

CHAPTER 9

WAIVERS

9.1 PURPOSE

The purpose of this Chapter is to authorize the Board to grant waivers from strict compliance with the provisions of this Code and other District requirements, and to establish the procedures under which this power may be exercised. (Ord. No. 2010-103)

9.2 GRANTS OF WAIVERS

Subject to the provisions of this Chapter, the Board may grant waivers from compliance with the provisions of this Code and other District requirements. A waiver may be granted on the Board's own motion or upon the application of any Person pursuant to Section 9.5.2 below. (Ord. No. 2010-103)

9.3 LIMITATIONS ON WAIVERS

No waiver shall be granted if the waiver would result in a violation of any statute, regulation, order or other provision of law promulgated or enacted by a federal, state, or local government entity having jurisdiction over the matter in question. (Ord. No. 2010-103)

9.4 REQUIRED DETERMINATION.

A waiver may be granted only upon the determination by the District Board in its sole discretion that the following findings are present:

9.4.1 In the absence of a waiver, the strict application of the provisions of this Code would result in a substantial hardship peculiar to a Person or Persons which is not generally applicable to other Persons similarly situated; or, because of peculiar circumstances, strict application of the provisions of the Code would be unjust or inequitable; and

9.4.2 The waiver is necessary for the preservation and enjoyment by a Person or Persons of substantial personal and/or property rights possessed by other Persons similarly situated, and granting of the waiver will not accord a special privilege to the Person or Persons who may benefit from the waiver; and

9.4.3 The waiver will not be materially detrimental to the public health, safety and welfare, nor will it result in undue hardship to other Persons. (Ord. No. 2010-103)(Ord. No. 2013-111)

9.5 PROCEDURES

9.5.1 On Board's Own Motion.

A proposal by a Board member or the General Manager to grant a waiver on the Board's own motion shall be agendized for consideration at a regular or special meeting of the Board in the same manner as other items of District business. (Ord. No. 2010-103)

9.5.2 Requests By Others.

Persons other than Board members or the General Manager may request a waiver by satisfying the following requirements:

9.5.3 Applications for waivers shall be submitted in writing and shall be considered and acted upon by the Board at a regular or special meeting. The District Board may schedule a public hearing on the application, in which event the District Board shall cause notice of the public hearing to be given in such manner as it determines is adequate in the circumstances.

9.5.4 The burden of establishing facts to support all necessary findings for a waiver shall be upon the applicant. The Board may deny any application if the applicant fails to supply sufficient relevant information, including available documents and records, to enable the District Board to make the necessary findings.

9.5.5 The District Board may impose reasonable fees and charges to cover the cost to the District of considering the application, including the cost of giving notice of a public hearing and the cost of engineering, legal and other consulting services which the Board deems necessary to evaluate the application.

9.5.6 Resolution Required.

Whenever the Board determines that a waiver should be granted, the Board shall do so by adopting a resolution specifying the terms of the waiver and any conditions upon which the waiver grant may be made. The resolution shall include the findings supporting the Board's determination. (Ord. No. 2010-103)(Ord. No. 2013-111)