



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 051028

Introduced November 3, 2005

**Councilmembers DiCicco, Krajewski, Council President Verna,
Councilmembers Goode, Nutter, Reynolds Brown, Miller, Ramos, Kelly,
O'Neill and Rizzo**

**Referred to the
Committees on Rules**

AN ORDINANCE

Amending Title 14 of The Philadelphia Code, entitled "Zoning and Planning," by adopting a new Chapter 14-400, entitled "Commercial Entertainment District," under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 14 of The Philadelphia Code is hereby amended to read as follows:

TITLE 14. ZONING AND PLANNING.

* * *

CHAPTER 14-400. COMMERCIAL ENTERTAINMENT DISTRICT.

§14-401. Statement of Purpose.

(1) This district is intended to encourage the orderly development of major entertainment facilities and certain other uses in accordance with an approved plan of development. The plan shall be approved and may be amended as necessary and is subject to restrictions on the type of use and certain other development controls.

§14-402. Definitions.

(1) Licensed Gaming Facility. A licensed gaming facility as authorized by the Commonwealth of Pennsylvania, pursuant to 18 Pa. C.S., Ch. 92, entitled "Racetrack and Licensed Gaming."

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(2) *Commission. The City Planning Commission.*

§14-403. Procedures for the Establishment of a Commercial Entertainment District.

(1) *Council shall designate, by ordinance, such Commercial Entertainment Districts in such areas as Council deems appropriate. For each such District, such designations shall become effective upon the adoption of an ordinance designating the district boundaries; and the approval by Council of a Plan of Development for the District. Upon the designation becoming effective, the underlying zoning classification for all lots within the District shall be superseded, and no permits shall issue for any use within the District other than as permitted by the approved Plan of Development and this Chapter.*

(2) *Council approval of a Plan of Development shall be presumed if Council fails to approve by ordinance, disapprove by ordinance, or table consideration of, a proposed Plan within 45 days after submission by the Commission of a proposed Plan to the Council. In the event the owner of a lot within a District submits a proposed Plan to the Commission and the Commission fails to approve, disapprove or table consideration of it within 45 days after submission, the proponent may submit the application directly to the Council and it will be deemed submitted to the Council by the Commission.*

(3) *Plan Submission Requirements. The owner of any lot within a proposed or adopted Commercial Entertainment District may submit a proposed Plan of Development to the Commission, or, at any time after approval of a Plan of Development, a proposed amendment to a Plan of Development, for the Commission's review and approval. Said Plan shall be submitted with the following information:*

(a) *The extent, boundaries, and area of the district to include lot area and width dimensions;*

(b) *The proposed maximum gross floor area;*

(c) *The dimensions and heights of the proposed structures or existing structures to be retained as well as the use or uses intended for each structure;*

(d) *The occupied area, gross floor area, and height of all buildings within the district;*

(e) *The size and location of all parking areas; the size and location of all driveways leading thereto; and the size and location of all other private drives, ways or streets intended to be used by automobile traffic;*

(f) *The size and location of all off-street loading facilities;*

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(g) *The size and location of any signs;*

(h) *A landscaping plan;*

(i) *Any other information which the Commission may deem necessary, to include sufficient guarantees in the form of restrictive covenants running with the land or letters of intent for any lands to be dedicated for public use.*

(4) Review and approval of a proposed Plan of Development. The Commission shall submit to the Council for its consideration a proposed Plan of Development for a Commercial Entertainment District if the Commission finds that the Plan is consistent with the purposes of such a District, is in compliance with the provisions of this Chapter, and is otherwise appropriate in terms of scale, density, accessibility and design for the neighborhood.

§14-404. Procedure for Issuance of Permits in a Commercial Entertainment District.

(1) Prior to the issuance of any zoning permits in a Commercial Entertainment District, the Commission shall review the application and accompanying plans to determine if they are in accord with the approved Plan of Development.

(a) If the Commission determines that the proposed plans are in accord with the approved Plan of Development and is otherwise in accord with the provisions of Chapter 14-400, the Commission shall approve the proposed plans and return them to the Department of Licenses and Inspections for the issuance of zoning permits.

(2) No City department shall issue any building or zoning permit for any parcel zoned Commercial Entertainment District unless the Commission shall have approved the applicant's development plans as consistent with the requirements of this District. The plans shall contain, as a minimum, the following information and details:

(a) Plans for the development of the entire district, or for a separate lot, parcel, or block within the district;

(b) The height, and use of all buildings and structures;

(c) All proposed set-backs and open space;

(d) The gross floor area of all buildings;

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(e) Any proposed change to the existing confirmed street layout within or surrounding the boundaries of the district;

(f) The total occupied area of the district, expressed in square feet and percentages;

(g) A landscaping plan;

(h) A parking plan, including all driveways leading thereto and the size and location of all private drives or public streets intended to be used for automobile traffic. All proposed plans for off-street parking lots shall be approved by the Department of Streets;

(i) The size and location of all off-street loading facilities;

(j) The size and location of any signs.

(3) The Commission shall take no action on any proposed plans unless the Commission shall have first referred the plans to the Streets Department and the Water Department for their review. Said departments shall have thirty days to offer their recommendations. If the Commission fails to approve, disapprove, conditionally approve or table the proposal within 45 days after submission of complete plans to the Commission, the approval of the Commission shall be presumed. The Commission shall reply in writing informing the proponent as to the action that the Commission has taken.

(4) Where the approval of the Department of Streets is required before the issuance of a permit, including as provided in sections 14-404(2)(h) and 14-408(2), relating to off-street parking, if the Department fails to approve, disapprove or conditionally approve the proposal within 45 days after submission of complete plans to the Department, the approval of the Department shall be presumed.

§14-405. Use Regulations.

(1) The specific uses permitted in this district shall be the erection, construction, alteration or use of one or more structures or land for:

(a) Exhibition halls, meeting facilities, banquet facilities except for any use regulated under the provisions of Section 14-1605 of The Philadelphia Code;

(b) Single-family, two-family or multi-family dwellings and hotels;

(c) Licensed gaming facilities;

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- (d) *Marinas, boat launches;*
- (e) *Offices;*
- (f) *Parking lots or garages;*
- (g) *Restaurants, nightclubs and other entertainment of guests and patrons except for any use regulated under the provisions of Section 14-1605 of The Philadelphia Code;*
- (h) *Retail sales of goods and the provision of services to the ultimate consumer except for any goods or services regulated under the provisions of Section 14-1605 of The Philadelphia Code;*
- (i) *Theaters;*
- (j) *Accessory uses, customarily incidental to the above uses, including amusement arcades and pool halls.*

§14-406. Area Regulations.

(1) *District Area and Boundaries. Boundaries shall be so designated to afford a reasonable line of division between the district and adjacent uses consistent to carry out the purposes and scope of this Title as required in §14-101. The Plan should also provide for reasonable, compatible spatial relationships between buildings that are situated on the periphery of the district and abutting non- Commercial Entertainment District areas. No limitation on multiple buildings on a lot shall apply in this District.*

(2) *Gross Floor Area.*

(a) *For specifically designated areas, the gross floor area of all buildings shall not exceed 400% of the Commercial Entertainment District. Underground parking shall not be included in this calculation.*

(3) *Open Area. For sites that consist of four acres or more, not less than 30% of the site shall be open. For sites of less than four acres, not less than 10% shall be open. No less than fifty percent of this open area shall be constructed of a permeable surface. The total open area calculation shall not include open-air parking lots;*

(4) *Open Area Above the Ground Level. 30% of the required open area may be located above the ground level;*

(5) *Yards. Front, side, or rear yards shall be required in this district as follows and as may be required as part of the approval of a Commercial Entertainment District Plan:*

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(a) *Surface parking areas, and any access to parking, loading or other servicing shall not be permitted within 50 feet of any residential district;*

(b) *Waterfront Setback. When located along the Schuylkill or Delaware River, all lots shall provide or allow for an unencumbered set-back from the top of the bank of any river to allow for unrestricted public access to the river's edge. Any land located within this set-back which is dedicated to the City of Philadelphia, the Commonwealth of Pennsylvania or any public entity, shall be included in the determination of conformance to the requirements of Section 14-406. This waterfront setback shall include as follows:*

(.1) *A public open space which may include privately or publicly owned space at a width of no less than 30 feet; and a publicly or privately owned right-of-way dedicated for pedestrian and bicycle traffic at a width of no less than 20 feet.*

§14-407. Height Regulations.

(1) *For specifically designated areas, the maximum height of any building shall not exceed 300 feet or 30 stories;*

§14-408. Off-Street Parking.

(1) *Plans for all off-street parking areas must comply with the provisions set forth herein, and the prerequisite approvals contained herein:*

(a) *Number of Spaces. Within any Commercial Entertainment District, off-street parking spaces shall be provided in accordance with the following requirements:*

(.1) *Licensed gaming facilities:*

(.a) *For specifically designated areas, four parking spaces for every five (5) slot machine or gaming positions provided for patrons and guests;*

(.b) *For other specifically designated areas, one parking space for every slot machine or gaming position provided for patrons and guests.*

(.2) *Hotels:*

(.a) *For specifically designated areas, one parking space for every 2 units.*

(b) *Traffic Study. Prior to the establishment of Commercial Entertainment District the proponent of said district must provide a traffic study*

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prepared by a professional licensed traffic-engineering firm to the Commission and the Streets Department for their consideration. The study must address accommodations for public transit access.

(2) Off-Street Parking Layout and Access Conditions. Parking provided in this district shall be adequately served by high capacity roads and/or driveways approved by the Department of Streets as being adequate to safely serve the ingress and egress of patrons and guests using the facility, further provided:

(a) Not more than 10% of all parking spaces in a Commercial Entertainment District may be provided in parking lots. This includes required handicapped spaces, bus parking, limousine parking, cabstands, loading spaces and delivery spaces;

(b) All areas used for surface parking and access to all parking facilities shall be paved;

(c) All entrances to parking areas and/or facilities shall be provided with adequate vehicle reservoir spaces approved by the Department of Streets;

(d) All proposed plans for off-street parking lots shall be approved by the Department of Streets;

(e) Each parking space in an off-street parking lot shall not be less than 8 1/2 feet wide nor 18 feet deep for standard parking spaces and not less than 8 feet wide nor 16 feet deep for compact parking spaces exclusive of access driveways or aisles; provided, that the size and layout of all parking spaces located in a garage structure shall be approved by the Department of Streets as provided herein;

(f) All off-street parking lots and facilities shall be permitted to provide compact parking spaces at a ratio of up to 30% of the required parking spaces, provided that such spaces are clearly marked as being limited to the parking of compact cars;

(g) Open-Air Parking Provisions. Where parking spaces are in an open-air area, the open-air parking area shall:

(.1) Be situated on ground that does not contain any grades in excess of 10%, namely, changes of grade of one foot for each 10 feet;

(.2) Be paved with a hard top surface of cement concrete, bituminous concrete, or pervious pavers, including all accessways and/or driveways from the street;

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(.3) *Where more than 3 motor vehicles are to be parked, comply with the applicable provisions of §9-601 of The Philadelphia Code;*

(.4) *Be provided with adequate lighting facilities for use at night, which lights shall be focused so as to prevent glare on surrounding lots;*

(.5) *Contain permanent, substantial barriers around the area, constructed of metal or masonry. If constructed of masonry, the wall shall be not less than 2 feet above the ground, and if constructed of metal or masonry posts, the posts shall be not less than 4 inches nor more than 6 inches in diameter, placed not more than 5 feet apart, nor less than 30 inches above the ground and connected by metal pipes, rods, fencing or chains;*

(h) Driveways, Aisles, Walkways, Screening, Landscaping and Lighting.

(.1) Parking facilities shall comply with the following requirements:

(.a) Driveways and Aisles. An additional area of the off-street parking lot or parking garage equal to not less than 25% of the total area of the lot or garage shall be provided for access driveways and aisles.

(.b) Walkways. Where an off-street parking lot containing over 25 spaces or a portion of an off-street parking lot where such portion contains over 25 spaces is located between a building and a public street, a pedestrian walkway of at least 5 feet in width shall be provided in accordance with the following requirements:

(.i) The walkway shall be located within or along the edge of the parking lot;

(.ii) The walkway shall connect the street and the building;

(.iii) One such pedestrian walkway shall be provided for each 300 feet of street frontage along a street; and,

(.iv) Where a walkway crosses a driveway or aisle, the driveway and/or aisle shall be clearly marked and signed so as to indicate the location of the walkway and to require vehicles to stop for individuals using the walkway;

(.c) Screening Along Residential Lot Lines. Where an off-street parking lot, parking garage, driveway or aisle is located between a building and a residential district, or is located so that there is not a building or portion of a building between the parking lot, parking garage, driveway or aisle and a residential district, a planted buffer at least 6 feet wide and 6 feet high shall be installed and maintained between the parking

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lot, parking garage, driveway or aisle and the residential district in accordance with the following requirements:

(.i) The planted buffer shall be installed along the entire edge of the lot line where it abuts the lot line of the residential district;

(.ii) Where an off-street parking lot, parking garage, driveway or aisle is located between a building and a residential district along 2 or more lot lines, a planted buffer shall be installed along the entire edge of each lot line which abuts the lot line of a residential district;

(.iii) The planting material shall be installed at a size and number to ensure adequate screening from the time the material is installed;

(.iv) The type of plant material shall be selected from a list of types, sizes of species of plants, and numbers of plants that are appropriate for the location of the parking facility. This list shall be prepared and maintained by the Commission, in conjunction with the Fairmount Park Commission;

(.v) The planted buffer may be located within the required side and rear yards;

(.vi) The required screening shall be maintained in a manner to ensure its survival. In the event that any landscaping dies, it shall be replaced at the required ratio;

(.d) Screening Along Street Frontage. Along the street line of all public streets whether or not a set-back is required, a landscaped area at least 4 feet wide and 2 feet high, shall be installed along the outward edge of the parking lot in accordance with the following requirements:

(.i) The landscaped area shall be installed along the entire street frontage of all streets, except where walkways and driveways connect to the public street;

(.ii) The planting material shall be installed at a size and number to ensure adequate screening from the time the material is installed;

(.iii) The type of plant material shall be selected from a list of types, sizes of species of plants, and numbers of plants that are appropriate to achieve adequate screening and appropriate for the location of the parking facility. This list shall be prepared and maintained by the Commission, in conjunction with the Fairmount Park Commission;

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(.iv) *The landscaped area may be located within any required set-back;*

(.v) *The required landscaped area shall be maintained in a manner to ensure its survival. In the event that any landscaping dies, it shall be replaced at the required ratio; and,*

(.e) *Landscaping. All off-street parking lots shall include landscaped areas in accordance with the following requirements:*

(.i) *In any required set-back, a landscaped area at least equal to the required set-back, but in no case less than 4 feet wide, shall be installed along the outward edge of the parking lot, subject to the requirements of sub-paragraph (.4) above;*

(.ii) *Within the parking lot, an additional area shall be provided for the installation and maintenance of landscaping. The total landscaping shall not be less than 10% of the area of the parking lot, including all spaces, aisles and driveways, but excluding all walkways and screening required elsewhere herein;*

(.iii) *The planting material shall be installed at a size and number to ensure adequate screening from the time the material is installed;*

(.iv) *The type of plant material shall be selected from a list of types, sizes, species and numbers of plants that are appropriate to the environment in which they are to be installed and appropriate for the location of the parking facility. The list shall be prepared and maintained by the Commission, in conjunction with the Fairmount Park Commission;*

(.v) *The required landscaping may be located anywhere within or along the parking lot; provided, it shall be maintained in a manner to insure its survival. In the event that any landscaping dies, it shall be replaced at the required ratio; and,*

(.f) *Lighting All parking lots shall include lighting in accordance with the following requirements:*

(.i) *The lighting shall illuminate the entire parking lot and walkways with an overall minimum average level of illumination of not less than 2 horizontal foot-candles;*

(.ii) *The illumination shall be maintained throughout the hours of darkness;*

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(.iii) *The illumination shall be focused upon the lot so as to prevent glare upon the surrounding areas.*

§14-409. Off-Street Loading.

(1) *Off-street loading spaces shall be provided in accordance with the following table. The number of required spaces for a Commercial Entertainment District shall be determined by calculating the total gross floor area of all buildings in the district.*

<i>Gross Floor Area (square feet) Spaces</i>	<i>Minimum Required</i>
<i>0 - 100,000</i>	<i>0</i>
<i>100,001 - 150,000</i>	<i>1</i>
<i>150,001 - 400,000</i>	<i>2</i>
<i>400,001 - 660,000</i>	<i>3</i>
<i>660,001 - 970,000</i>	<i>4</i>
<i>970,001 - 1,300,000</i>	<i>5</i>

for each additional 400,000 sq. ft.

over 1,300,000 sq. ft. 1 additional space;

(2) *The off-street loading areas must be designed in such a manner that all service vehicles enter and exit the facility in forward gear.*

§14-410. Signs.

(1) *For uses specified in §14-405(1)(a) through (j), signs shall be permitted in accordance with the following limitations and conditions:*

(a) *Each building in the Commercial Entertainment District signs shall be permitted to have signs, identifying the name, use or purpose of said building;*

(b) *Lots facing one street line shall be permitted a total sign area of 5 square feet for each lineal foot of street line;*

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(c) Lots facing more than one street line shall be permitted a total sign area as follows:

(.1) For a shorter street line frontage there shall be permitted a sign area of 2 square feet for each lineal foot of street line;

(.2) For a longer street line frontage there shall be permitted a sign area of 5 square feet for each lineal foot of street line; provided, that in no case shall the total sign area on the longer street line frontage be less than the equivalent sign area permitted upon the shorter street line frontage;

(.3) Where a lot has 2 or more short and/or 2 or more long street line frontages, the provisions of (.1) and (.2) shall apply to each of said street frontages;

(d) The total of the sign areas permitted in sub-paragraphs (b) and (c) may be cumulated;

(e) Signs that are freestanding structures on the ground shall not exceed 40 feet in height, measured from the average level of ground of the lot to the top of said structure;

(f) Signs may be animated or illuminated; provided, the illumination shall be focused upon the sign itself so as to prevent glare upon the surrounding area;

(g) Signs with flashing or intermittent illumination shall not be erected within 150 feet of any Residential District, nor facing any Residential District within 300 feet of the sign;

(h) Any revolving device that causes intermittent flashes of light to be projected shall be prohibited;

(i) Non-accessory or outdoor advertising signs shall not be permitted.

(2) Signs permitted with Art Commission Approval. In addition to the permitted signs as set forth above, the following signs may also be permitted, provided that the Art Commission has approved such signs:

(a) A free-standing accessory advertising sign, not exceeding fifty (40) feet in height above the average street level on which it fronts, with no more than two sign faces of one thousand two hundred (1200) square feet each may be erected for each street frontage of the district, provided that more than one sign may be erected along a single street frontage so long as the total number of signs does not exceed the number of signs permitted in the district;

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(b) *Roof signs or signs on top of a marquee;*

(c) *In addition to the signs allowed above, one additional freestanding sign for each 80,000 square feet of District Area shall be permitted under the following conditions:*

(.1) *Such sign shall not contain more than two sign faces with a total area of 300 square feet, exclusive of supporting structures, nor exceed in total height 40 from grade level to the top of the sign;*

(d) *Signs permitted pursuant to the provisions of paragraph (2) above shall comply with the following requirements:*

(.1) *The applicant shall provide the Art Commission with a copy of its application for a Zoning and/or Use Registration Permit and/or all information that the Art Commission may deem necessary to carry out the review of the proposed sign, including but not limited to, architectural renderings and/or elevations;*

(.2) *Upon receipt of an application and all other pertinent information for the erection of a sign, the Art Commission shall have forty-five (45) days to notify the applicant and the City Planning Commission in writing, of its approval, disapproval or tabling for additional information, of the proposed sign(s). If after forty-five (45) days the Art Commission has not transmitted notice of its action, Art Commission approval shall be presumed.*

§14-411. Design Review Submission Requirements.

(1) *The significant physical scale and extraordinary activity level of the uses permitted in this District create major impacts on the areas in which they are located. To ensure that these facilities are constructed in the most appropriate manner, design, scale and density, the following requirements are imposed:*

(a) *No permitted use shall be constructed or opened for occupancy unless the Commission certifies, based on a review of the architectural plans, that the proposed design is in compliance with the provisions of this Section 14-411.*

(b) *The Commission must act to accept or reject the submission within 30 days or the submission will be considered approved. No construction drawings will be reviewed for purposes of building permits until after the Commission approves the design development plans pursuant to subsection (a) above.*

(2) *General requirements.*

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(a) Any building in a Commercial Entertainment District must be designed by a registered architect.

(b) Designers must use their best efforts, as determined by the Commission, to attain the highest level of LEED (Leadership in Energy and Environmental Design) accreditation possible.

(3) Siting, Access and Landscaping.

(a) If a permitted use faces a public street, a significant pedestrian entrance shall be on and front that street;

(b) A permitted use developed on a waterfront site, must provide dedicated public access to the waterfront, open to and connected from a public street. Public access will be provided along the site's waterfront length, the width of which will in no case be less than twelve feet wide.

(c) A permitted use must provide for adequate public transit access to the site;

(d) Prior to the issuance of any permit for any use in the District, the applicant must submit a landscape plan prepared by a licensed landscape architect;

(3) Lighting. No use will be approved unless it provides appropriate lighting levels throughout the site to support pedestrian safety. A lighting plan prepared by a qualified lighting engineer or designer must be submitted;

(4) Public Art. A public art requirement is being imposed as a mechanism to expand and enrich the public environment and to create buildings and public spaces that are designed and executed with diverse and high quality materials, activities, and furnishings. It is intended to allow for the broadest definition of public art and encourage imaginative interpretation of media. In order to comply with this subsection, all of the following conditions must be met:

(a) On-site Public Art. It may include, but shall not be limited to the following, separately or in combination:

(.1) Sculpture;

(.2) Murals or paintings;

(.3) Earthworks, waterworks, fiber works, functional elements, furnishings, neon, glass mosaics, photography, prints, calligraphy, in any combination of

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forms of media including sound, film, holographic and video systems; hybrids of any media and new genres;

(.4) Lighting in any combinations of forms;

(.5) Commercial Activity. Items, functions and events which are basically commercial in nature, such as commercial art galleries, exhibits of items for sale, etc., shall not satisfy requirements of this section of the code;

(b) Location. Public art shall be located within the building, upon the building, or within public spaces on the site. Public art may be provided within the public sidewalk, if authorization, by ordinance, is obtained;

(c) Approval Criteria. In order to meet the requirements of this section, the owner of the lot or a designee must have the proposed public art approved by the Art Commission of the City of Philadelphia;

(d) The Art Commission may, upon request, assist in the selection of an artist or artists for the project and/or the selection of an arts coordinator for the project;

(e) Decorative, ornamental or functional elements of the building or public space which are not designed by an artist and created specifically for the site, nor to have landscaping or other furnishings or elements required elsewhere herein, shall not qualify as part of the public art requirement, unless the Art Commission determines such elements comply with the intent of the public art requirement.

(f) Cost. Public Art as required in this Section shall be provided at an individual or combined minimum cost in accordance with the following:

(.1) For development on a lot, with construction costs of twenty million (\$20,000,000) dollars or less, an amount equal to one percent (1%) of the construction costs;

(.2) For development on a lot, with construction costs of up to forty million (\$40,000,000) dollars, one percent (1%) of the first twenty million (\$20,000,000) dollars of construction costs and one half percent (0.5%) of the construction costs in excess of twenty million (\$20,000,000) dollars but less than forty million (\$40,000,000) dollars; and,

(.3) For construction costs over forty million (\$40,000,000) dollars, one percent (1%) for the first twenty million (\$20,000,000) dollars of construction costs, one-half percent (0.5%) of the amount of construction costs in excess of twenty million (\$20,000,000) dollars but less than forty million (\$40,000,000) dollars

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and one-quarter percent (0.25%) of any construction costs in excess of forty million (\$40,000,000) dollars.

§14-412. Administration.

(1) Administrative Regulations. Within one (1) year of the enactment of this section, the Department of Licenses and Inspections, after consultation with the Law Department, the Commission, the Office of the Director of Commerce and City Representative (Office of Arts and Culture) and the Art Commission, shall adopt regulations as necessary to implement this subsection; provided, however, that nothing in this subsection (g) shall delay or affect the effectiveness of this Chapter.

(2) The provisions of this Chapter shall apply in the following Commercial Entertainment Districts:

(a) Reserved.

Explanation:

Italics indicate new matter added.