

HISTORIC PRESERVATION REVIEW BOARD AND OFFICE OF PLANNING

NOTICE OF PROPOSED RULEMAKING

The Historic Preservation Review Board and D.C. Office of Planning, pursuant to the authority set forth in section 10 of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979, (D.C. Law 2-144; D.C. Official Code § 6-1109), Mayor’s Order 79-50, dated March 21, 1979, section 6 of Mayor's Order 83-119, dated May 6, 1983, section III(B)(8) of Reorganization Plan No. 1 of 1983, effective March 31, 1983, and section 402(b) of the Fiscal Year 2001 Budget Support Act of 2000, effective October 19, 2000 (D.C. Law 12-172; 47 DCR 6308), hereby gives notice of its intent to amend Chapter 2 (Designation of Historic Landmarks and Districts), Chapter 20 (Design and Construction Standards and Guidelines), Chapter 32 (General Administrative Provisions) and Chapter 99 (Definitions) of DCMR Title 10A (Historic Preservation). The purpose of the revisions is to refine and augment procedures for the consideration of historic landmarks and historic districts, and to make related clarifications and editorial changes.

Final rulemaking action shall be taken in not less than ninety (90) days from the date of publication of this notice in the D.C. Register.

The following rulemaking action is proposed:

Title 10A DCMR, Historic Preservation, is amended as follows:

- A. Chapter 2, “Designation of Historic Landmarks and Districts” is amended to delete the text marked by strikeout and to add the text underlined (The notation * * * indicates an omission of unchanged sections for brevity. Renumbered subsections are indicated by brackets containing the former subsection number):

CHAPTER 2: DESIGNATION OF HISTORIC LANDMARKS AND DISTRICTS

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200 GENERAL PROVISIONS

- 200.1 The Board shall maintain the D.C. Inventory of Historic Sites, and shall designate historic landmarks and historic districts for inclusion in the Inventory as provided in this chapter.
- 200.2 The Board and State Historic Preservation Officer shall consider nominations to the National Register of Historic Places as provided in National Register regulations (36 CFR Part 60) and this chapter.
- 200.3 The Board and SHPO shall consider proposed National Historic Landmark designations as provided in NHL regulations (36 CFR Part 65) and this chapter. ~~The Review Board and SHPO shall comment on Federal agency nominations to the National Register, and on National Historic Landmark designations made by the Secretary of the Interior (see additional procedures in Chapters 13 and 14).~~
- 200.4 [Formerly 200.2] The Board shall conduct its local designation functions under the Historic Protection Act in coordination with its State Review Board responsibilities and the SHPO's responsibilities for nominations to the National Register.
- (a) The Act protects historic landmarks and historic districts differently during the designation and National Register nomination process.
- (b) The Act protects a proposed historic landmark temporarily when an once a designation application is officially filed, and permanently upon designation, ~~but the regardless of any National Register nomination.~~
- (c) The Act does not protect properties within a proposed historic district until after the Board designates the district and the SHPO nominates or issues a written determination to nominate the district to the National Register of Historic Places.
- 200.5 [Formerly 200.4] The following terms specifically applicable to this chapter are defined in Chapter 99:
- (a) D.C. Inventory of Historic Sites;
- (b) National Register of Historic Places;
- (c) Historic landmark;
- (d) Historic district; and

- (e) National Historic Landmark.

* * *

204 APPLICATION FOR DESIGNATION

- 204.1 ~~A proposed designation for historic landmark or historic district status of a property as a historic landmark or historic district shall be initiated by the submission of an application to the Board in the format prescribed by the staff in accordance with this section.~~
- 204.2 ~~The application shall contain a signed official application form and two complete sets of the following minimum information, preferably submitted with an electronic copy.~~
- ~~(a) The name, address, and telephone number of the applicant;~~
 - ~~(b) The name and street address of the property proposed for designation, or the name and location if there is no street address;~~
 - ~~(c) If a historic landmark application, the name and address of the property owner;~~
 - ~~(d) The official square and lot or parcel number(s) of the property, or if a historic district application, a list of the squares within the proposed boundaries, indicating specific lots, parcels or public reservations where necessary;~~
 - ~~(e) A statement of the prehistoric, historic, architectural and/or cultural significance of the property;~~
 - ~~(f) A narrative statement of the history and historical development of the property and its relevant historic context;~~
 - ~~(g) If a historic landmark application, a description of the present appearance of the property, and where possible its original appearance if different;~~
 - ~~(h) If a historic district application, a description of the general character of the district and the types of buildings it contains, indicating the degree to which characteristic features have been maintained;~~
 - ~~(i) If a historic district application, a statement of the district's period of significance (including a separate period of significance for archaeological sites, if appropriate), a list of buildings and structures considered contributing to the significance of the district, and a list of those considered non-contributing;~~

- ~~(j) If an application is proposed for archaeological significance, a description of the existing condition of the property, indicating what is known about the type and condition of the archaeological deposits;~~
- ~~(k) A list of bibliographic and other sources used to prepare the application, indicating the repository of any sources not readily available;~~
- ~~(l) A clear and accurate map showing the exact boundaries of the property proposed for designation, and if a historic district application, a narrative description of the proposed boundaries of the district; and~~
- ~~(m) Contemporary, good quality black and white photographs of the property (preferably 8 by 10 inches in size), sufficient to provide a clear and accurate visual representation of the property and its setting, and if a historic district application, showing buildings, streetscapes, and other views representative of the district.~~

204.2 An application to designate a historic landmark shall include:

- (a) A completed D.C. Inventory application form signed by the applicant, identifying the proposed historic landmark, its location and boundaries, and the specific criteria in §§ 201 and 202 proposed as the basis for listing in the D.C. Inventory and National Register;
- (b) A statement of the prehistoric, historic, architectural and/or cultural significance of the property;
- (c) A description of the history and historical development of the property and its relevant historic context;
- (d) A description of the present physical characteristics and appearance of the property, indicating any known changes from the original appearance;
- (e) A list of bibliographic and other sources used to prepare the application, indicating the repository of any sources not readily available;
- (f) A clear and accurate map showing the boundaries of the property proposed for designation;
- (g) Two sets of contemporary, good quality photographs sufficient to provide a clear and accurate visual representation of the property and its setting, and consistent with the technical standards established by the staff and National Register for digital and film formats; and
- (h) Any other filing information required by the staff.

204.3 An application to designate the interior of a building or structure as a historic landmark shall include, in addition to the information required in § 204.2:

- (a) A listing of the specific interior rooms, spaces, features, and finishes proposed for designation;
- (b) A detailed description of the physical characteristics and appearance of the interior elements proposed for designation;
- (c) A floor plan or diagram of the building or structure with graphic and written notations clearly indicating the extent of the proposed interior designation;
- (d) A statement explaining why the interior elements proposed for designation are essential to an understanding of the historic, architectural and/or cultural significance of the property, or otherwise merit the special recognition conferred by an interior designation; and
- (e) A statement of the degree to which the interior or interior feature proposed for designation is customarily open or accessible to the public, or has historically been open or accessible to the public.

204.4 An application to designate a historic district shall include:

- (a) A completed D.C. Inventory application form signed by the applicant, identifying the proposed historic district, its location and boundaries, and the specific criteria in §§ 201 and 202 proposed as the basis for designation and listing in the National Register;
- (b) A statement of the prehistoric, historic, architectural and/or cultural significance of the district;
- (c) A description of the history and historical development of the district and its relevant historic context;
- (d) A description of the general character of the district and the types of buildings and other significant features it contains, indicating the degree to which characteristic features have been maintained;
- (e) A description of what is known about the location, type, and condition of any archaeological resources in the district;
- (f) An identification of the district's period of significance (including a separate period of significance for archaeological sites, if appropriate);
- (g) A list of buildings and other properties considered contributing to the significance of the district, and a list of those considered non-contributing;

- (h) A list of bibliographic and other sources used to prepare the application, indicating the repository of any sources not readily available;
- (i) A clear and accurate map showing the boundaries of the district;
- (j) Two sets of contemporary, good quality photographs showing buildings, streetscapes, and other views representative of the district, and consistent with the technical standards established by the staff and National Register for digital and film formats; and
- (k) Any other filing information required by the staff.

204.5 An application to designate a property for archaeological significance shall include, in addition to the information required in § 204.2 or § 204.4:

- (a) A description of the existing physical characteristics and condition of the site, indicating what is known about the type and condition of any identified archaeological resources;
- (b) A description of the significance of the identified archaeological resources and their potential to contribute to an understanding of human history or prehistory;
- (c) A description of the potential for and anticipated condition of any other archaeological resources on the site.

204.6 Archaeological resources may be proposed for designation as historic landmarks, historic districts, or multiple property listings.

204.7 If the State Historic Preservation Officer determines in accordance with National Register regulations (36 CFR 60.6(x)) and applicable policies that the disclosure of specific information about the location or nature of an archaeological site proposed for designation would create a risk of destruction or harm to the property, the staff may restrict disclosure of that information to the property owner, the Mayor's Agent, and the Board, and may redact that information from any documentation of the site made available to the public.

204.8 *[Formerly § 204.3]* ~~The~~ Each designation application shall contain sufficient information to consider nomination of the property to the National Register as well as the D.C. Inventory, and the application shall be considered a draft National Register nomination even if not submitted on a National Register nomination form.

204.9 *[Formerly § 204.4]* ~~A fully completed National Register nomination form shall constitute an acceptable application provided that it includes the minimum information required for filing and is accompanied by any other application form required by the~~

staff. The preferred method of application is to attach a completed National Register nomination form to the D.C. Inventory application form.

204.10 An application shall be considered a draft National Register nomination even if not submitted on a National Register nomination form.

204.11 The applicant shall also submit an electronic copy of the application and its supporting materials in the format specified by the staff, unless the staff waives this requirement in writing for good cause.

* * *

208 OFFICIAL FILING OF AN APPLICATION

208.1 Within ten (10) days of receipt of an application, the staff shall determine whether it is complete. If the application is complete, and the applicant has paid the applicable filing fee, the staff shall assign a case number, date stamp, and ~~officially~~ file the application.

208.2 When the staff has completed the ~~official~~ filing, the application is considered a pending application, and if the property is a proposed historic landmark, it is protected by the Act.

208.3 The staff may correct errors on an application form at any time during the filing process or before the designation hearing, and shall make a notation of any corrections on the form.

208.4 Whenever the staff believes upon receipt of a designation application that guidance from the Board is needed, it may file the application conditionally within ten (10) days of receipt and refer it to the Board for a status review at the next available Board meeting.

208.5 A conditionally filed application is considered pending with the Board, but the staff shall not deposit the filing fee until receiving direction from the Board.

208.6 Not less than fifteen (15) days before a Board status review, the staff shall give written notice of the review to the applicant, property owner, and mailing list maintained pursuant to § 3202.

208.7 After considering public comments at a status review, the Board may direct the staff to take any action on a conditionally filed application the Board deems appropriate. If the Board directs the staff to remove the conditional status of the filing, with or without revisions to the application, the staff shall deposit the filing fee and the filing will no longer be considered conditional.

209 NOTICE AND SCHEDULING OF A FILED APPLICATION

- 209.1 Immediately after an application is officially filed pursuant to § 208, the staff shall provide written notification by interoffice or electronic mail to the ~~Permit Processing Division of DCRA~~ Division responsible for processing applications for building permits.
- 209.2 Within ten (10) days of an official filing, the staff shall mail notice of the filed application to the applicant, the property owner, the Councilmember for the ward where the property is located, the affected Advisory Neighborhood Commission, and the ANC single-member district commissioner(s) for the area within which where the property is located, using the address maintained by the Office of Advisory Neighborhood Commissions.
- 209.3 If the application is for to designate a historic landmark, the staff shall include a copy of the application with the notice to the owner, unless the owner is the applicant.
- 209.4 If the application is for to designate a historic district, the staff shall mail notice to each property owner unless there are more than 50-fifty (50) owners, in which case the staff may place notice of the filed application in the *D.C. Register* and on the HPO website instead of giving notice to each owner.
- 209.5 The staff shall obtain the list of owners and their addresses from current District of Columbia land records or tax records, and the list of ANC members and their addresses from the Office of Advisory Neighborhood Commissions.
- 209.6 If an ANC or ANC member has requested electronic delivery of notices, the staff may send their respective notices by email.
- 209.7 Within fifteen (15) days after a filing, the staff shall post a copy of the application on the HPO website.
- 209.8 [Formerly § 209.3] Within sixty (60) forty-five (45) days of after a an official filing, the staff shall mail notice of the filed application to the public mailing list described in Chapter 32 maintained pursuant to § 3202.
- 209.9 [Formerly § 209.4] Within ninety (90) days of after a an official filing, the staff Board shall schedule a hearing on the application, by placing a scheduling or hearing notice in the *D.C. Register*.
- 209.10 The staff shall maintain the hearing schedule of all pending designation applications on the HPO website and shall furnish a copy of the most current schedule upon request.
- 209.11 The Board may amend the hearing schedule as necessary, and the staff shall post any revisions as they occur.
- 209.12 The Board may schedule or reschedule hearings to accommodate sufficient time for staff consultation with affected property owners, or for other reasons.

- 209.13 If the owner of a proposed historic landmark submits a written request for a hearing within ninety (90) days, the Board shall schedule or reschedule and conduct the hearing accordingly.
- 209.14 *[Formerly § 209.5]* ~~If a historic landmark application is filed when a permit application subject to review under the Act is pending at DCRA, the ninety (90) day period for the Board's determination on the historic landmark designation shall be counted from the date the historic landmark application is filed. If the filing of a historic landmark application causes a pending permit, subdivision, or other application to become subject to Board review under the Act, the Board's receipt of the official agency transmittal of the pending application starts the ninety (90) day period established in the Act (D.C. Official Code § 6-1102(6)(b)) for the Board's determination on the historic landmark application.~~
- ~~209.6~~ Within five (5) days of receipt of a notice of a filed historic landmark application, the owner of the property shall notify the staff if there is a permit application for the property pending at DCRA.

* * *

211 PUBLIC OUTREACH BEFORE A DESIGNATION HEARING

- 211.1 The applicant for a proposed designation is expected to engage in public outreach before the designation hearing, as provided in this section. The staff may assist with and participate in this effort.
- 211.2 An applicant who owns the property proposed for historic landmark designation is encouraged to seek support from the affected Advisory Neighborhood Commission.
- 211.3 An applicant who does not own the property proposed for historic landmark designation is encouraged to address any objections from the property owner and to seek support for the designation from the property owner and the affected Advisory Neighborhood Commission.
- 211.4 When the applicant for a historic landmark designation is not the property owner, the staff may consult with the applicant, property owner, and any other party in order to seek consensus on the application. Consensus is encouraged before the Board gives public notice of the designation hearing.
- 211.5 The Board shall not give public notice of the designation hearing on a proposed historic district, or on an expansion of an existing historic district by more than fifty (50) properties, until the staff has prepared and released draft guidelines for the proposed or expanded district.

(a) The staff shall post the draft guidelines on the HPO website and shall make them available to the applicant, affected ANC, and public.

(b) The format of the draft guidelines shall be as described in § 2005.

211.6 After the filing of its application, the applicant for historic district designation shall conduct public outreach within the proposed district, to include:

(a) Distributing information about the application or proposed application to each property in the proposed district by mail or hand delivery;

(b) Holding a duly noticed public meeting or meetings about the proposed historic district, either on its own or in cooperation with the affected Advisory Neighborhood Commission or a neighborhood organization;

(c) Posting a copy of the application on its website, if any, and at neighborhood libraries, ANC offices, and other public places in the community; and

(d) Publicizing the proposed district through notices or articles in community newspapers, posters, neighborhood information sessions, internet forums, or other media.

211.7 The Board shall not give public notice of the designation hearing on a proposed historic district until the applicant documents its public outreach efforts undertaken pursuant to § 211.6 by submitting a record to the staff, to include:

(a) A copy of each flyer or document distributed to the public;

(b) A description of the method of delivery, record of the dates of delivery, and signed statement attesting to the distribution of the informational materials; and

(c) A record of all public meetings held, including the date, time, place, and approximate number of attendees at each meeting, a copy of any sign-in sheets, a copy of any materials distributed, and a copy of any minutes or other recordation of the meeting; and

(d) Any other relevant material documenting its public outreach effort.

211.8 The applicant for designation of a historic district is encouraged to continue public outreach efforts after the Board gives public notice of the designation hearing. Before the hearing date, the applicant shall submit supplemental documentation to the staff of any additional public outreach conducted.

211.9 The applicant for designation of a historic district shall place the results of its outreach to property owners and the public into the record for the Board's consideration at the designation hearing.

211.10 The applicant for expansion of a historic district by more than fifty (50) properties shall conduct and document public outreach in the proposed area of expansion that is equivalent to that required for a new district, and the applicant for expansion of a historic district by fifty (50) or fewer properties shall conduct and document public outreach that is commensurate with the nature and extent of the proposed expansion.

~~211~~ ~~NOTICE OF HISTORIC LANDMARK DESIGNATION HEARING~~

212 NOTICE OF A DESIGNATION HEARING

212.1 [*Formerly § 211.1*] At least forty-five (45) but not more than seventy-five (75) days before a designation hearing, the Board shall send notice via first class mail to the owner of the property, the applicant for designation, the Councilmember for the ward where the property is located, and the affected Advisory Neighborhood Commission, and the ANC single-member district commissioner for the area within which the property is located.

(a) For a proposed historic district designation, the Board shall mail notice to the owner of each property in the proposed district.

(b) The Board shall obtain the list of owners and their addresses from current District of Columbia land records or tax records, and the list of ANC members and their addresses from the Office of Advisory Neighborhood Commissions.

(c) If an ANC or ANC member has requested electronic delivery of notices, the Board may send their respective notices by email.

212.2 [*Formerly § 211.2*] At least thirty (30) but not more than seventy-five (75) days before a designation hearing, the Board shall publish notice in the *D.C. Register*, the staff shall post the notice on the HPO website, and the staff shall distribute it to the public mailing list maintained pursuant to § 3202.

~~211.3~~ ~~The notice shall state the date, time, place, and nature of the hearing, the name of the applicant, and an accurate description of the property proposed for designation.~~

212.3 [*Formerly § 211.4*] The notice shall ~~also indicate~~ state the Board's intent to consider the nomination of the property to the D.C. Inventory and the National Register, ~~and shall solicit the submission of written comments on the property's significance before the hearing date.~~

212.4 The format and content of the notice shall be as approved by the National Register.

212.5 The notice shall inform property owners of the opportunity to speak at the designation hearing, submit written comments before the hearing date, and concur in or object to listing in the D.C. Inventory and the National Register.

212 — NOTICE OF HISTORIC DISTRICT DESIGNATION HEARING

~~212.1 — For a proposed designation of a historic district where there are 50 or fewer property owners, the Board shall provide the same notice as for a historic landmark designation hearing. The Board shall obtain the list of owners from current District of Columbia land records or tax records.~~

~~212.2 — For a proposed designation of a historic district where there are more than 50 property owners, the Board shall provide the same notice as for a historic landmark designation hearing, except that instead of notice to each property owner, the Board may require the applicant to publish notice in a local newspaper of general circulation in the area of the proposed designation. The applicant shall publish this notice at least thirty (30) but not more than seventy five (75) days before the designation hearing.~~

~~212.3 — If the Board has required the applicant to publish newspaper notice of a proposed historic district designation hearing, the applicant shall also post notice in the proposed historic district at least fifteen (15) days in advance of the hearing, as follows:~~

~~(a) — A notice shall be posted in a conspicuous location on each side of each block of the proposed historic district. Each notice shall be in plain view of the public.~~

~~(b) — Notices shall be posted on placards supplied by the Board, and shall show the number of the application, the nature of the application, the name of the applicant, the name of the proposed historic district, the affected ANC, and the location, time, and date of the public hearing.~~

~~212.4 — Not less than five (5) days before the public hearing, the applicant shall file with the Board a sworn affidavit demonstrating compliance with this posting requirement. A form of affidavit supplied by the Board may be used but is not required.~~

~~212.5 — The applicant shall attach to the affidavit a photograph of each sign after posting and as viewed by the public, identifying the location of each sign and the date of each photograph.~~

~~212.6 — The applicant shall make a reasonable effort to maintain the posted notice by checking the signs periodically, and by posting new notices as necessary.~~

213 — PUBLIC COMMENT PERIOD

~~213.1 — During the time between public notice and the designation hearing, the Board shall accept written comments from affected property owners and any other interested persons concurring in or objecting to the designation and National Register nomination.~~

~~213.2 — During the public comment period, the staff shall keep the application and National Register nomination on file and open for public inspection at the Historic Preservation~~

~~Office. The staff shall mail or email a copy of the application to any person upon request, unless the length of the application makes this impractical.~~

213 RECEIPT AND CONSIDERATION OF PUBLIC COMMENTS

213.1 The Board shall consider the views of property owners and the public when acting upon applications to designate historic landmarks and districts. Advisory Neighborhood Commissions, community organizations, property owners, businesses, residents, and any other interested members of the public are encouraged to express their views in writing or through participation at the designation hearing.

213.2 The time between public notice of the designation hearing and the hearing date is the public comment period required by National Register regulations.

213.3 During the public comment period, the Board shall accept written comments on the proposed listing in the D.C. Inventory and National Register. The staff shall make all comments available for public inspection as part of the case record.

213.4 During the public comment period, the staff shall post the designation application on the HPO website, keep the application on file and open for public inspection at the Historic Preservation Office, and make copies available upon request.

213.5 During the public comment period on a proposed historic district, the staff shall post the draft historic district guidelines prepared pursuant to § 211.5 on the HPO website and make copies available upon request. The staff shall also keep the applicant's documentation of public outreach on file and open for public inspection at the Historic Preservation Office.

213.6 The applicant for a proposed designation is encouraged to submit evidence of support for the proposal before or during the public comment period.

213.7 The applicant for designation of a historic district is expected to demonstrate broad community support for the proposal. The applicant is not expected to demonstrate universal support or support from those declining to register an opinion.

213.8 Indicators of community support for a historic landmark or historic district may include:

- (a) A resolution or written statement of support from the affected ANC;
- (b) Signed statements by property owners and residents indicating support or opposition;
- (c) Letters or other measures of support from elected officials, community organizations, businesses, property owners, neighborhood residents, or other interested parties; and

- (d) Citations to specifically applicable policies stated in the Comprehensive Plan or any other District of Columbia planning document adopted after public review and comment.

213.9 Organizations or persons wishing to support or object to a proposed D.C. Inventory designation are encouraged to submit their views in writing during the public comment period.

213.10 Any owner or partial owner of a proposed historic landmark or property within a proposed historic district who wishes to object to listing in the National Register shall submit his or her written objection to the SHPO during the public comment period. The objection shall be made in the format required by the National Register.

213.11 At the end of the public comment period on a proposed historic district, the SHPO shall tally the statements from private property owners objecting to the listing of the district in the National Register, and shall determine whether a majority have objected to listing. The staff shall enter this information into the record at the designation hearing.

213.12 The staff shall submit all written comments received on a proposed designation to the Board for consideration at the designation hearing.

214 PRE-HEARING SUBMISSIONS

214.1 Each applicant for designation shall file with the Board, at least ten (10) days before the hearing, a list of persons who will speak on the applicant's behalf.

214.2 Each owner of property proposed for historic landmark designation (if not the applicant), shall file with the Board at least seven (7) days before the hearing a list of persons who will speak on the owner's behalf

214.3 Any owner of property proposed for historic landmark designation who will object to the designation shall file with the Board at least three (3) days before the hearing a written statement of the grounds for the objection.

215 REQUESTS FOR POSTPONEMENT

215.1 The applicant for a proposed historic landmark or historic district designation may request postponement of the hearing by submitting a written request to the Board at least 48 hours before a scheduled hearing. The owner of a proposed historic landmark may request postponement of the designation hearing in the same manner.

215.2 Any request for postponement shall indicate which scheduled Board meeting is requested for a hearing date. Any request for postponement shall be accompanied by the owner's written agreement not to object to the timeliness of the Board's action due to this postponement.

215.3 The Chairperson of the Board may accept or deny a request for postponement as deemed appropriate. If there is a postponement, the Board may provide a new hearing notice as provided in ~~this chapter~~ § 212, or may give notice of the postponement either at the time and place originally scheduled for the hearing, or in writing to the applicant, owner, and public mailing list maintained pursuant to § 3202, in which case no further notice of the postponement is required.

216 STAFF REPORT ON DESIGNATION APPLICATION

216.1 Before the designation hearing, the staff shall prepare a written report and recommendation on the designation application.

216.2 The report shall include the staff's determination with respect to the criteria for designation in the D.C. Inventory (§ 201) and the criteria for listing in the National Register (§ 202).

216.3 At least five (5) days before the hearing date, the staff shall file copies of the staff report with the Board, post the report on the HPO website, and ~~shall~~ make it available to the applicant, owner, and public.

217 DESIGNATION HEARING

217.1 The Board shall hold a public hearing to receive information and public comments on each application for historic landmark or historic district designation.

217.2 At the designation hearing, the Board shall consider the eligibility of the property for listing in both the D.C. Inventory and the National Register.

217.3 The Board shall conduct the designation hearing ~~shall be conducted~~ in accordance with ~~the Board's~~ its procedures in Chapter 31.

218 CLOSURE OF THE HEARING RECORD AND DELIBERATIONS

218.1 The record ~~shall be closed~~ closes at the end of ~~the~~ a public hearing except when directed by the Chairperson to stay open for a specified period of time for the receipt of additional information or public comment. If the hearing is to be continued, the Chairperson shall announce the time and place it will ~~be resumed~~ resume, and no additional public notice ~~shall be~~ is required.

218.2 If the Board determines after a public hearing that the applicant for a proposed historic district or district expansion has failed to conduct sufficient public outreach or to show broad community support for the designation, the Board may defer action on the application to allow the applicant to return with a showing of more outreach or support.

218.3 If the Board defers action due to lack of outreach or support, the Chairperson shall set the time and place for a continuation of the hearing, to occur within six (6) months.

- (a) If the applicant is not prepared to proceed at the continued hearing, the Board shall treat the failure to proceed as a withdrawal of the application.
- (b) If the Board determines at the conclusion of the public hearing that the applicant has failed to show adequate community support for the district or district expansion, the Board may vote to dismiss the application without prejudice to filing a new application no earlier than twelve (12) months after the dismissal.
- (c) The Board shall make a determination on the merits of the application if not dismissed or deemed withdrawn.

218.4 *[Formerly § 218.2]* The Board may reopen the record of a hearing at any time before the issuance of a final decision. The Board shall provide notice of a reopening in the same manner as for the initial hearing.

218.5 *[Formerly § 218.3]* After closure of the hearing record, the Board shall consider the application and shall hold its deliberations immediately or in a continuation of the public hearing. The Board shall give great weight to any written recommendations of the affected ANC that are adopted ~~as required by~~ in conformity with the ANC Act and that are germane to the issues that fall within the Board's authority.

218.6 *[Formerly § 218.4]* In making a determination on an application, the ~~The~~ Board may vote to designate the property, deny or defer the designation, or designate the property with modifications, which may include:

- (a) reduced boundaries;
- (b) an amended statement or period of significance;
- (c) a modified list of contributing or non-contributing structures;
- (d) designation criteria that may not be referred to in the application; or
- (e) any other revision applicable within the boundaries proposed in the application.

218.7 If the Board wishes to expand the boundaries of a designation, a new notice and hearing is required on the proposed expansion. ~~The Board may base its designation on any of its criteria, including designation criteria that may not be referred to in the application.~~

219 POST-HEARING PROCEDURES

219.1 The Board shall issue a written decision ~~with respect to the proposed~~ on a historic landmark or historic district designation. Each designation decision shall identify the

property and its boundaries, describe its general characteristics and significance, ~~specify its boundaries~~, state the reasons for designation, and indicate whether it is also recommended for nomination to the National Register.

- 219.2 Each designation ~~decision for~~ of a historic district shall state a period of significance for the ~~historic~~ district pursuant to National Register criteria, and include a record and tally of any owner objection to the designation. ~~Subsequent to~~ After each designation or expansion of a historic district, the SHPO shall prepare an official list of contributing and non-contributing buildings pursuant to National Register criteria, and shall forward that list with the nomination to the National Register.
- 219.3 In any case in which the affected ANC has submitted a duly adopted written recommendation, the designation decision shall ~~be accompanied by~~ include a written statement acknowledging the ANC's recommendation and ~~indicating the Board's response~~ stating with particularity and precision the reasons why the ANC does or does not offer persuasive advice under the circumstances. The decision shall state specific findings and conclusions with respect to each issue and concern raised by the ANC, and the Board shall support its position on the record.
- 219.4 Within ten (10) days of a designation, the Board shall send a copy of the official designation order signed by the Chairperson, as follows:
- (a) For a historic landmark, to the applicant, property owner, Councilmember for the ward where the property is located, and affected ANC;
 - (b) For a historic district, to the applicant, Councilmember for the ward where the district is located, and affected ANC.
- 219.5 Within ninety (90) days of a designation, the Board shall publish notice of the designation in the *D.C. Register*, and the staff shall post notice on the HPO website.
- 219.6 If the Board has recommended the nomination of a property to the National Register, the SHPO shall prepare and forward the nomination ~~to the National Register in accordance with the procedures in Chapter 13.~~ in accordance with National Register procedures.
- 219.7 At a public meeting after the designation of a new historic district or the expansion of an existing historic district by more than fifty (50) properties, the Board shall consider the draft guidelines prepared pursuant to § 211.5 for the new or expanded district. The Board shall adopt final guidelines for the district after considering public comments and making any revisions to the draft guidelines it deems appropriate.

* * *

221 AMENDMENT OR REVOCATION OF DESIGNATION

- 221.1 Listings in the D.C. Inventory may be amended or revoked.
- 221.2 Any applicant eligible to file a designation application may apply to amend or revoke a designation.
- 221.3 An application to amend a designation shall include the same information required for a new designation, except that description of the property and statement of significance may address only the features and characteristics that are the subject of the amendment.
- 221.4 The procedures for amendment of a designation are the same as the procedures for designation, ~~except the Board may amend a historic district designation to augment or amend documentation, specify a period of significance, or identify contributing and non-contributing buildings without publishing notice in a newspaper of general circulation or posting notice in the historic district.~~ as follows:
 - (a) When an application proposes to ~~amend~~ expand or revise the boundaries of a historic district, the requirements for notice to owners ~~and affected ANCs~~ applies ~~apply~~ only to those properties within the area of expansion or revision.
 - (b) When an application proposes to amend a historic district’s period of significance or list of contributing and non-contributing buildings, the requirements for notice to owners apply only to the owners of properties affected by a change in status.
- 221.5 An application to revoke a designation shall include the same information required for a new designation, except that the application shall state the reasons that the property does not possess significance or meet the criteria for designation.
- 221.6 Properties may be removed from the D.C. Inventory only if they no longer meet the criteria for designation. The procedures for removal of a property from the Inventory are the same as the procedures for designation.

B. Chapter 20, “Design and Construction Standards and Guidelines” is amended to delete the text marked by ~~strikeout~~ and to add the text underlined (The notation * * * indicates an omission of unchanged sections for brevity. Renumbered subsections are indicated by brackets containing the former subsection number):

CHAPTER 20: DESIGN AND CONSTRUCTION STANDARDS AND GUIDELINES

Secs.	
2000	General Provisions
2001	Purpose and Use
2002	Compatibility and Consistency with the Purposes of the Historic Protection Act
2003	Secretary of the Interior’s Standards for Rehabilitation
2004	Historic Preservation Guidelines
<u>2005</u>	<u>Historic District Guidelines</u>
<u>2006</u>	<u>Comprehensive Plan for the National Capital</u>

* * *

2004 HISTORIC PRESERVATION GUIDELINES

- 2004.1 To promote the clarity and understanding of design and construction standards, the Board and HPO may prepare design guidelines for use in conjunction with the standards. The Board's design guidelines shall augment the standards and provide examples of treatments that are recommended or not recommended.
- 2004.2 ~~Before the implementation of any design guidelines, the HPO shall submit the proposed guidelines to the Board for its review and acceptance. The Board shall adopt design guidelines only after distribution of the proposed guidelines to the public for review and comment, and a duly noticed public hearing at which the public may participate. The Board shall adopt a design guideline only at a duly noticed public hearing after considering public comments.~~
- 2004.3 Not less than forty-five (45) days before the Board considers a proposed historic preservation guideline, HPO shall distribute the draft guideline for review and comment to the public mailing list maintained pursuant to § 3202.
- 2004.4 *[Formerly 2004.3]* The HPO may make minor changes to adopted guidelines without a public hearing by the Board.

2005 HISTORIC DISTRICT GUIDELINES

- 2005.1 The Board may adopt historic preservation and design guidelines specific to a historic district or districts as described in this section. Historic district guidelines shall supplement the Board's standards and guidelines that are applicable citywide.
- 2005.2 The guidelines for a historic district shall include the following components:
- (a) A statement of the significance of the district;
 - (b) A description of the important physical characteristics of the district;
 - (c) A statement of any major preservation needs or goals for the district; and
 - (d) Guidelines for preservation and construction within the district.
- 2005.3 The guidelines for a historic district shall be generally consistent with the Board's citywide standards and guidelines, but may allow some variation from the typical standards and guidelines in order to address the particular characteristics or preservation needs of a specific district.
- 2005.4 The Board shall adopt historic district guidelines for any new historic district

designated after this section becomes effective, and for any historic district expanded by more than fifty (50) properties buildings after this section becomes effective.

2005.5 The Board may adopt historic district guidelines for any historic district designated before this section becomes effective.

2005.6 The Board shall adopt historic district guidelines only at a duly noticed public hearing after considering public comments.

2005.7 Not less than forty-five (45) days before the Board considers proposed historic district guidelines, HPO shall distribute the draft guideline for review and comment to the public mailing list maintained pursuant to § 3202.

2006 COMPREHENSIVE PLAN FOR THE NATIONAL CAPITAL

2006.1 The Board, Mayor's Agent, and staff may use the Comprehensive Plan for the National Capital for additional guidance on the listing of properties in the D.C. Inventory, and on the review of construction affecting historic landmarks and historic districts.

(a) The District Elements of the Comprehensive Plan for the National Capital give general guidance on the adopted goals, policies, and recommended actions for the physical development of the District of Columbia. The Comprehensive Plan addresses the District's public interest in the broadest terms considering multiple policy goals.

(b) The Historic Preservation Element of the Comprehensive Plan establishes the District's long-range preservation goals and overarching preservation policies. The ten Area Elements of the plan also include preservation goals and policies specific to individual planning areas. Complementary guidance is found in the Urban Design Element and other thematic elements.

2006.2 The Board's historic preservation standards, guidelines, and policies are intended to be consistent with the preservation components of the Comprehensive Plan.

2006.3 The Mayor's Agent may use the Comprehensive Plan when considering a claim of special merit pursuant to the Act. Pertinent provisions of the Comprehensive Plan include those referring to the implementation of specific features of land planning, or social or other benefits having a high priority for community services.

C. Section 3202 of Chapter 32, "General Administrative Procedures" is amended to delete the text marked by ~~strikeout~~ and to add the text underlined:

CHAPTER 32 GENERAL ADMINISTRATIVE PROCEDURES

3202 PUBLIC MAILING LIST

- 3202.1 The Board shall maintain a general public mailing list for notice of public meetings, hearings, and other matters. The mailing list shall include the members of the Council of the District of Columbia, all Advisory Neighborhood Commissions, and any historic preservation organization, civic group, or interested person upon request.
- 3202.2 At least every two years, the HPO may purge the mailing list of organizations and persons listed by request, after giving notice indicating the manner in which they should state their desire to remain on the list. The HPO may also routinely purge the mailing list of any addressees upon receipt of mail returned by the U.S. Postal Service as undeliverable. Anyone purged from the list may request reinstatement at any time.
- 3202.3 ~~The Board may supplement the general public mailing list with an electronic mailing list maintained for the same purposes.~~ The Board may deliver notices by electronic mail to any person or organization on the mailing list upon consent to this method of delivery.

D. Chapter 99, “Definitions” is amended to add the following definition in sequence:

CHAPTER 99 DEFINITIONS

9901 DEFINED TERMS

Comprehensive Plan: The Comprehensive Plan for the National Capital: District Elements (DCMR Title 10), adopted pursuant to § 423 of the Home Rule Act, approved December 24, 1973 (87 Stat. 792; D.C. Official Code § 1-204.23).

Comments on this proposed regulation should be submitted, in writing, to Tersh Boasberg, Chairman, Historic Preservation Review Board, 2000 14th Street, NW, 4th Floor, Washington, D.C. 20009, within sixty (60) days of the publication of this notice in the *D.C. Register*. Additional copies of this proposed regulation are available at the above address.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKINGGAS TARIFF 97-3, IN THE MATTER OF THE APPLICATION OF WASHINGTON GAS LIGHT COMPANY FOR AUTHORITY TO AMEND ITS RATE SCHEDULES FOR NOS. 3, 3A, AND 6

1. The Public Service Commission of the District of Columbia (“Commission”) hereby gives notice, pursuant to Section 2-505 of the District of Columbia Official Code,¹ of its intent to act upon the Application of Washington Gas Light Company (“WGL” or “Company”) in not less than 30 days from the date of publication of this Notice of Proposed Rulemaking (“NOPR”) in the *D.C. Register*.

2. On July 9, 2009, WGL filed a revised tariff application for Rate Schedule No. 3, Interruptible Sales Services; Rate Schedule No. 3A, Interruptible Delivery Services; and Rate Schedule No. 6, Small Commercial Aggregation Pilot².

3. In general, WGL seeks to change certain aspects of its Interruptible Sales Services; its current Interruptible Delivery Service Balancing Methodology; and a gradual phase-out of customers taking service under Rate Schedule No. 3.³ In recognition of the fact that the Small Commercial Aggregation Pilot is no longer a pilot program, WGL proposes to re-caption Rate Schedule No. 6 to “Interruptible Delivery Service Gas Supplier Agreement”.⁴ Proposed Schedule No. 6 will incorporate all aspects of the Interruptible Delivery Service Gas Supplier Agreement as well as the aforementioned proposed changes regarding Interruptible Sales Service.⁵

4. The Application is on file with the Commission and may be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., Second Floor, West Tower, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday, or may be viewed on the Commission’s website at www.dcpsc.org. Copies of the tariff pages are also available upon request, at a per-page reproduction cost.

5. Comments on the proposed Revised Tariff Application must be made in writing to Dorothy Wideman, Commission Secretary, at the above address. All

¹ D.C. Code, § 2-505 (2006 Repl.).

² *Gas Tariff 97-3, In the Matter of the Application of Washington Gas Light Company For Authority to Amend Its Rate Schedules For Nos. 3,3A and 6 (GT97-3)*, filed July 9, 2009.

³ Id.

⁴ Id.

⁵ Id.

comments must be received within thirty (30) days of the date of publication of this NOPR in the *D.C. Register*. Reply Comments may be filed within forty-five (45) days of the publication of the NOPR. Once the comment period has expired, the Commission will take final action on WGL's Revised Tariff Application.