

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 10.
PARKS, PUBLIC BUILDINGS, GROUNDS,
AND SPACE.

CHAPTER 14.
NATIONAL CHILDREN'S ISLAND.

2001 Edition

DISTRICT OF COLUMBIA OFFICIAL CODE
CHAPTER 14. NATIONAL CHILDREN'S ISLAND.

TABLE OF CONTENTS

Subchapter I. General.

- § 10-1401. Definitions.
- § 10-1402. Property transfer.
- § 10-1403. Provisions relating to lands transferred and easements granted.
- § 10-1404. Effect of Property Transfer.
- § 10-1405. Savings provisions.
- § 10-1406. Comprehensive and Anacostia Waterfront Framework Plans.

Subchapter II. Children's Island Development Plan.

- § 10-1431. Submission of development plan.
- § 10-1432. Development plan defined.

CHAPTER 14. NATIONAL CHILDREN'S ISLAND.

SUBCHAPTER I. GENERAL.

§ 10-1401. DEFINITIONS.

For the purposes of this subchapter:

- (1) The term "plat" means the plat filed in the Office of the Surveyor of the District of Columbia under S.O. 92-252.
- (2) The term "District" means the District of Columbia.
- (3) The term "Islands" means Heritage Island and all of that portion of Kingman Island located south of Benning Road and within the District of Columbia and the Anacostia River, being a portion of United States Reservation 343, Section F, as specified and legally described on the Survey.
- (4) The term "National Children's Island" means a cultural, educational, and family-oriented recreation park, together with a children's playground, to be developed and operated in accordance with subchapter II of this chapter.
- (5) The term "playground" means the children's playground that is part of National Children's Island and includes all lands on the Islands located south of East Capitol Street.
- (6) The term "recreation park" means the cultural, educational, and family-oriented recreation park that is part of National Children's Island.
- (7) The term "Secretary" means the Secretary of the Interior.
- (8) The term "Survey" means the ALTA/ACSM Land Title Survey prepared by Dewberry & Davis and dated February 12, 1994.

(July 19, 1996, 110 Stat. 1416, Pub. L. 104-163, § 2.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 9-901.

Emergency Act Amendments

For temporary (90 day) addition of §§ 10-1503 to 10-1505, see § 2(a) to (c) of Draft Master Plan for Public Reservation 13 Emergency Amendment Act of 2003 (D.C. Act 15-13, January 27, 2003, 50 DCR 1488).

§ 10-1402. PROPERTY TRANSFER.

(a) *Transfer of title.* -- In order to facilitate the construction, development, and operation of National Children's Island, the Secretary shall, not later than six months after July 19, 1996 and subject to this subchapter, transfer by quitclaim deed, without consideration, to the District all right, title, and interest of the United States in and to the Islands. Unbudgeted actual costs incurred by the Secretary for such transfer shall be borne by the District. The District may seek reimbursement from any third party for such costs.

(b) *Grant of easements.* --

(1) The Secretary shall, not later than six months after July 19, 1996, grant, without consideration, to the District, permanent easements across the waterways and bed of the Anacostia River as described in the Survey as Leased Riverbed Areas A, B, C, and D, and across the shoreline of the Anacostia River as depicted on the plat map recorded in the Office of the Surveyor of the District as S.O. 92-252.

(2) Easements granted under paragraph (1) of this subsection shall run with the land and shall be for

the purposes of:

(A) Constructing, reconstructing, maintaining, operating, and otherwise using only such bridges, roads, and other improvements as are necessary or desirable for vehicular and pedestrian egress and ingress to and from the Islands and which satisfy the District Building Code and applicable safety requirements;

(B) Installing, reinstalling, maintaining, and operating utility transmission corridors, including (but not limited to) all necessary electricity, water, sewer, gas, necessary or desirable for the construction, reconstruction, maintenance, and operation of the Islands and any and all improvements located thereon from time to time; and

(C) Constructing, reconstructing, maintaining, operating, and otherwise providing necessary informational kiosk, ticketing booth, and security for the Islands.

(3) Easements granted under paragraph (1) of this subsection shall be assignable by the District to any lessee, sublessee, or operator, or any combination thereof, of the Islands.

(c) *Development.* -- The development of National Children's Island shall proceed as specified in paragraph 3 of the legend on the plat or as otherwise authorized by the District by agreement, lease, resolution, appropriate executive action, or otherwise.

(d) *Reversion.* --

(1) Title in the property transferred under subsection (a) and the easements granted under subsection (b) shall revert to the United States upon the expiration of the 60-day period which begins on the date on which the Secretary provides written notice to the District that the Secretary has determined that the District is using any portion of the property for a use other than recreational, environmental, or educational purposes in accordance with National Children's Island, the Anacostia Waterfront Framework Plan, or the Comprehensive Plan. Such notice shall be made in accordance with chapter 5 of title 5, United States Code (relating to administrative procedures).

(2) The periods referred to in paragraph (1) of this subsection shall be extended during the pendency of any lawsuit which seeks to enjoin the development or operation of National Children's Island or the administrative process leading to such development or operation.

(3) Following any reconveyance or reversion to the National Park Service, any and all claims and judgments arising during the period the District holds title to the Islands, the playground, and premises shall remain the responsibility of the District, and such reconveyance or reversion shall extinguish any and all leases, rights or privileges to the Islands and the playground granted by the District.

(4) The District shall require any nongovernmental entity authorized to construct, develop, and operate National Children's Island to establish an escrow fund, post a surety bond, provide a letter of credit or otherwise provide such security for the benefit of the National Park Service, substantially equivalent to that specified in paragraph 11 of the legend on the plat, to serve as the sole source of funding for restoration of the recreation park to a condition suitable for National Park Service purposes (namely, the removal of all buildings and grading, seeding and landscaping of the recreation park) upon reversion of the property. If, on the date which is two years from the date of reversion of the property, the National Park Service has not commenced restoration or is not diligently proceeding with such restoration, any amount in the escrow fund shall be distributed to such nongovernmental entity.

(July 19, 1996, 110 Stat. 1416, Pub. L. 104-163, § 3; Dec. 22, 2010, 124 Stat. 3564, Pub. L. 111-328, § 2(b).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 9-902.

Effect of Amendments

Pub. L. 111-328 rewrote subsec. (d)(1), which had read as follows:

"(1) The transfer under subsection (a) of this section and the grant of easements under subsection (b) of this section shall be subject to the condition that the Islands only be used for the purposes of National Children's Island. Title in the property transferred under subsection (a) of this section and the easements granted under subsection (b) of this section, shall revert to the United States 60 days after the date on which the Secretary provides written notice of the reversion to the District based on the Secretary's determination, which shall be made in accordance with Chapter 5 of Title 5, United States Code (relating to administrative procedures), that one of the following has occurred:

"(A) Failure to commence improvements in the recreational park within the earlier of:

" (i) Three years after building permits are obtained for construction of such improvements; or

"(ii) Four years after title has been transferred, as provided in subsection (a) of this section.

"(B) Failure to commence operation of the recreation park within the earlier of:

"(i) Five years after building permits are obtained for construction of such improvements; or

" (ii) Seven years after title has been transferred, as provided in subsection (a) of this section.

"(C) After completion of construction and commencement of operation, the abandonment or nonuse of the recreation park for a period of 2 years.

"(D) After completion of construction and commencement of operation, conversion of the Islands to a use other than that specified in this subchapter or conversion to a parking use not in accordance with § 10-1403(b)."

§ 10-1403. PROVISIONS RELATING TO LANDS TRANSFERRED AND EASEMENTS GRANTED.

(a) *Playground.* -- Operation of the recreation park may only commence simultaneously with or subsequent to improvement and opening of a children's playground at National Children's Island that is available to the public free of charge. The playground shall only include those improvements traditionally or ordinarily included in a publicly maintained children's playground. Operation of the recreation park is at all times dependent on the continued maintenance of the children's playground.

(b) *Public parking.* -- Public parking on the Islands is prohibited, except for handicapped parking, emergency and government vehicles, and parking related to constructing, and servicing National Children's Island.

(c) *Required approvals.* -- Before construction commences, the final design plans for the recreation park and playground, and all related structures, including bridges and roads, are subject to the review and approval of the National Capital Planning Commission and of the District of Columbia in accordance with subchapter II of this chapter. The District of Columbia shall carry out its review of this project in full compliance with all applicable provisions of the National Environmental Policy Act of 1969.

(July 19, 1996, 110 Stat. 1416, Pub. L. 104-163, § 4).

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 9-903.

References in Text

The National Environmental Policy Act of 1969, referred to in subsection (c) of this section, is the Act of January 1, 1970, 83 Stat. 852, Pub. L. 91-190 which is codified at 42 U.S.C. § 4321, 4331 et seq., and 4341 et seq.

§ 10-1404. EFFECT OF PROPERTY TRANSFER.

(a) *Effect of property transfer.* -- Upon the transfer of the Islands to the District pursuant to this subchapter:

(1) The Transfer of Jurisdiction concerning the Islands from the National Park Service to the District dated February 1993, as set out on the plat map recorded in the Office of the Surveyor of the District as S.O. 92-252 and as approved by the Council of the District by Resolution 10-91, shall become null and void and of no further force and effect, except for the references in this subchapter to paragraphs 3 and 11 of the legend on the plat.

(2) The Islands shall no longer be considered to be part of Anacostia Park and shall not be considered to be within the park system of the District; therefore, the provisions of § 10-104, shall not apply to the Islands, and the District shall have exclusive charge and control over the Islands and easements transferred.

(3) The Islands shall cease to be a reservation, park, or public grounds of the United States for the purposes of § 10-128.

(b) *Use of certain lands for parking and other purposes.* -- Notwithstanding any other provision of law, the District is hereby authorized to grant via appropriate instrument to a nongovernmental individual or entity any and all of its rights to use the lands currently being leased by the United States to the District pursuant to subchapter II of Chapter 3 of Title 3, for parking facilities (and necessary informational kiosk, ticketing booth, and security) as the Mayor of the District in his discretion may determine necessary or appropriate in connection with or in support of National Children's Island.

(July 19, 1996, 110 Stat. 1419, Pub. L. 104-163, § 5.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

Resolution 10-91, referred to in (a)(1), was published August 6, 1993, at 40 DCR 5514.

§ 10-1405. SAVINGS PROVISIONS.

No provision of this subchapter shall be construed:

- (1) As an express or implied endorsement or approval by the Congress of any such construction, development, or operation of National Children's Island;
- (2) Except as provided in § 10-1405, to exempt the recreational park and playground from the laws of the United States or the District, including laws relating to the environment, health, and safety; or
- (3) To prevent additional conditions on the National Children's Island development or operation to mitigate adverse impacts on adjacent residential neighborhoods and park lands and the Anacostia River.

(July 19, 1996, 110 Stat. 1420, Pub. L. 104-163, § 6.)

§ 10-1406. COMPREHENSIVE AND ANACOSTIA WATERFRONT FRAMEWORK PLANS.

(a) COMPLIANCE WITH PLANS. -- Notwithstanding any other provision of this chapter, it is not a violation of the terms and conditions of this chapter for the District of Columbia to use the lands conveyed and the easements granted under this chapter for recreational, environmental, or educational purposes in accordance with the Anacostia Waterfront Framework Plan and the Comprehensive Plan.

(b) DEFINITIONS. -- For purposes of this section, the following definitions apply:

(1) ANACOSTIA WATERFRONT FRAMEWORK PLAN. -- The term "Anacostia Waterfront Framework Plan" means the November 2003 Anacostia Waterfront Framework Plan to redevelop and revitalize the Anacostia waterfront in the District of Columbia, as may be amended from time to time, developed pursuant to a memorandum of understanding dated March 22, 2000, between the General Services Administration, Government of the District of Columbia, Office of Management and Budget, Naval District Washington, Military District Washington, Marine Barracks Washington, Department of Labor, Department of Transportation, National Park Service, Army Corps of Engineers, Environmental Protection Agency, Washington Metropolitan Area Transit Authority, National Capital Planning Commission, National Arboretum, and Small Business Administration.

(2) COMPREHENSIVE PLAN. -- The term "Comprehensive Plan" means the Comprehensive Plan of the District of Columbia approved by the Council of the District of Columbia on December 28, 2006, as such plan may be amended or superseded from time to time.

(July 19, 1996, 110 Stat. 1420, Pub. L. 104-163, § 7, as added Dec. 22, 2010, 124 Stat. 3564, Pub. L. 111-328, § 2(a).)

SUBCHAPTER II. CHILDREN'S ISLAND DEVELOPMENT PLAN.

§ 10-1431. SUBMISSION OF DEVELOPMENT PLAN.

(a) The development plan for property know as Heritage Island and a portion of Kingman Island ("Children's Island") in the Anacostia River in Ward 6, as shown on the plat filed in the Office of the Survey of the District of Columbia under S.O. 92-252, accompanied by a proposed resolution to approve the development plan, shall be submitted by the Mayor to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess.

(b) If the Council does not approve or disapprove the development plan by resolution within this 45-day review period, the development plan shall be deemed approved by the Council.

(c) The requirements of this section shall be in addition to all other requirements for approvals, permits, and procedures which are necessary to allow the development of Children's Island.

(Nov. 20, 1993, D.C. Law 10-57, § 2, 40 DCR 7227.)

§ 10-1432. DEVELOPMENT PLAN DEFINED.

For purposes of this subchapter, the term "development plan" shall include, but not be limited to:

- (1) A schematic layout of design elements, including a site plan, textual description, and illustrative rendering of the location, size, materials, and functions of all structures, buildings, roads, bridges, pathways, paved surfaces, landscaping, parking facilities, and utilities;
- (2) An environmental impact statement;
- (3) A traffic and transportation analysis, including any impact of traffic on the adjacent communities and the programs or measures to mitigate such impact;
- (4) A circulation and sizing analysis;
- (5) Applicable engineering studies;
- (6) An operational planning analysis;
- (7) A description of the programs, activities, facilities, goods, and services to be offered to the public, including the estimated costs of admission;
- (8) An updated analysis of costs and benefits to the District government, the public, and the developer;
- (9) The estimated annual numbers of construction, seasonal, and permanent jobs to be generated, including the percentage to be filled by District residents;
- (10) The estimated annual numbers and dollar amounts of vending and contractual services to be generated by construction and operations, including the percentage to be set aside for District and minority entities;
- (11) The estimated timetable and total cost of constructing and operating the project, including a financing plan;
- (12) All documentation or material included within the submission by the Mayor or the developer to the National Capital Planning Commission and the Commission on Fine Arts as part of their respective reviews of the proposal for Children's Island; and
- (13) Any other information requested by the Council of the District of Columbia to facilitate its review of proposed development of Children's Island.

(Nov. 20, 1993, D.C. Law 10-57, § 3, 40 DCR 7227.)