

## PART 2101—FUNCTIONS AND ORGANIZATION

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AUTHORITY: Pub. L. 81-808, 64 Stat. 903; 10 U.S.C. 4594; 36 U.S.C. 124; 40 U.S.C. 72, 104, 106, 121, 1001; E.O. 1259 of October 25, 1910; E.O. 1862 of November 28, 1913; and E.O. 3524 of July 28, 1921.

SOURCE: 62 FR 4646, Jan. 31, 1997, unless otherwise noted.

### Subpart A—Functions and Responsibilities of the Commission

#### §2101.1 Statutory and Executive Order Authority.

The Commission of Fine Arts (referred to as the "Commission") functions pursuant to statutes of the United States and Executive Orders of Presidents, as follows:

(a) *Public buildings, other structures, and parklands.* (1) For public buildings to be erected in the District of Columbia by the federal government and for other structures to be so erected which affect the appearance of the city, the Commission comments and advises on the plans and on the merits of the designs before final approval or action;

(2) For statues, fountains and monuments to be erected in the District of Columbia under authority of the federal government, the Commission advises upon their location in public squares, streets, and parks, and the merits of their designs;

(3) For monuments to be erected at any location pursuant to the American Battle Monuments Act, the Commission approves the designs before they are accepted by the American Battle Monuments Commission (See also §2101.1 (g));

(4) For parks within the District of Columbia, when plans of importance are under consideration, the Commission advises upon the merits of the designs; and

(5) For the selection by the National Capital Planning Commission of lands suitable for development of the National Capital park, parkway, and playground system in the District of Columbia, Maryland, and Virginia, the Commission provides advice.

(b) *Private buildings bordering certain public areas in Washington, D.C. (Shipstead-Luce Act).* For buildings to be erected or altered<sup>1</sup> in locations which border the Capitol, the White House, the intermediate portion of Pennsylvania Avenue, the Mall Park System, Lafayette Park, the Zoological Park, Rock Creek Park or Parkway, or Potomac Park or Parkway, or are otherwise within areas defined by the official plats prepared pursuant to Sec. 2 of the Shipstead-Luce Act, the Commission reviews the plans as they relate to height and appearance, color and materials of the exteriors, and makes recommendations to the Government of the District of Columbia which, in the judgement of the Commission, are necessary to prevent reasonably avoidable impairment of the public values represented by the areas along which the buildings border. (Shipstead-Luce Act, 46 Stat. 366 as amended (40 U.S.C. 121; D.C. Code 5-410).)

(c) *Georgetown buildings (Old Georgetown Act).* For buildings to be constructed, altered, reconstructed, or razed within the area of the District of Columbia known as "Old Georgetown", the Commission reviews and reports to the District of Columbia Government on proposed exterior architectural features, height, appearance, color, and texture of exterior materials as would be seen from public space; and the Commission makes recommendations

<sup>1</sup>Alteration does not include razing (*Commissioner of the District of Columbia v. Bennenson*, D.C. Court of App. 1974, 329 A.2d 437). Partial demolition, however, is viewed as an alteration (*The Committee to Preserve Rhodes Tavern and the Natl. Processional Route v. Oliver T. Carr Company, et. al.*, U.S. Court of App. for D.C. Cir., 1979, 79-1457, Dept. Justice Brief for Fed. Appellee).

to such government as to the effect of the plans on the preservation and protection of places and areas that have historic interest or that manifest exemplary features and types of architecture, including recommendations for any changes in plans necessary in the judgement of the Commission to preserve the historic value of Old Georgetown, and takes any such actions as in the judgement of the Commission are right or proper in the circumstances. (Old Georgetown Act, Public Law 81–808, 64 Stat. 903 (D.C. Code 5–801).)

(d) *United States medals, insignia, and coins.* On medals, insignia, and coins to be produced by an executive department of the United States including the Mint, the Commission advises as to the merits of their designs which shall be submitted before the executive officer having charge of the same shall approve thereof.

(e) *Heraldic services provided by the Department of the Army.* The Commission upon request advises the Heraldic Branch of the Army upon the merits of proposed designs for medals, insignia, seals, etc. prepared under the authority of the Act of August 26, 1957 to furnish heraldic services to the other departments and agencies of the government.

(f) *Questions of art with which the Federal government is concerned.* When required to do so by the President or by Committees of either House of Congress, the Commission advises generally on questions of art, and whenever questions of such nature are submitted to it by an officer or department of the federal government the Commission advises and comments.

(g) *Commemorative works.* The Commemorative Works Act provides standards for placement of commemorative works on certain federal lands in the District of Columbia and its environs, and for other purposes; and requires site and design approval of all commemorative works by the Commission of Fine Arts, National Capital Planning Commission, and (as appropriate) the Secretary of Interior or the Administrator of General Services. The sponsoring agencies therefore shall submit designs to the Commission for review and shall provide such design changes as may be required to obtain approval.

**§2101.2 Relationships of Commission's functions to responsibilities of other government units.**

(a) *Projects involving the Capitol building and the Library of Congress.* Plans concerning the Capitol building and the buildings of the Library of Congress are outside the purview of the Commission except as to questions on which the Committees of Congress require the Commission to advise.

(b) *Other Federal government projects.* Officers and departments of the federal government responsible for finally approving or acting upon proposed projects within the purview of the Commission's functions as described in §2101.1 (a) are required first to submit plans or designs for such projects to the Commission for its advice and comments.

(c) *Projects within the jurisdiction of the District of Columbia government.* The District of Columbia seeks Commission advice on exterior alteration or new construction of public buildings or major public works within its boundaries. The District of Columbia government also shall seek Commission advice on certain private construction requiring building or demolition permits from the D.C. Permit Branch (D.C. Law 5–422). These include certain actions by the District of Columbia government pursuant to either D.C. Law 5–422 or D.C. Law 2–144 within areas subject to the Shipstead-Luce or Old Georgetown Acts (§2101.1 (b) and (c)) prior to the issuance of a permit.<sup>2</sup> Alterations of buildings, demolition, or new construction at individually designated landmarks or within historic districts are further subject to the permit requirements of the Historic Landmark and Historic District Protection Act of 1978 (D.C. Law 2–144). Upon request, advice will be given on the subject of lot subdivisions.

<sup>2</sup>Provisions of the Shipstead-Luce Act (§2101.1 (b)) do not include full demolition, though partial demolition is viewed as an alteration.