

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Zoning Act to void, as contrary to public policy, antiquated covenants on properties in Squares 1864, 1865, 1866, and 1877 prohibiting apartment houses or buildings with multiple dwelling units when such units would otherwise be permitted under modern zoning and planning laws.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Addressing Legacies of Housing Segregation in Chevy Chase Amendment Act of 2023”.

Sec. 2. An Act Providing for the zoning of the District of Columbia and the regulation of the location, height, bulk, and uses of buildings and other structures and of the uses of land in the District of Columbia, and for other purposes, effective June 20, 1938 (52 Stat. 797; D.C. Official Code § 6–641.01, *et sequiter*) (“Zoning Act”), is amended by adding two new sections (1a and 1b) to read as follows:

“Sec. 1a. Findings.

“The Council finds that:

“(1) Many properties in the Chevy Chase neighborhood are subject to antiquated covenants that were originally imposed with the goal of excluding residents based race and class.

36 “(2) The District faces a severe shortage of housing, including affordable housing.
37 The need for more affordable housing is especially acute in the communities west of Rock Creek
38 Park, known for planning purposes as the Rock Creek West Planning Area, which includes the
39 Chevy Chase neighborhood.

40 “(3) Extensive planning and zoning processes in recent years, specifically the
41 2022 Chevy Chase Small Area Plan, make clear that the District intends to allow for the creation
42 of more affordable housing in Chevy Chase, with particular emphasis on the Chevy Chase Civic
43 Core, where the District is considering plans to create a reimagined library and community
44 center with affordable housing.

45 “(4) In the years before the enactment of the Zoning Act in 1938, the Chevy
46 Chase Land Company created a subdivision (now known as Squares 1864 through 1867) and
47 imposed covenants on every lot in the subdivision that purport to prevent the creation of
48 apartment housing on the encumbered land. The subdivision includes real property that is
49 planned to become the Chevy Chase Civic Core, known for tax and assessment purposes as Lot
50 823 in Square 1866.

51 “(5) Although these covenants are likely void under existing property law, their
52 existence has created confusion about what may be built on the Civic Core lot and surrounding
53 lots. This restricts the District’s ability to build housing at the site, even if the District pursues
54 such a path after approval by Council, the Office of Planning, and the Zoning Commission.

55 “(6) In order to allow the District to achieve its goal of creating more affordable
56 housing in Chevy Chase, and to clarify that zoning and planning are the main processes by which
57 the District determines what can be built where, it is necessary to void any pre-Zoning Act
58 covenants banning multi-family housing on any lots within the original Chevy Chase Land

59 Company subdivision where zoning or the comprehensive plan would otherwise allow this
60 housing to be built.

61 “Sec. 1b. Chevy Chase Land Company subdivision covenants void.

62 “(a) Any covenant or deed restriction on any lot within the real property known for tax
63 and assessment purposes as part of Squares 1864, 1865, 1866, and 1867 (as depicted on the
64 subdivision plat recorded by the Chevy Chase Land Company on July 9, 1907, in the Land
65 Records of the Surveyor of the District of Columbia at County Book 21, Folio 49) is declared
66 void and unenforceable as contrary to the public policy of the District if the covenant or deed
67 restriction:

68 “(1) Was first executed, recorded, or otherwise imposed prior to the adoption of
69 the Zoning Act; and

70 “(2) Prohibits the encumbered property from hosting apartments, apartment
71 houses, or multiple residential units that would otherwise be permissible under:

72 “(A) The regulations adopted under the Zoning Act; and

73 “(B) The Comprehensive Plan’s Future Land Use Map adopted pursuant
74 to the District of Columbia Comprehensive Plan Act of 1985 (D.C. Law 5-76; D.C. Official
75 Code §1-306.01, *et sequiter*).”.

76 Sec. 3. Fiscal impact statement.

77 The Council adopts the fiscal impact statement in the committee report as the fiscal
78 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
79 approved October 16, 2006 (12 Stat. 2038; D.C. Official Code § 1-301.47a)

80 Sec. 4. Effective date.

81 This act shall take effect following approval by the Mayor (or in the event of veto by the

82 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
83 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
84 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
85 Columbia Register.

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