

## TITLE 40.—PUBLIC BUILDINGS, PROPERTY, AND WORKS

## Chapter 1.—PUBLIC BUILDINGS, GROUNDS, PARKS, AND WHARVES IN DISTRICT OF COLUMBIA.

Right of action for death or personal injury within national park or other place under exclusive jurisdiction of United States or governed by state laws, see § 457 of Title 10, CONSERVATION.

## ★ Section 1. Public Buildings Commission; members; powers and duties.—

Section 346 of this title makes this section applicable to buildings constructed, extended or enlarged under the provisions of chapter 6 of this title.

"officer in charge of public buildings and grounds" appearing in lines 9 and 10 of this section should read "Director of Public Buildings and Public Parks of the National Capital" by virtue of § 4 of this title.

## 3. Commission in charge of State, War, and Navy Department Building abolished; duties, etc., of commission and superintendent transferred to director.—

See § 14a of this title.

## ★ 8. Estimates and appropriations.—

"approved and submitted by the Secretary of War" in lines 3 and 4 of this section should read "submitted by him."

"expended under the direction of the Secretary of War" in the last line should read "expended under his direction."

This section should have at the end thereof as an additional citation "Feb. 20, 1925, c. 330, § 3, 43 Stat. 983" as that Act authorizes the substitution of "Director of Public Buildings and Public Parks of the National Capital" for "Chief of Engineers."

8a. Advertisements for proposals for purchases or services rendered for Office of Public Buildings and Public Parks of the National Capital.—After February 11, 1927, section 5 of Title 41 shall not be construed to apply to any purchase or service rendered for the Office of Public Buildings and Public Parks of the National Capital when the aggregate amount involved does not exceed the sum of \$50. (Feb. 11, 1927, c. 104, § 1, 44 Stat. 1079.)

The Act cited to the text is the Executive, etc., Appropriation Act.

9a. Same; change of name.—The State, War, and Navy Department Building shall hereafter be named the "Department of State Building." (July 3, 1930, c. 846, 46 Stat. 800.)

## ★ 10. Director's duties extended to annex buildings.—

The Mills Building mentioned in this section was at one time occupied by the Navy Department, under lease, but was vacated by the department prior to 1925.

## 14. Care, maintenance, etc., of Department of Commerce buildings.—

See § 14a of this title.

14a. Care, maintenance, etc., of Bureau of Standards Building.—The responsibility for the care, maintenance, and protection of the buildings occupied by the Bureau of Standards of the Department of Commerce in the District of Columbia and the disbursement of the funds appropriated therefor, together with all the machinery, tools, equipment, and supplies used or for use, in connection therewith, shall be transferred on July 1, 1926, from the office of Public Buildings and Public Parks of the National Capital to the Secretary of Commerce. (Apr. 20, 1926, c. 195, Title III, 44 Stat. 346.)

The Act cited to the text is the State, etc., Departments Appropriation Act.

## 18a. Care, maintenance, etc., of Mount Weather, Virginia.—[Repeated.]

This section, derived from Act Mar. 4, 1920, c. 74, § 1, 45 Stat. 1025, was repealed by Act May 27, 1930, c. 341, 46 Stat. 304.

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## ★ 19. Director to have charge of public buildings and grounds.—

"through the War Department" in lines 4 and 5 of this section should be omitted in view of sections 2 and 4 of this title.

## ★ 20. Report of director.—

"Secretary of War in time to accompany the annual message of the President" in lines 2 and 3 of this section should read "President in time to accompany his annual message" in view of §§ 2 and 4 of this title.

"including a statement of the number of public lots sold, or remaining unsold each year" in lines 6 and 7 of this section could well be repeated.

## ★ 25. Rentals for gas governors.—

This section should be omitted from the Code as it is temporary legislation repeated from year to year in Appropriation Acts.

## ★ 26. Inspection of gas and electric meters.—

This section should be omitted from the Code as it is temporary legislation repeated from year to year in Appropriation Acts.

## ★ 28. Telegraph connecting public buildings; supervision.—

"officer in charge of the public buildings and grounds" in lines 7 and 8 of this section should read "Director of Public Buildings and Public Parks of the National Capital" by virtue of § 2 of this title.

30a. Telephone service in public buildings under control of Treasury Department.—The Secretary of the Treasury is authorized to contract for telephone service in public buildings under the control of the Treasury Department by means of telephone switchboards or equivalent telephone-switching equipment jointly serving in each case two or more Government activities where he finds that joint service is economical and in the interest of the Government, and to secure reimbursement for the cost of such joint service from available appropriations for telephone expenses of the bureaus and offices receiving the same. (Dec. 20, 1928, c. 39, Title I, § 1, 45 Stat. 1048; May 15, 1930, c. 289, Title I, § 1, 46 Stat. 358.)

The Act cited to the text is the Treasury and Post Office Departments Appropriation Act.

## ★ 43. Advertisements and sales in or around Washington Monument.—

"Secretary of War" in last line of this section should read "Director of Public Buildings and Public Parks of the National Capital" by virtue of §§ 2 and 4 of this title.

## ★ 44. Fishponds in Monument Grounds.—

"officer in charge of public buildings and grounds" in line 4 of this section should read "Director of Public Buildings and Public Parks of the National Capital" by virtue of § 2 of this title.

This section applies to the Tidal Basin, which is a result of the abandonment of the "fishponds" mentioned therein.

## 53. Chief of Engineers; regulations for protection of Washington Aqueduct and Filtration Plant.—

This section so far as it relates to Conduit Road mentioned in line 6 has been affected by Act May 22, 1920, c. 372, 44 Stat. 627, entitled "An Act to provide for transfer of jurisdiction over the Conduit Road in the District of Columbia," which provides as follows:

"That jurisdiction and control over the Conduit Road for its full width in the District of Columbia between Foxhall Road and the District line, excepting a strip nineteen feet wide within the lines of said road, the center of which is coincident with the center of the water supply conduit, is hereby transferred from the Secretary of War to the Commissioners of the District of Columbia, and property abutting thereon shall be subject to any and all lawful assessments which may be levied by the said commissioners for public improvements, the same as other private property in the District of Columbia: *Provided*, That all municipal laws and regulations shall apply to the entire width of the said road in the District of Columbia in the same degree that they apply to other streets and highways in the said District."

## ★ 60. Street parking.—

This section relates to the District of Columbia and should probably be omitted from the Code.

## ★ 61. Jurisdiction of Highway Bridge given to Commissioners of District.—

This section relates to the District of Columbia and should probably be omitted from the Code.

## ★ 62. Francis Scott Key Bridge.—

This section relates to the District of Columbia and should probably be omitted from the Code.

## ★ 63. Use of appropriations for bridges.—

This section relates to the District of Columbia and should probably be omitted from the Code.

## ★ 65. Limitation on contracts of District Commissioners.—

This section relates to the District of Columbia and should probably be omitted from the Code.

## ★ 67. Permits for extensions of buildings beyond building line.—

"Secretary of War" in last line of this section should read "Director of Public Buildings and Public Parks of the National Capital" by virtue of §§ 2 and 4 of this title.

## ★ 69. Watchmen; powers of police.—

This section relates to the District of Columbia and should probably be omitted from the Code.

## ★ 70. Same; medical attendance.—

This section relates to the District of Columbia and should probably be omitted from the Code.

## 71. Park and playground system; National Capital Park [and Planning] Commission.—

(a) Establishment of commission; composition; term; compensation and expenses; executive and disbursing officer.—To develop a comprehensive, consistent, and coordinated plan for the National Capital and its environs in the States of Maryland and Virginia, to preserve the flow of water in Rock Creek, to prevent pollution of Rock Creek and the Potomac and Anacostia Rivers, to preserve forests and natural scenery in and about Washington, and to provide for the comprehensive, systematic, and continuous development of park, parkway, and playground systems of the National Capital and its environs there is hereby constituted a commission to be known as the National Capital Park and Planning Commission, composed of the Chief of Engineers of the Army, the Engineer Commissioner of the District of Columbia, the Director of the National Park Service, the Chief of the Forest Service, the Director of Public Buildings and Public Parks of the National Capital, the chairmen of the Committees on the District of Columbia of the Senate and House of Representatives, and four eminent citizens well qualified and experienced in city planning, one of whom shall be a bona fide resident of the District of Columbia, to be appointed for the term of six years by the President of the United States: *Provided*, That the first members appointed under this section shall continue in office for terms of three, four, five, and six years, respectively, from April 30, 1926, the terms of each to be designated by the President; but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. All members of the said commission shall serve without compensation therefor, but each shall be paid actual expenses of travel when attending meetings of said commission or engaged in investigations pertaining to its activities, and an allowance of \$8 per day in lieu of subsistence during such travel and services. At the close of each Congress the presiding officer of the Senate and the Speaker of the House of Representatives shall appoint, respectively, a Senator and a

Representative elect to the succeeding Congress to serve as members of this commission until the chairman of the committees of the succeeding Congress shall be chosen. The Director of Public Buildings and Public Parks of the National Capital shall be executive and disbursing officer of said commission.

(b) Duties; employment of personal services and experts.—That the said commission is hereby charged with the duty of preparing, developing, and maintaining a comprehensive, consistent, and coordinated plan for the National Capital and its environs, which plan shall include recommendations to the proper executive authorities as to traffic and transportation; plats and subdivisions; highways, parks, and parkways; school and library sites; playgrounds; drainage, sewerage, and water supply; housing, building, and zoning regulations; public and private buildings; bridges and water fronts; commerce and industry; and other proper elements of city and regional planning. It is the purpose of this section to obtain the maximum amount of cooperation and correlation of effort between the departments, bureaus, and commissions of the Federal and District Governments. To this end plans and records, or copies thereof, shall be made available to the National Capital Park and Planning Commission, when requested. The commission may, as to the environs of the District of Columbia, act in conjunction and cooperation with such representatives of the States of Maryland and Virginia as may be designated by such States for this purpose. The said commission is hereby authorized to employ the necessary personal services, including the personal services of a director of planning and other expert city planners, such as engineers, architects, and landscape architects. Such technical experts may be employed at per diem rates not in excess of those paid for similar services elsewhere and as may be fixed by the said commission without regard to the provisions of sections 681 to 674 of Title 5, or any rule or regulation made in pursuance thereof.

(c) Highway Commission abolished; powers and duties transferred.—The commission established by section 2 of the Act entitled "An Act to provide a permanent system of highways in that part of the District of Columbia lying outside of cities" (Twenty-seventh Statutes at Large, pages 532 and 533), known as the Highway Commission, is hereby abolished, and all the functions, powers, and duties conferred and imposed upon said Highway Commission by law are hereby transferred to and conferred and imposed upon the National Capital Park and Planning Commission hereby constituted, and all records of said Highway Commission are hereby transferred to said National Capital Park and Planning Commission.

(d) Authorities and duties of National Capital Park Commission transferred.—All authority, powers, and duties conferred and imposed by law on the National Capital Park Commission shall after April 30, 1926, be held, exercised, and performed by the National Capital Park and Planning Commission hereby constituted. All appropriations heretofore made for expenditure by the National Capital Park Commission are hereby made available for the use of the commission hereby constituted. (As amended Apr. 30, 1926, c. 198, 44 Stat. 374; May 24, 1928, c. 726, 45 Stat. 726.)

The amendment of 1928 affected the proviso of paragraph (a) only.

The proviso of paragraph (a) as amended by Act April 30, 1926, c. 198, read as follows: "*Provided*, That the first members appointed under this section shall continue in office for terms of three, four, five, and six years, respectively, from April 30, 1926, the terms of each to be designated by the President; but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. All members of the said commission shall serve without compensation therefor, but each shall be paid actual expenses of subsistence not in excess of \$10 per day and of travel when attending meetings of said com-

mission or engaged in investigations pertaining to its activities. At the close of each Congress the presiding officer of the Senate and the Speaker of the House of Representatives shall appoint, respectively, a Senator and a Representative elect to the succeeding Congress to serve as members of this commission until the chairmen of the committees of the succeeding Congress shall be chosen. The Director of Public Buildings and Public Parks of the National Capital shall be executive and disbursing officer of said commission."

This section as it read before the amendment of 1926 failed to follow the language of Act June 6, 1924, c. 270, § 1, 43 Stat. 463, from which it was derived in that in line 9 (see this section in the Code) it contained the words "Director of Public Buildings and Public Parks of the National Capital," whereas said Act contained instead the words "Chief of Engineers of the Army." This error has become immaterial by virtue of said amendment.

★ 72. Same; acquisition of land by commission.—

"Director of Public Buildings and Public Parks of the National Capital" in line 13 of this section should read "Chief of Engineers of the Army." The latter words are contained in Act June 6, 1924, c. 270, § 2, 43 Stat. 463, from which this section is derived, and the Chief of Engineers has not been displaced by §§ 2 and 4 of this title creating a Director of Public Buildings and Public Parks.

72a. Same; acquisition of land subject to limited rights reserved to grantor; acquisition of limited permanent rights in land adjoining park property.—The authority of the National Capital Park and Planning Commission, established by section 71 of this title, is hereby enlarged as follows:

Said commission is hereby authorized to acquire, for and in behalf of the United States of America, by gift, devise, purchase, or condemnation, in accordance with the provisions of sections 71 to 74 of this title, (1) fee title to land subject to limited rights, but not for business purposes, reserved to the grantor: *Provided*, That such reservation of rights shall not continue beyond the life or lives of the grantor or grantors of the fee: *Provided further*, That in the opinion of said commission the permanent public park purposes for which control over said land is needed are not essentially impaired by said reserved rights and that there is a substantial saving in cost by acquiring said land subject to said limited rights as compared with the cost of acquiring unencumbered title thereto; (2) permanent rights in land adjoining park property sufficient to prevent the use of said land in certain specified ways which would essentially impair the value of the park property for its purposes: *Provided*, That in the opinion of said commission the protection and maintenance of the essential public values of said park can thus be secured more economically than by acquiring said land in fee or by other available means: *Provided further*, That all contracts for acquisition of land subject to such limited rights reserved to the grantor and for acquisition of such limited permanent rights in land shall be subject to the approval of the President of the United States. (Dec. 22, 1928, c. 48, § 1, 45 Stat. 1070.)

The Act cited to the text was entitled "An Act authorizing the National Capital Park and Planning Commission to acquire title to land subject to limited rights reserved, and limited rights in land, and authorizing the Director of Public Buildings and Public Parks of the National Capital to lease land or existing buildings for limited periods in certain instances."

72b. Same; lease of lands acquired for park, parkway or playground purposes.—The Director of Public Buildings and Public Parks of the National Capital is authorized, subject to the approval of the National Capital Park and Planning Commission, to lease, for a term not exceeding five years, and to renew such lease, subject to such approval, for an additional term not exceeding five years, pending need for their immediate use in other ways by the public, and on such terms as the director shall determine, land or any existing building or structure on land acquired for park, parkway, or playground purposes. (Dec. 22, 1928, c. 48, § 2, 45 Stat. 1070.)

For title of Act see note to § 72a.

★ 75. Park system; control.—

This section relates to the District of Columbia and should probably be omitted from the Code.

"through the Secretary of War" in line 5 of this section should be omitted by virtue of § 4 of this title.

★ 77. Special police; appointment; powers.—

"officer in charge of public buildings and grounds" in lines 1 and 2, and 12 and 13 of this section should read "Director of Public Buildings and Public Parks of the National Capital" by virtue of §§ 2 and 4 of this title.

"the Chief of Engineers" in line 9 of this section should read "he" by virtue of §§ 2 and 4 of this title.

★ 83. Rock Creek Park; establishment.—

This section relates to the District of Columbia and should probably be omitted from the Code.

★ 84. Same; control and regulations.—

This section relates to the District of Columbia and should probably be omitted from the Code.

★ 85. Piney Branch Parkway part of park system.—

This section relates to the District of Columbia and should probably be omitted from the Code.

★ 86. Potomac Park; establishment.—

This section relates to the District of Columbia and should probably be omitted from the Code.

★ 87. Same; control.—

This section relates to the District of Columbia and should probably be omitted from the Code.

★ 88. Same; restriction on construction of lagoon or speedway.—

This section relates to the District of Columbia and should probably be omitted from the Code.

★ 90. Licenses for boathouses on banks of tidal reservoir.—

"Chief of Engineers" in lines 4 and 5 of this section should read "Director of Public Buildings and Public Parks of the National Capital."

"the Secretary of War" in lines 6 and 7 of this section should probably read "said Director."

91. Same; tidal basin bathing beach.—

This section appears to have been impliedly repealed by Act Mar. 4, 1925, c. 556, § 1, 43 Stat. 1323, reading as follows: "For expenses incident to the removal of bathhouses and bathing facilities on the east side of the Tidal Basin and of all construction work which has been done on the proposed bathhouse on the west side of the Tidal Basin and for the restoration of the grounds to their original park conditions, for expenditure under the Office of Public Buildings and Public Parks of the National Capital, fiscal years 1925 and 1926, \$10,000."

★ 92. Same; parkway connecting with Zoological and Rock Creek Parks.—

An additional appropriation of \$600,000 to complete the acquisition of land under this section was authorized by Act May 5, 1926, c. 239, 44 Stat. 309.

This section relates to the District of Columbia and should probably be omitted from the Code.

92a. Same; boundaries of parkway authorized by section 92 changed.—The authority of the commission created by section 92 of this title, is extended to include the acquisition of such additional lands and premises lying adjacent to or in the immediate vicinity of the taking lines as shown on the map on file in the office of the executive and disbursing officer and known as the map of the Rock Creek and Potomac Parkway (in four sheets) dated May, 1923, as may in its discretion, subject to the approval of the Commission of Fine Arts, be necessary for the best development of the connecting parkway between Rock Creek Park, the Zoological Park, and Potomac Park: *Provided*, That the total sum expended for lands needed for this parkway shall not exceed that authorized by section 92 of this title,

and amended by the Second Deficiency Act of May 5, 1920 [see note to section 92]: *Provided further*, That the commission may exclude such lands and premises, not now owned by the United States but within the taking lines heretofore authorized for the said parkway, as may in its discretion, and upon the advice of the Commission of Fine Arts, be found not to be desirable or necessary for the connecting parkway. (Mar. 2, 1920, c. 542, 45 Stat. 1523.)

The Act cited to the text was entitled "An Act to enable the Rock Creek and Potomac Parkway Commission, established by Act of March 4, 1913, to make slight changes in the boundaries of said parkway by excluding therefrom certain small areas, and including other limited areas, the net cost not to exceed the total sum already authorized for the entire project."

★ 93. *Small parks at certain street intersections.*—

This section relates to the District of Columbia and should probably be omitted from the Code.

★ 94. *Anacostia Park.*—

This section relates to the District of Columbia and should probably be omitted from the Code.

★ 95. *Glover Parkway and Children's Playground.*—

This section relates to the District of Columbia and should probably be omitted from the Code.

★ 96. *Same; part of park system of District.*—

This section relates to the District of Columbia and should probably be omitted from the Code.

★ 98. *Use of public grounds for playgrounds.*—

"officer in charge of public buildings and grounds" in lines 1 and 2 of this section should read "Director of Public Buildings and Public Parks of the National Capital" by virtue of §§ 2 and 4 of this title.

★ 105. *Commission of Fine Arts; secretary and executive officer.*—

"officer in charge of public buildings and grounds" in lines 1 and 2 of this section should read "Director of Public Buildings and Public Parks of the National Capital" by virtue of §§ 2 and 4 of this title.

It has been suggested that this section should probably be omitted from the Code as the subject matter does not appear to be permanent legislation.

★ 107. *Wharf property; control by Commissioners of District.*—

This section relates to the District of Columbia and should probably be omitted from the Code.

★ 115. *Disposition of proceeds of sale of fuel.*—

This section should be omitted from the Code as it is temporary legislation repeated from year to year in Appropriation Acts.

**115a. Purchases of coal and wood by government fuel yards; application of statutory requirements as to weighing, etc.**—The requirements of section 109 of this title relative to the weighing of coal and wood and the separate certificate as to the weight, measurement, or quantity of coal and wood purchased shall not apply to purchases by the Government fuel yards at free-on-board destinations outside of the District of Columbia. (Feb. 24, 1927, c. 189, Title III, 44 Stat. 1219; Feb. 15, 1928, c. 57, Title III, 45 Stat. 103; Jan. 25, 1929, c. 102, Title III, 45 Stat. 1133; Apr. 18, 1930, c. 184, Title III, 46 Stat. 212.)

The Acts cited to the text are the State, etc., Departments Appropriation Acts.

**117. Appropriations for fuel yard and garage; use of.**—[Repealed in part.]

The "First Deficiency Act, fiscal year 1920," Act Mar. 3, 1920, c. 44, § 1, 44 Stat. 173, contains the following provisions:

"So much of the Interior Department Appropriation Act for the fiscal year 1924 [this section] as requires the garage therein authorized to be constructed to be used jointly by the Government fuel yards and the Department of the Interior, and as requires that the Department of the Interior shall from applicable appropriations reimburse the appropriations for the fuel yards for its propor-

tionate share of the expense of maintaining and operating the garage mentioned, is hereby repealed.

"\* \* \* The Secretary of the Interior is authorized to reimburse therefrom the Government fuel yards the amount expended from its appropriation for rental of garage for use of the Interior Department during said period, or any part thereof."

★ 120. *Acquisition of lands in District of Columbia; proceedings.*—

There should be read into this section after the words "such lands," in line 11 from the end the following: "and when such report shall have been confirmed by the court the President of the United States shall, if he thinks the public interest requires it, cause payment to be made to the respective persons entitled according to the judgment of the court."

This section is not the exclusive legal authority for the taking of property in the District of Columbia for public use as section 483 of the Code of the Laws of the District of Columbia provides a method of acquiring land by condemnation either by the United States or by the Commissioners of the District by proceedings which differ radically from the proceedings specified in this section of the Code.

**121. Regulation of height, design, and construction of private and semipublic buildings adjacent to public buildings and grounds; building permits.**—In view of the provisions of the Constitution respecting the establishment of the seat of the National Government, the duties it imposed upon Congress in connection therewith, and the solicitude shown and the efforts exerted by President Washington in the planning and development of the Capital City, it is hereby declared that such development should proceed along the lines of good order, good taste, and with due regard to the public interests involved, and a reasonable degree of control should be exercised over the architecture of private or semipublic buildings adjacent to public buildings and grounds of major importance. To this end, hereafter when application is made for permit for the erection or alteration of any building, any portion of which is to front or abut upon the grounds of the Capitol, the grounds of the White House, the portion of Pennsylvania Avenue extending from the Capitol to the White House, Rock Creek Park, the Zoological Park, the Rock Creek and Potomac Parkway, Potomac Park, The Mall Park System and public buildings adjacent thereto, or abutting upon any street bordering any of said grounds or parks, the plans therefor, so far as they relate to height and appearance, color, and texture of the materials of exterior construction, shall be submitted by the Commissioners of the District of Columbia to the Commission of Fine Arts; and the said commission shall report promptly to said commissioners its recommendations, including such changes, if any, as in its judgment are necessary to prevent reasonably avoidable impairment of the public values belonging to such public building or park; and said commissioners shall take such action as shall, in their judgment, effect reasonable compliance with such recommendation: *Provided*, That if the said Commission of Fine Arts fails to report its approval or disapproval of such plans within thirty days, its approval thereof shall be assumed and a permit may be issued. (May 16, 1930, c. 291 § 1, 46 Stat. 366.)

The Act cited to the text was entitled "An Act to regulate, the height, exterior design, and construction of private and semipublic buildings in certain areas of the National Capital."

Section 2 of said Act (46 Stat. 367) provided as follows: "Sec. 2. Said Commissioners of the District of Columbia, in consultation with the National Capital Park and Planning Commission, as early as practicable after approval of this Act [this section], shall prepare plans defining the areas within which application for building permits shall be submitted to the Commission of Fine Arts for its recommendations."

**Chapter 2.—CAPITOL BUILDING AND GROUNDS.**

★ **Section 161a. Office of Architect of Capitol; positions and rates of compensation.**—[Repealed.]

This section was repealed by § 8 of Act June 20, 1920, c. 33, 40 Stat. 39, which provided in part as follows: "The Act entitled 'An Act to fix the compensation of officers and employees of the