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Government of the District of Columbia
OFFICE OF ZONING

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MEMORANDUM

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

FROM: Alberto P. Bastida, AICP
Secretary to the Zoning Commission

DATE: July 18, 2002

SUBJECT: Publication for the Office of Zoning

Please publish the following in the D.C. Register on July 26, 2002:

1. Notice of Emergency Rulemaking and Z.C. Order No. 02-15-A (Z.C. Case No. 02-15).

Received By

7/18/02
Date

Attachments

441 4th Street, N.W., Suite 210-S, Washington, D.C. 20001
Tel: (202) 727-6311 • Fax: (202) 727-6072
E-Mail: **zoning info@dcoz.dcgov.org** • Web Site: **http://dcoz.dcgov.org/**

ZONING COMMISSION
District of Columbia
CASE NO. 02-15
EXHIBIT NO. 36

RULEMAKING TRANSMITTAL FORM

DATE AND TIME RECEIVED
Office of Documents use only

TYPE OF RULEMAKING ACTION: [x] EMERGENCY RULES [ ] FINAL RULES [ ] PROPOSED RULES [ ] COMBINED

AGENCY: OFFICE OF ZONING

AGENCY REPRESENTATIVE:. ALBERTO BASTIDA

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

TELEPHONE: (202) 727-0330

TITLE AND DESCRIPTION OF RULES: Case No. 02-15 Text Amendment – Providing Matter-of-Right Use in the R-1 zones for Public Park and Recreational Uses -- 11 DCMR

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: Title 11 (Zoning) Sections 201.1, 400.15, 402 through 405.

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), and section 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c)

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: JULY 18, 2002 SIGNED: _____ PHONE: (202) 442-9777

X	FINAL		CONDITIONAL	NAME: ROBERT R. RIGSBY TITLE: CORPORATION COUNSEL

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 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), and section 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c).

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

DATE OF APPROVAL OF VOTE: June 10, 2002	APPROVAL OF ATTEST: _____ TITLE: Secretary to the Zoning Commission	PHONE: (202) 727-0330

Office of Documents use only: THIS NOTICE PUBLISHED AT: VOL: DCR: DATE:

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF EMERGENCY RULEMAKING
and
ZONING COMMISSION ORDER NO. 02-15-A
Case No. 02-15
(Text Amendment – Providing Matter-of-Right Use in the R-1 Zones for Public Park and Recreational Uses -- 11 DCMR)

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), and § 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c)), hereby gives notice of the re-adoption, on an emergency basis, of amendments to chapters 2 and 4, of the Zoning Regulations (11 DCMR). This emergency rule was re-adopted by the Commission at its public meeting on June 10, 2002, and became effective on that date. The rule continues the emergency establishment of a matter-of-right provision to allow public parks and recreational uses and public community centers in R-1 and less restrictive districts.

This rule is identical to an emergency rule adopted by the Commission on February 11, 2002, and published in the *D.C. Register* on April 5, 2002, at 49 DCR 3084. Re-adoption of the rule on an emergency basis is necessary because the emergency condition identified in the February 11, 2002, notice continues to exist, but the Zoning Commission's consideration of the permanent rule is not yet completed.

As stated in the previous notice of emergency rulemaking, such action was taken on an emergency basis because there was no existing use category for public recreation facilities or public community centers in the Zoning Regulations. In the absence of a Zoning Regulation providing for this matter-of-right use, there was no mechanism to allow the existing uses to obtain necessary permits to ensure maintenance and upkeep of the existing facilities or allow for the expansion or construction of new facilities as planned. The reasons for the Commission's first emergency rule remain valid where a number of these facilities and centers continue to expand and renovate but cannot obtain a building permit unless they are included in a zoning use category.

The District Charter requires that the Zoning Commission hold a public hearing(s) before adopting any change to the Zoning Regulations. A hearing is scheduled for July 1, 2002. After the Commission holds a public hearing, the Commission will then consider whether to propose and adopt final rules, and will do so prior to the expiration of the second emergency period. The above circumstances justify re-adopting these rules on an emergency basis.

This emergency rulemaking will expire on October 9, 2002, (the 120th day after the adoption of these rules), or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

NEW LANGUAGE INDICATED IN BOLD

Title 11 DCMR (Zoning Regulations) is amended as follows:

A. Amend Chapter 2, R-1 RESIDENCE DISTRICT USE REGULATIONS, section 201, USES AS A MATER OF RIGHT (R-1), subsection 201.1, paragraph (k) to read as follows:

(k) Public schools **PARKS AND PLAYGROUNDS, PUBLIC RECREATION FACILITIES AND PUBLIC COMMUNITY CENTERS** subject to the provisions of chapter 21 of this title;

B. Amend Chapter 4, RESIDENCE DISTRICT: HEIGHT, AREA, AND DENSITY REGULATIONS, as follows:

1) Amend section 400, HEIGHT OF BUILDINGS OR STRUCTURES (R), by adding a new subsection 400.15 to read as follows:

400.15 A PUBLIC RECREATION FACILITY OR PUBLIC COMMUNITY CENTER IN ANY RESIDENTIAL ZONE MAY BE ERECTED TO A HEIGHT NOT EXCEEDING FORTY FEET (40 FT.).

2) Amend section 402, FLOOR AREA RATIO (R), subsections 402.1 through 402.3, to read as follows:

402.1 In an R-1 and R-2 district, the maximum floor area ratio requirements applicable in each district may be increased for specific public school buildings or structures **OR PUBLIC RECREATION FACILITIES, OR PUBLIC COMMUNITY CENTERS**; Provided, the total gross floor area of all buildings and structures on the campus shall not exceed a floor area ratio of nine-tenths (0.9); **AND PROVIDED FURTHER, THAT ANY PUBLIC RECREATION FACILITY OR PUBLIC COMMUNITY CENTER THAT EXISTED PRIOR TO JANUARY 1, 2002, MAY BE EXPANDED TO HAVE A FLOOR AREA AS PRESCRIBED FOR THE R-5-B DISTRICT.**

402.2 In an R-3, R-4, R-5-A, and R-5-B district, the maximum floor area ratio requirements applicable to each district may be increased for specific public school buildings or structures, **PUBLIC RECREATION FACILITIES, OR PUBLIC COMMUNITY CENTERS** but shall not exceed the floor area ratio prescribed for the R-5-B district.

402.3 In all other residential districts not provided for in §§ 402.1 and 402.2, increases in the floor area ratio of ~~all~~ **ANY** public school buildings and structures, **PUBLIC RECREATION FACILITIES, OR PUBLIC COMMUNITY CENTERS** shall not exceed the floor area ratio prescribed for the R-5-C district.

3) Amend section 403, PERCENTAGE OF LOT OCCUPANCY, as follows:

a) Amend subsection 403.1 to read as follows:

403.1 A public school building, **PUBLIC RECREATION FACILITY OR PUBLIC COMMUNITY CENTER** may occupy the lot upon which it is located in excess of the permitted percentage of lot occupancy prescribed in §403.2; Provided, that the portion of the building excluding closed courts exceeding the permitted lot coverage shall not exceed twenty feet (20 ft.) in height or two (2) stories; and Provided further, that direct pedestrian access not less than ten feet (10 ft.) in width from at least two (2) public right-of-ways shall be provided to each roof area used for these purposes. The roof area shall be used only for open space, recreation areas, or other athletic and field equipment areas in lieu of similarly used space normally located at ground level.

b) Amend the table in subsection 403.2 to permit **PUBLIC RECREATION FACILITIES AND PUBLIC COMMUNITY CENTERS** to have a permitted lot occupancy of sixty percent (60%).

4) Amend section 404, REAR YARDS, subsection 404.3 to read as follows:

404.3 In the case of a lot proposed to be used by a public school, **PUBLIC RECREATION FACILITY OR PUBLIC COMMUNITY CENTER** which abuts or adjoins along the rear lot line a public open space, recreation area, or reservation, the required rear yard may be reduced or omitted.

5) Amend section 405, SIDE YARDS, subsection 405.7 to read as follows:

405.7 In the case of a lot located in an R-1 or R-2 district proposed to be used by a public school, **PUBLIC RECREATION FACILITY OR PUBLIC COMMUNITY CENTER** that abuts or adjoins on one (1) or more side lot lines, a public open space, recreation area, or reservation, the required side yard may be reduced or omitted.