction.**

**Amendment No. 16 (T-329) {Outdoor Dining - Type of Use}**

On page 228, in line 9, after “CONSIDERED”, strike beginning with “A SEPARATE” through “ACCESSORY” and substitute “AN ACCESSORY USE”.

**Amendment No. 17 (T-505) {Parking Lots – Size of Attendant Shelters}**

On page 229, in line 33, strike “50” and substitute “200”.

**Amendment No. 18 (T-785) {Recyclable Materials Recovery Facilities}**

On page 230, after line 4, insert:

**“§ 14-333. RECYCLABLE MATERIALS RECOVERY FACILITIES.**

**(A) COMPLIANCE WITH STATE AND LOCAL LAWS.**

**A RECYCLABLE MATERIALS RECOVERY FACILITY MUST:**

**(1) COMPLY WITH ALL APPLICABLE STATE AND LOCAL LAWS, RULES, AND REGULATIONS; AND**

**(2) OBTAIN ALL APPLICABLE STATE AND LOCAL PERMITS.**

**(B) OPERATIONS TO BE ENCLOSED.**

**(1) ALL LOADING AND UNLOADING MUST BE PERFORMED EITHER WITHIN AN ENCLOSED BUILDING OR WITHIN A SCREENED AREA.**

**(2) ALL OTHER OPERATIONS MUST BE ENCLOSED WITHIN AN ENCLOSED BUILDING.”;**

and, beginning on page 230, in line 5, through page 234, in line 1, renumber “§ 14-333” through “§ 14-339”, respectively, to be subsections “§ 14-334” through “§ 14-340”, respectively.

**Amendment No. 19 (T-792) {Resource Recovery Facilities}**

On page 230, in line 26, strike “(1)”; and, in the same line, after “MUST”, insert a colon; and strike beginning with “HAVE” in line 26 through “LOCATION” in line 27 and substitute:

**“(1) COMPLY WITH ALL APPLICABLE STATE AND LOCAL LAWS, RULES, AND REGULATIONS, INCLUDING STATE RESTRICTIONS ON LOCATION; AND**

**(2) OBTAIN ALL APPLICABLE STATE AND LOCAL PERMITS”;**



and strike lines 28 through 30, in their entireties.

**Amendment No. 21 (T-507 and T-793) {Telecommunications - Definitions}**

On page 234, in line 1, strike “**WIRELESS TELECOMMUNICATIONS ANTENNA, FACILITY, AND TOWER**” and substitute “**TELECOMMUNICATIONS FACILITIES**”; and, on the same page, strike lines 2 through 5, in their entireties, and substitute:

“(A) DEFINITIONS.

(1) IN GENERAL.

IN THIS SECTION, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(2) BASE STATION.

(I) IN GENERAL.

“BASE STATION” MEANS THE TRANSMISSION EQUIPMENT AND NON-TOWER SUPPORTING STRUCTURE AT A FIXED LOCATION THAT ENABLES WIRELESS COMMUNICATIONS SERVICES BETWEEN USER EQUIPMENT AND A COMMUNICATIONS NETWORK.

(II) EXCLUSIONS.

“BASE STATION” DOES NOT INCLUDE A SATELLITE DISH ANTENNA, AS DEFINED IN § 1-313(D) {“SATELLITE DISH ANTENNA”} OF THIS CODE.

(3) COLLOCATE.

“COLLOCATE” MEANS TO MOUNT OR INSTALL TRANSMISSION EQUIPMENT ON TELECOMMUNICATION FACILITIES FOR THE PURPOSE OF TRANSMITTING OR RECEIVING RADIO FREQUENCY SIGNALS FOR COMMUNICATIONS PURPOSES.

(4) DISTRIBUTED ANTENNA SYSTEM; DAS.

“DISTRIBUTED ANTENNA SYSTEM” OR “DAS” MEANS A NETWORK OF MULTIPLE, SPATIALLY SEPARATE ANTENNA NODES CONNECTED, FOR THE PURPOSE OF PROVIDING WIRELESS COMMUNICATION SERVICES WITHIN A GEOGRAPHIC AREA.

(5) ELIGIBLE FACILITIES REQUEST.

“ELIGIBLE FACILITIES REQUEST” MEANS ANY REQUEST FOR MODIFICATION OF AN EXISTING TOWER OR BASE STATION THAT:

(I) INVOLVES:

(A) THE COLLOCATION OF NEW TRANSMISSION EQUIPMENT;

(B) THE REMOVAL OF TRANSMISSION EQUIPMENT; OR

(C) THE REPLACEMENT OF TRANSMISSION EQUIPMENT; AND

(II) DOES NOT:

(A) SUBSTANTIALLY CHANGE PHYSICAL DIMENSIONS; OR

(B) INCLUDE THE REPLACEMENT OF A TOWER.

(6) NODE.

“NODE” MEANS A COMPONENT OF A DAS OR SMALL CELL INSTALLATION THAT:

(I) INCLUDES ONE OR MORE RADIO FREQUENCY TRANSMITTERS OR ANTENNAE;  
AND

(II) IS CONNECTED BY A HIGH CAPACITY TRANSPORT MEDIUM (SUCH AS A FIBER OPTIC CABLE) TO A COMMON SOURCE WITH OTHER NODES.

(7) SMALL CELL INSTALLATION.

“SMALL CELL INSTALLATION” MEANS A WIRELESS COMMUNICATION TECHNOLOGY INSTALLATION SIMILAR TO A DAS, BUT NORMALLY INCLUDING A SINGLE NODE.

(8) SUBSTANTIALLY CHANGE ... PHYSICAL DIMENSIONS.

“SUBSTANTIALLY CHANGE ... PHYSICAL DIMENSIONS”, WHEN USED WITH REFERENCE TO A TOWER OR BASE STATION, MEANS:

(I) FOR A TOWER:

(A) AN INCREASE IN THE TOWER’S HEIGHT BY MORE THAN 10% OR BY THE HEIGHT OF ONE ADDITIONAL ANTENNA ARRAY WITH

SEPARATION FROM THE NEAREST EXISTING ANTENNA NOT TO EXCEED 20 FEET, WHICHEVER IS GREATER; OR

(B) THE CREATION OF AN APPURTENANCE THAT PROTRUDES FROM THE EDGE OF THE TOWER MORE THAN 20 FEET OR MORE THAN THE WIDTH OF THE TOWER STRUCTURE AT THE LEVEL OF THE APPURTENANCE, WHICHEVER IS GREATER;

(II) FOR A BASE STATION:

(A) AN INCREASE IN THE BASE STATION'S HEIGHT BY MORE THAN 10% OR 10 FEET, WHICHEVER IS GREATER; OR

(B) THE CREATION OF AN APPURTENANCE THAT PROTRUDES FROM THE EDGE OF THE BASE STATION BY MORE THAN 6 FEET;

(III) AN INSTALLATION OF MORE THAN THE STANDARD NUMBER OF NEW EQUIPMENT CABINETS FOR THE TECHNOLOGY INVOLVED OR, IN ANY EVENT, MORE THAN 4 CABINETS;

(IV) A MODIFICATION THAT ENTAILS AN EXCAVATION OR DEPLOYMENT OUTSIDE THE CURRENT SITE OF THE TOWER OR BASE STATION;

(V) A MODIFICATION THAT WOULD DEFEAT THE EXISTING CONCEALMENT ELEMENTS OF THE TOWER OR BASE STATION; AND

(VI) A MODIFICATION THAT DOES NOT COMPLY WITH CONDITIONS ASSOCIATED WITH THE PRIOR APPROVAL OF CONSTRUCTION OR MODIFICATION OF THE TOWER OR BASE STATION, UNLESS THE NON-COMPLIANCE IS DUE TO AN INCREASE IN HEIGHT, INCREASE IN WIDTH, ADDITIONAL CABINET INSTALLATION, OR NEW EXCAVATION THAT DOES NOT EXCEED THE CORRESPONDING "SUBSTANTIAL CHANGE" THRESHOLDS IDENTIFIED ABOVE.

(9) TELECOMMUNICATIONS FACILITY.

"TELECOMMUNICATIONS FACILITY" MEANS ANY STRUCTURE THAT FALLS WITHIN THE DEFINITION OF "BASE STATION" OR "TOWER".

(10) TOWER.

(I) IN GENERAL.

“TOWER” MEANS ANY STRUCTURE BUILT FOR THE SOLE OR PRIMARY PURPOSE OF SUPPORTING A BASE STATION.

(II) EXCLUSIONS.

“TOWER” DOES NOT INCLUDE A SATELLITE DISH ANTENNA, AS DEFINED IN § 1-313(D) {“SATELLITE DISH ANTENNA”} OF THIS CODE.

(11) TRANSMISSION EQUIPMENT.

(I) IN GENERAL.

“TRANSMISSION EQUIPMENT” MEANS ANY EQUIPMENT THAT FACILITATES TRANSMISSION FOR A WIRELESS COMMUNICATION SERVICES.

(II) INCLUSIONS.

“TRANSMISSION EQUIPMENT” INCLUDES RADIO TRANSCEIVERS, ANTENNAS, AND OTHER RELEVANT EQUIPMENT ASSOCIATED WITH AND NECESSARY TO THEIR OPERATION, INCLUDING COAXIAL OR FIBER-OPTIC CABLE, AND REGULAR AND BACKUP POWER SUPPLY.

(III) EXCLUSIONS.

“TRANSMISSION EQUIPMENT” DOES NOT INCLUDE A SATELLITE DISH ANTENNA, AS DEFINED IN § 1-313(D) {“SATELLITE DISH ANTENNA”} OF THIS CODE.

(12) WIRELESS COMMUNICATIONS SERVICE.

(I) IN GENERAL.

“WIRELESS COMMUNICATIONS SERVICE” MEANS A RADIOCOMMUNICATION SERVICE LICENSED PURSUANT TO FEDERAL COMMUNICATIONS COMMISSION REQUIREMENTS FOR FREQUENCY BANDS IN THE 2305-2320 AND 2345-2360 MHZ SPECTRUM RANGE.

(II) ILLUSTRATIONS.

THE MOST COMMON USE OF THIS SPECTRUM IS MOBILE VOICE AND DATA SERVICES, INCLUDING CELL PHONE, TEXT MESSAGING, AND INTERNET.”.

**Amendment No. 22 (T-507 and T-793) {Telecommunications - Purpose; Application}**

On page 234, strike line 6, in its entirety, and substitute:

“(B) EXCLUSIONS FROM SECTION.

THIS SECTION DOES NOT APPLY TO TOWERS OR BASE STATIONS LOCATED IN A PUBLIC RIGHT-OF-WAY.

(C) PURPOSE OF STANDARDS.”;

and, in lines 7 and 8, strike beginning with “WIRELESS” through “TOWERS” and substitute “TELECOMMUNICATIONS FACILITIES”; and, in line 10, after “WIRELESS”, strike “TELECOMMUNICATIONS” and substitute “COMMUNICATIONS”; and, in line 13, strike “TOWERS AND OTHER STRUCTURES” and substitute “TELECOMMUNICATIONS FACILITIES”; and, in lines 13 and 14, strike beginning with “THE CO-” through “ANTENNA” and substitute “WIRELESS COMMUNICATION SERVICES”; and, in line 14, after the semi-colon, insert “AND”; and strike beginning with the semi-colon in line 17 through “DISTRICTS” in line 21; and, strike line 22, in its entirety, and substitute:

“(D) APPROVAL AND APPLICATION REQUIREMENTS.

(1) USE APPROVALS.

A TELECOMMUNICATIONS FACILITY IS, IN ALL DISTRICTS, A CONDITIONAL USE REQUIRING APPROVAL BY THE BOARD OF MUNICIPAL AND ZONING APPEALS, EXCEPT WHERE, AS PROVIDED IN SUBSECTION (K) {“STEALTH DESIGN”} OR SUBSECTION (N) {“MODIFICATIONS”} OF THIS SECTION, IT IS A PERMITTED USE SUBJECT TO SITE PLAN REVIEW.

(2) APPLICATION REQUIREMENTS.”;

and, in line 23, after “CONDITIONAL-USE APPLICATIONS”, insert “, SITE PLAN REVIEW SUBMISSIONS, ELIGIBLE FACILITIES REQUESTS, OR OTHER DOCUMENTATION”; and, in lines 24 and 25, strike beginning with “WIRELESS” through “TOWER” and substitute “TELECOMMUNICATIONS FACILITY”; and, in line 26, strike “(1) A” and substitute “(I) A”; and, in lines 27, 29, 30, 31, and 32, strike subitem designators “(i)” through “(v)”, respectively, and substitute “A.” through “E.”, respectively; and, in line 27, after “SCREENING”, insert a comma; in line 32, strike “IF” and substitute “IF”; and, in the same line, strike “WIRELESS TELECOMMUNICATIONS”; and, in line 34, strike “(2)” and substitute “(II)”; and, on page 235, in lines 1, 4, 7, 9, 13, and 18, strike item designators “(3)” through “(8)”, respectively, and substitute “(III)” through “(VIII)”, respectively; and, on page 235, in lines 1 and 2, and in lines 7 and 8, in each instance, strike beginning with “WIRELESS” through “TOWER” and substitute

“TELECOMMUNICATIONS FACILITY”; and, in line 9, strike “TELECOMMUNICATIONS”; and, in lines 9 and 10, strike “CO-LOCATION OPPORTUNITIES” and substitute “EXISTING TELECOMMUNICATIONS FACILITIES”; and, in line 11, strike “CO-LOCATION” and substitute “LOCATING ON THOSE EXISTING FACILITIES”; and, in line 18, strike “SUPPORT STRUCTURE” and substitute “TELECOMMUNICATIONS FACILITY”; and, in line 20 and in line 22, in each instance, strike “STRUCTURE” and substitute “TELECOMMUNICATIONS FACILITY”.

**Amendment No. 23 (T-507 and T-793) {Telecommunications - Standards}**

On page 235, in line 23, strike “(D)” and substitute “(E)”; and, at the start of line 24, insert the paragraph designator “(1)”; and, in the same line, strike beginning with “ALL” through “AND” and substitute “TELECOMMUNICATIONS”; and, after line 26, insert:

“(2) DAS AND SMALL CELL INSTALLATION SITES ARE NOT SUBJECT TO SETBACK REQUIREMENTS.”;

and, in line 27, strike “(E)” and substitute “(F)”; and, in line 28, strike “WIRELESS TELECOMMUNICATIONS”; and, in line 29, after “SATISFACTORILY”, insert “WITH TELECOMMUNICATIONS FACILITIES FOR AT LEAST 2 WIRELESS COMMUNICATIONS SERVICE PROVIDERS”; and, in line 31, strike “(F)” and substitute “(G)”; and, in line 32, strike beginning with “WIRELESS” through “AND” and substitute “TELECOMMUNICATIONS”; and, in line 33, after “COMMISSION”, insert a coma and strike “OR”; and, in line 34, after “ADMINISTRATION”, insert “, OR FOR THE SPECIFIC PURPOSE OF SECURITY, MAINTENANCE OR REPAIR”; and, in line 35, strike “(G)” and substitute “(H)”; and, in line 36, strike beginning with “ALL” through “AND” and substitute “TELECOMMUNICATIONS”; and, on page 235, strike lines 38 through 42, in their entireties; and, on page 236, strike lines 1 and 2, in their entireties; and, on page 236, strike line 4, in its entirety; and, in lines 5, 8,9, and 12, strike paragraph designators “(2)” through “(5)”, respectively, and substitute “(1)” through “(4)”, respectively; and, in line 5, strike beginning with “ANY” through “SHELTER” and substitute “A BASE STATION”; and, in the same line, after “FOR”, insert “THE DIRECT”; and, in line 6, strike “WIRELESS TELECOMMUNICATION FACILITY TOWER” and substitute “TELECOMMUNICATIONS FACILITY”; and, in the same line, after “EQUIPMENT”, insert “AND SUPPLIES”; and, in line 9, strike “WIRELESS”; and, strike line 14, in its entirety; and, in lines 15, 17, and 22, strike paragraph designators “(2)” through “(4)”, respectively, and substitute “(1)” through “(3)”, respectively; and, in line 15, strike “WIRELESS TELECOMMUNICATIONS”; and, in line 17, strike “TELECOMMUNICATIONS” and substitute “WIRELESS COMMUNICATIONS SERVICE”; and, in the same line, strike “CO-LOCATE” and substitute “COLLOCATE”; and, in line 18, strike “WIRELESS TELECOMMUNICATIONS TOWERS” and substitute “TOWERS”; and, in line 19, strike “TELECOMMUNICATIONS” and substitute “WIRELESS COMMUNICATIONS SERVICE”; and, in lines 20 and 21, strike beginning with “ACCOMPANYING” through “PROVIDERS” and substitute “THE BASE STATIONS OF AT LEAST 2 WIRELESS COMMUNICATIONS SERVICE PROVIDERS”; and, in line 25, strike “FOR ANTENNAS”; and, in line 26, strike “DESIGN” and substitute “DESIGNS”; and, in the same line, after “FOR”, strike “WIRELESS ANTENNAS IS”

and substitute “BASE STATIONS ARE”; and in lines 26 and 27, strike “IS CONSIDERED A PERMITTED USE” and substitute “ARE PERMITTED USES”; and, in line 27, before “DISTRICTS”, insert “COMMERCIAL, INDUSTRIAL, AND SPECIAL PURPOSE”; and, in line 27 and in line 28, in each instance, strike “DESIGN REVIEW” and substitute “SITE PLAN REVIEW”; and, in line 30, strike “, WIRELESS TELECOMMUNICATIONS ANTENNA”; and, in line 31, before “MUST”, insert “THE BASE STATION”; and, in line 33, before “MUST”, insert “ITS ANTENNA”; and, in the same line, after the comma, insert “EXCEPT FOR SMALL CELL INSTALLATIONS, WHICH MUST BE MOUNTED AT LEAST 25 FEET ABOVE GRADE OR A MINIMUM OF 15 FEET BY CONDITIONAL USE.”; and, in line 35, before “MUST”, insert “THE BASE STATION”; and, on page 237, in line 1, before “MAY NOT”, insert “THE BASE STATION”; and, on page 237, in line 3, strike “ANTENNAS THAT CO-LOCATE” and substitute “BASE STATIONS THAT COLLOCATE”; and, in the same line, before “TOWERS”, strike “WIRELESS TELECOMMUNICATIONS”; and, in line 4, strike “ALSO”.

**Amendment No. 24 (T-507 and T-793) {Telecommunications - Abandonment, etc.}**

On page 237, in line 6, strike “WIRELESS”; and, in the same line, strike “TOWER OR”; and, in line 8, strike “TOWER OR” and substitute “TELECOMMUNICATIONS”; and, in line 11 and line 13, in each instance, strike “ANTENNA OR” and substitute “TELECOMMUNICATIONS”; and strike line 14, in its entirety; and, in line 15, strike “(3)” and substitute “(2)”; and, in the same line, strike “CO-LOCATION OF AN ANTENNA” and substitute “COLLOCATION OF A BASE STATION”; and, in line 16, after “CONDITIONAL USE”, insert “REQUIRING APPROVAL BY THE BOARD OF MUNICIPAL AND ZONING APPEALS”; and, in lines 16 and 17, strike “THE ANTENNA AND ANY ADDITIONAL WIRELESS TELECOMMUNICATIONS FACILITIES DO NOT” and substitute “THE BASE STATION DOES NOT”; and, after line 17, insert:

“(N) MODIFICATIONS.

(1) MODIFICATIONS OF AN EXISTING TOWER OR BASE STATION THAT DOES NOT SUBSTANTIALLY CHANGE THE PHYSICAL DIMENSIONS OF THE TOWER OR BASE STATION ARE PERMITTED IF SUPPORTED BY AN ELIGIBLE FACILITIES REQUEST.

(2) AN APPLICANT SUBMITTING AN ELIGIBLE FACILITIES REQUEST MUST SHOW THAT THE MODIFICATION DOES NOT SUBSTANTIALLY CHANGE THE PHYSICAL DIMENSIONS OF THE TOWER OR BASE STATION.

(3) WITHIN 60 DAYS OF FILING AN ELIGIBLE FACILITIES REQUEST, THE REQUEST MUST BE REVIEWED AND APPROVED IF THE MODIFICATION QUALIFIES UNDER THIS SUBSECTION.

(4) APPROVAL OF AN ELIGIBLE FACILITIES REQUEST:

(1) IS SUBJECT TO A SITE PLAN REVIEW; AND

(II) MAY BE SUBJECT TO CONDITIONS IMPOSED BY THE ZONING ADMINISTRATOR, AS LONG AS THOSE CONDITIONS DO NOT CONFLICT WITH THE PROVISIONS OF THIS SECTION.

(O) CERTIFICATIONS.

WHEN THE INSTALLATION OF A TELECOMMUNICATIONS FACILITY IS COMPLETED, AND EVERY 5<sup>TH</sup> YEAR THEREAFTER, A PROFESSIONAL ENGINEER MUST CERTIFY THAT THE FACILITY MEETS ALL APPLICABLE BUILDING CODE AND SAFETY REQUIREMENTS.”.

**Amendment No. 25 (T-794) {Temporary Use Standards - Permits}**

On page 237, in line 29, after “SUBTITLE”, insert “, EXCEPT THOSE WITH ALCOHOLIC BEVERAGE SALES.”; and, in line 30, strike “BOARD OF MUNICIPAL AND ZONING APPEALS” and substitute “ZONING ADMINISTRATOR”.

**Amendment No. 26 (T-518) {Temporary Use Standards - Yard Sales, etc.}**

On page 241, in line 11, after “NO TEMPORARY USE PERMIT IS REQUIRED”, insert “FOR A 2-DAY-ONLY SALE”.

**{DLR QUERY: Since 3 days is the maximum anyway, what’s the rationale for exempting a 2-day event, but not a 3-day event? Even more puzzling is why the proposed exemption applies to a “2-day-only sale” but *not*, as the amendment clearly implies, to a 1-day event???** **DLR RECOMMENDATION: DEFER THIS AMENDMENT UNTIL A LOGICAL AND COHERENT FORMULA CAN BE SUBMITTED AND CONSIDERED BY THE COUNCIL.**

**Amendment No. 27 (T-787) {Arts&Crafts, etc., Shows}**

On page 241, in line 16, strike “ARTS AND CRAFTS SHOWS; PLANT SHOWS” and substitute “SHOWS AND SALES”; and, after line 16, insert:

“(A) “SHOWS AND SALES” DEFINED.

IN THIS SECTION, “SHOWS AND SALES” MEANS ANY OF THE FOLLOWING EVENTS, WHETHER INDOORS OR OUTDOORS:

(1) ARTS AND CRAFTS SHOWS AND SALES;

(2) FLEA MARKETS;



(3) HOLIDAY SHOWS AND SALES; AND

(4) PLANT SHOWS AND SALES.”;

and, in line 17, line 20, and line 24, strike “(A)”, “(B)”, and “(C)”, respectively, and substitute “(B)”, “(C)”, and “(D)”, respectively; and, in line 18, strike “ARTS AND CRAFTS SHOWS AND PLANT SHOWS (INDOOR OR OUTDOOR)” and substitute, “SHOWS AND SALES, AS DESCRIBED IN SUBSECTION (A) OF THIS SECTION,”; and, in line 21, strike “ARTS AND CRAFTS SHOWS AND PLANT SHOWS” and substitute “THESE SHOWS AND SALES”; and, line 25, before “IN”, insert the paragraph designator “(1)”; and, in line 26 and line 27, strike “(1)” and “(2)”, respectively, and substitute “(I)” and “(II)”, respectively; and, in line 26, after “SHOWS”, insert “AND SALES”; and, in line 27, after “SHOWS”, insert “OR SALES”; and, after line 28, insert:

“(2) IN ALL OTHER DISTRICTS:

(I) THESE SHOWS AND SALES ARE LIMITED TO A PERIOD OF NOT MORE THAN 3 CONSECUTIVE DAYS; AND

(II) NO MORE THAN 4 SHOWS OR SALES ARE PERMITTED AT THE SAME LOCATION IN ANY 12-MONTH PERIOD.”.

**{DLR NOTE: In new subsection (d)(2), T-787 proposed an exception to the durational limits for “all other districts” – that is, these limits would apply “unless approved for additional time by the [BMZA]”. Unfortunately, the amendment fails to indicate (i) by what *process* under this Code such approval would be sought, heard, and decided, and (ii) more important, what *standards* would/should govern the granting *vel non* of such an exception and, if granted, the amount of “additional time” to be allowed and the terms and conditions of that allowance. The absence of these elements – especially the lack of any standards by which an administrative body is to be given unfettered reign to abrogate legislatively set limits – would constitute an invalid delegation of legislative powers. AS SUCH, IT IS QUESTIONABLE WHETHER THE LAW DEPARTMENT WOULD BE ABLE TO APPROVE THIS AMENDMENT FOR FORM AND, ESPECIALLY, “LEGAL SUFFICIENCY”. ACCORDINGLY, AFTER CONSULTATION WITH THE LAW DEPARTMENT, THE EXCEPTION IS OMITTED FROM THIS AMENDMENT, PENDING DEVELOPMENT AND INCLUSION OF GOVERNING PROCEDURES AND STANDARDS.}**

**Amendment No. 28 (T-519) {Temporary Storage Containers (or “PODS”) – Permit Requirement}**

On page 244, strike lines 4 and 5, in their entirety; and, in line 6 and in line 12, strike “(D)” and “(E)”, respectively, and substitute “(C)” and “(D)”, respectively.

## OMITTED PROPOSALS

**{T-784 (“MUST NOT”):** T-784 proposes to amend § 14-324(c) (page 225, line 14) to change “may not” to “must not”. “Must not” and “may not” are both defined to *mean* the same thing. See § 1-207(b). So there’s no good reason for going out one’s way to strike “may not” in favor of “must not” – or, even worse, as initially proposed, in favor of the illogical and long-eschewed by properly trained drafters, “shall not”. For various (including euphonious) reasons, “may not” is uniformly preferred over the others by both the State’s Department of Legislative Services and the City’s DLR. Run a word search of this Bill and you’ll find that “may not” is used exclusively (over 150 times) to state a prohibition, while neither “must not” nor (shudder!) “shall not” appears even once. This is not the time nor the place to change horses. ON DISCUSSION WITH DLR, THE PROPONENT HAS WITHDRAWN THIS AMENDMENT.}

**{T-791 (OUTDOOR DINING - CLEARANCE “EXCLUSIVE OF TREE WELLS”):** T-791 makes no sense, on at least two grounds. First, a “tree well” is generally understood to refer to an area of loose snow around the trunk of a tree that is otherwise in an area enveloped by deep snow. As such, the loose snow presents a hidden danger to “skiers, snowboarders, hikers,” and (presumably) even urban pedestrians who, relying on the deep snow, might easily fall into the unseen, loose-snow covered depression surrounding the tree trunk. Second, to “exclu[de]” tree wells from the required “clearance” is to say, albeit awkwardly, that these are *permitted* within the otherwise to-be cleared area. Indeed, even without snow, isn’t the *tree* itself, including especially any depressions at its base, an obstruction to the requisite “5-foot sidewalk clearance” and, as such, something that should be cleared away? All in all, it appears that neither the “tree well” nor “exclusive of” are being properly used here to describe whatever is intended. ON DISCUSSION WITH DLR, THE PROPONENT HAS WITHDRAWN THIS AMENDMENT.}