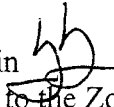


Government of the District of Columbia
OFFICE OF ZONING



MEMORANDUM

TO: Arnold R. Finlayson, Administrator
Office of Documents and Administrative Issuance

FROM: Sharon S. Schellin 
Acting Secretary to the Zoning Commission

DATE: February 8, 2006

SUBJECT: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on February 17, 2006:

1. Z.C. Notice of Filing (Case No. 06-02);
2. Z.C. Notice of Public Hearing (Case No. 06-03);
3. Z.C. Notice of Proposed Rulemaking (Case No. 04-18); and
4. ~~Revised~~ Notice of Proposed Rulemaking (Case No. 02-06).

Attachments

2006 FEB - 8 PM 4:33
Office of Documents and Administrative Issuances

RULEMAKING TRANSMITTAL FORM

TYPE OF RULEMAKING ACTION: ☐ EMERGENCY RULES
☐ FINAL RULES ☐ PROPOSED RULES ☐ COMBINED

DATE AND TIME RECEIVED

Office of Documents use only

AGENCY: OFFICE OF ZONING

AGENCY REPRESENTATIVE: SHARON SCHELLIN

ADDRESS: 441 4th Street, N.W., Suite 210 South

TELEPHONE: (202) 727-0240

TITLE AND DESCRIPTION OF RULES: (Text Amendments to the Neighborhood Commercial Overlay District: Limitation on Eating or Drinking Establishments)

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: Title 11 (Zoning) Sections 1302.5.

FINAL RULES ONLY: Give the D.C. REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules: DCR _____ DATE: _____

COMPLETE CITATION to the statute, regulation, or other legal authority which specifically authorizes the issuance of the substance of these rules: Section 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799 D.C. Official Code § 6-641.01).

LEGAL CERTIFICATION: I certify that I have reviewed the attached rulemaking and, in my opinion, the substance of the text of the rules is legally sufficient.

DATE: FEBRUARY 3, 2006

SIGNED:

Ala Byta

PHONE: (202) 442-9777

☒ FINAL ☐ CONDITIONAL NAME: ROBERT J. SPAGNOLETTI TITLE: ATTORNEY GENERAL

PROMULGATOR: Name and title of the person legally authorized to adopt and promulgate these rules (or the name of the board or other body authorized to adopt rules by vote)

Zoning Commission For The District Of Columbia

Title:

COMPLETE CITATION to the statute, regulation, order, or other legal authority that specifically authorizes this person or agency to adopt and promulgate these rules.

SIGNATURE OF THE PERSON AUTHORIZED TO ADOPT RULES OR ATTEST TO THE ADOPTION OF RULES

DATE OF APPROVAL OF VOTE:

11/15/05

APPROVAL OF ATTEST:

Sharon S. Schellin

Acting Secretary to the Zoning

TITLE: Commission

PHONE: (202) 727-0240

Office of Documents use only:

THIS NOTICE

VOL:

DCR:

DATE:

PUBLISHED AT:

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
REVISED NOTICE OF PROPOSED RULEMAKING**

Case No. 02-06

**(Text Amendments to the Neighborhood Commercial Overlay District:
Limitation on Eating or Drinking Establishments)**

The Zoning Commission for the District of Columbia, pursuant to the authority set forth in § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799; D.C. Official Code § 6-641.01), hereby gives notice of the intent to adopt amendments to Chapter 13 of the Zoning Regulations (11 DCMR) Neighborhood Commercial Overlay District. This amendment responds to application processing concerns brought to Zoning Commission's attention by the Zoning Administrator and the Department of Consumer and Regulatory Affairs. It is intended to provide uniform procedures for determining linear street frontage usage by eating and drinking establishments in the Neighborhood Commercial Overlay Districts.

Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Title 11 DCMR Zoning, chapter 13, Neighborhood Commercial Overlay District, subsection 1302.5 is amended as follows (additions to the existing text are shown in bold and underlined. Deletions in strikethrough):

A. The introductory text is amended to read as follows:

1302.5 ~~Restaurants, fast food restaurants, delicatessens, carry-outs, and similar eating or drinking establishments~~ **An establishment that is required to obtain either a Basic Business License with a Public Health Food Establishment Restaurant Endorsement or a CR or DR Restaurant, CT or DT Tavern, or CN or DN Nightclub Alcohol Beverage License shall be subject to the following limitations (and shall hereinafter be referred to as an "eating or drinking establishment"):**

B. The existing text of subparagraph (b) is redesignated as subparagraph (g) and amended to read as follows:

- (g) Except for a fast food restaurant, such uses may be applied to fulfill the requirements of § 1302.4; provided, that when such uses are so applied, they shall remain subject to the provisions of paragraphs (a)-(f) of this subsection.

C. By adding new subsections (b) through (f) to read as follows:

- (b) The linear street frontage of each designated roadway shall be based upon the certified and recorded plats in the Office of the Surveyor, measured to

the Zone District Boundary line of each commercial zone district within the overlay;

- (c) The total linear street frontage of eating or drinking establishments shall be based on the existing licensing records of the Department of Consumer and Regulatory Affairs and the Alcohol Beverage Regulation Administration by address;
- (d) If an eating or drinking establishment occupies all or part of the ground floor level of a corner lot facing two or more designated roadways, the linear street frontage for each designated roadway shall be included for purposes of determining compliance with § 1302.5(a);
- (e) If the measurement of linear street frontage occupied by eating and drinking establishments is not updated within six (6) months after [THE EFFECTIVE DATE OF THIS AMENDMENT], or is not updated at least every twelve-months thereafter, it shall be assumed that the linear street frontage occupied by eating and drinking establishments exceeds the applicable percentage limitation, until a subsequent update indicates otherwise;
- (f) Compliance with the requirements of this section shall be determined at the time when a building permit is applied for and shall not be revisited when an application for a subsequent certificate of occupancy is made.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, to Sharon S. Schellin Acting Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Washington D.C. 20001. Comments must be received not later than thirty (30) days after the publication of this notice in the *D.C. Register*. A copy of this proposal may be obtained, at cost, by writing to the above address.