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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
Secretary to the Zoning Commission

DATE: December 11, 2003

SUBJECT: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on December 19, 2003:

1. Z.C. Notice of Final Rulemaking and Order No. 03-10 (Case No. 03-10).

This Final Rulemaking is also provided on diskette, attached hereto.

Received By

12/11/03
Date

Attachments

ZONING COMMISSION
District of Columbia
Case 03-10
Exhibit 24

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.03-10
EXHIBIT NO.24

OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

RULEMAKING TRANSMITTAL FORM

DATE AND TIME RECEIVED
Office of Documents use only

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

AGENCY: OFFICE OF ZONING

AGENCY REPRESENTATIVE: ALBERTO BASTIDA

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

TELEPHONE: 727-0330

TITLE AND DESCRIPTION OF RULES: Amendment to the Zoning Regulations of the District of Columbia, ZC Case No. 03-10 (Public Libraries).

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: definitions, subsection 199.1, §§ 201, 601, 901, 2101, 2104,

FINAL RULES ONLY: Give the D.C. REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules: 50 DCR 36 DATE: SEPTEMBER 5, 2003

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. Code 2001 Ed. § 6-641.01 (formerly codified at D.C. Code § 5-413 (1994 Repl.)).

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: 12-11-03 SIGNED: [signature] PHONE: (202) 442-9777

✓	FINAL		CONDITIONAL	NAME: ROBERT SPAGNOLETTI	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. Code 2001 Ed. § 6-641.01 (formerly codified at D.C. Code § 5-413 (1994 Repl.)

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

DATE OF APPROVAL OF VOTE: 12/8/03

APPROVAL OF ATTEST: [signature]

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 FINAL RULEMAKING
and
ORDER NO. 03-10
Z.C. Case No. 03-10
(Text Amendments – 11 DCMR)
(Public Libraries)
December 8, 2003

The Zoning Commission for the District of Columbia ("Commission"), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01); having held a public hearing as required by § 3 of the Act (D.C. Official Code § 6-641.03); and having referred the proposed amendments to the National Capital Planning Commission for a 30-day period of review pursuant to 11 DCMR §§ 3025.3 and 3028.1; hereby gives notice of the adoption of the following amendments to § 199 (Definitions), § 201 (Uses as a Matter of Right (R-1)), § 601 (Uses as a Matter of Right (CR)), Chapter 7 (Commercial Districts), § 901 (Uses as a Matter of Right (W)), Chapter 13 (Neighborhood Commercial Overlay), and Chapter 21 (Schedule of Requirements for Parking Spaces) of the Zoning Regulations (Title 11 DCMR). The amendments establish "public library" as a distinct permitted use, with corresponding parking requirements. The Commission took final action to adopt the amendments at a public meeting held on December 8, 2003.

This final rulemaking is effective upon publication in the *D.C. Register.*

Existing Regulations

The Zoning Regulations do not specifically authorize public libraries, most of which are in residential districts, as a permitted use. The use "library" is first permitted in the CR (Mixed Use) District. It continues as a use permitted as a matter of right in all C (Commercial), W (Waterfront), and C-M and M (Industrial) Districts, but is not permitted in any R (Residence) or SP (Special Purpose) Districts. Therefore, a use variance is currently required to establish, construct, or expand most of the District's public libraries.

Description of Text Amendment

The Commission initiated this rulemaking in response to a petition from the District of Columbia Public Library. The proposed text amendment established a new use, public library, which will be allowed as a matter of right in all R (Residence), W (Waterfront), and CR (Mixed Use) Districts and incorporated into the SP (Special Purpose), C (Commercial), C-M (Commercial

Light Manufacturing), and M (General Industry) Districts. The definition creates three subcategories for that use: Full-Service Neighborhood Public Library, Community Public Library, and Kiosk Public Library, for the purposes of establishing different parking requirements. Because of its low impact and size, a Kiosk Public Library, unlike the other two categories, is not required to provide parking. A special exception from the parking requirements is possible for any public library located within a one-half mile of a Metrorail station.

This rulemaking creates a use that is distinct from the uses permitted by the existing term "library", which has been clarified to read "Library (other than public library)". Now, public libraries may be expanded or established in a greater range of locations than other libraries. The Commission feels that treating public libraries differently from other libraries is justified, because public libraries are supported largely by public money and are specifically designed to benefit all residents.

Relationship to the Comprehensive Plan

The Comprehensive Plan, under § 608.2(h), recommends a policy to "*adopt measures to improve public library facilities*". The addition of public libraries to the Zoning Regulations will allow for the District to issue building permits for the improvement of the public libraries. The proposed text amendments will implement the following provisions of the Comprehensive Plan: § 1312.1 of the Ward 2 Element, which recognizes the role public facilities play within Ward 2; § 1336.1, which calls for strengthening Ward 2 libraries; § 1405.1 of the Ward 3 Element, which recognizes the role libraries play within Ward 3; § 1405.4 of the Ward 3 Element, which calls for physical renovation of public libraries; § 1516.1 of the Ward 4 Element, which calls for improving and maintaining public libraries; § 1616.1 of the Ward 5 Element, which calls for providing adequate public libraries; § 1618.1 of the Ward 5 Element, which calls for adequate planning and assessment of library facilities; and § 1916 of the Ward 8 Element, which acknowledges upgrading of public facilities.

Public Hearing

The Commission held a public hearing on the proposed text amendment on June 26, 2003. During the hearing, members of the Commission expressed concern about defining public libraries as a use and not as a structure.

Following the public hearing, the record was held open until July 10, 2003, to allow the Office of Planning ("OP") to revise the proposed three categories of public libraries and to submit a supplemental report in response to questions from the Commission.

Proposed Action

At the July 31, 2003 public meeting of the Zoning Commission, the Commission reviewed a letter submitted by the District of Columbia Public Library discussing the establishment of public libraries and library use. The Commission also considered the supplemental report of OP dated July 10, 2003, which addressed the Commission's concerns regarding the definition of the

three categories of libraries by deleting any reference to size and clarifying that the distance from a public library to a Metrorail station would be measured as a radius.

At the meeting, the Commission discussed the proposed amendments and decided to retain the definitions of the three categories of libraries as advertised but without reference to size, to retain the parking requirements as advertised with reference to gross floor area and not "patron use area", and to retain the advertised § 2104.2 requiring BZA approval for the reduction of parking within a one-half mile radius of a Metrorail station. The Commission did not accept the expanded definitions proposed by OP, preferring not to narrow the scope of the use.

The Commission then took proposed action pursuant to 11 DCMR § 3027.2 to approve the advertised text, with the modifications discussed above. A Notice of Proposed Rulemaking was published in the *D.C. Register* on September 5, 2003 at 50 DCR 7558, for a 30-day notice and comment period.

The proposed rulemaking was referred to the National Capital Planning Commission (NCPC) under the terms of § 492 of the District of Columbia Charter. NCPC, by report dated September 8, 2003, found that the proposed text amendments would not adversely affect the federal interests nor be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.

No other comments and no report from any Advisory Neighborhood Commission were received.

Final Action

The Commission took final action to adopt the rulemaking at its regularly scheduled public meeting on December 8, 2003. No substantive changes were made to the advertised text. Several minor changes to the text were made to clarify that the pre-existing term "library" in the regulations does not include any public library.

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, consistent with the purpose of the Zoning Regulations and Zoning Act, and not inconsistent with the Comprehensive Plan for the National Capital.

The Office of the Corporation Counsel has determined that this rulemaking meets its standards of legal sufficiency.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following amendments to Chapters 1, 2, 6, 9, 13, and 21 of the Zoning Regulations, Title 11 DCMR. Added wording is in bold and underlined, and deleted wording is shown in strike-through lettering:

A. Chapter 1, § 199.1, Definitions, is amended by inserting the following definition in alphabetical order:

Public Library – a facility that falls into one of the following categories:

a) **Full-Service Neighborhood- A District of Columbia Public Library housed in a permanent structure that may include meeting rooms, staff work rooms, kitchen facilities and book overflow space. It contains space for a variety of activities, such as children's story hour, film showings and book talks, to take place simultaneously;**

b) **Community- A District of Columbia Public Library housed in a portable structure that may include a small staff and minimal space for activities; or**

c) **Kiosk- A District of Columbia Public Library housed in a portable structure with no space for activities.**

B. Chapter 2, R-1 RESIDENCE DISTRICT USE REGULATIONS, § 201.1 is amended by adding new a paragraph (r), to read as follows:

(r) Public library.

C. Chapter 6, MIXED USE (COMMERCIAL RESIDENTIAL) DISTRICTS, § 601.1 is amended as follows:

1) By amending paragraph (p) to read as follows:

(p) Library **(other than public library).**

2) By adding a new paragraph (u) to read as follows:

(u) Public library.

D. Chapter 7, COMMERCIAL DISTRICTS, § 701.6, paragraph (b) is amended to read as follows:

(b) Library **(other than public library).**

E. Chapter 9, WATERFRONT DISTRICTS, § 901.1 is amended as follows:

1) By amending paragraph (q) to read as follows:

(q) Library **(other than public library).**

2) By adding a new paragraph (v) to read as follows:

(v) Public library.

F. Chapter 13, NEIGHBORHOOD COMMERCIAL OVERLAY, § 1302.2(b) is amended to read as follows:

(b) Library **(other than public library).**

G. Chapter 21, OFF-STREET PARKING REQUIREMENTS, is amended by adding the following to the table following § 2101.1, under the heading "INSTITUTIONAL":

USES	NUMBER OF PARKING SPACES PROVIDED
Public Library	
Full-Service Neighborhood Public Library	
All residence districts	**For libraries constructed after [INSERT effective date of this amendment] and in excess of 2,000 square feet of gross floor area, 1 space for each additional 1,000 square feet of gross floor area.**
All other districts	**For libraries constructed after [INSERT effective date of this amendment] and in excess of 3,000 square feet of gross floor area, 1 space for each additional 1,000 square feet of gross floor area.**
Community Public Library	
All districts	**For libraries constructed after [INSERT effective date of this amendment] in excess of 2,000 square feet of gross floor area, 1 space for each additional 1,000 square feet of gross floor area.**
Kiosk Public Library	
All districts	**No Requirement**

2104 EXCEPTIONS TO THE SCHEDULE OF REQUIREMENTS: NONRESIDENTIAL STRUCTURES NEAR METRORAIL STATIONS

2104.1 **Except as otherwise provided in § 2104.2, the Board of Zoning Adjustment is authorized to reduce T**~~t~~he number of parking spaces required under § 2101.1 for a nonresidential building or structure located within a radius of eight hundred feet (800 ft.) of a Metrorail station entrance may be reduced by up to twenty-five percent (25%); provided:

(a) The building or structure is located in a nonresidential district and is at least eight hundred feet (800 ft.) from any R-1, R-2, R-3, or R-4 District; and

(b) The Metrorail station is currently in operation or is one for which a construction contract has been awarded.

2104.2 The Board of Zoning Adjustment is authorized to reduce the number of parking spaces for a public library located within a one-half mile radius of a Metrorail station by fifty percent (50%), if the Metrorail station is currently in operation or is one for which a construction contract has been awarded.

Vote of the Zoning Commission taken at its public meeting on September 8, 2003, to **APPROVE** the proposed rulemaking: **5-0-0** (John G. Parsons, Anthony J. Hood, James H. Hannaham, Carol J. Mitten, and Peter G. May to approve).

This final rulemaking and order were **ADOPTED** by the Zoning Commission at its public meeting on December 8, 2003, by a vote of **4-0-1** (Anthony J. Hood, John G. Parsons, and Carol J. Mitten to approve; Peter G. May to approve by absentee ballot; James H. Hannaham not present, not voting).

In accordance with the provisions of 11 DCMR § 3028.9, this order shall become effective upon publication in the *D.C. Register*; that is, on _____.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
and
ORDER NO. 03-10
Z.C. Case No. 03-10TA
(Text Amendment – 11 DCMR)
(Public Libraries)

The full text of this Zoning Commission order is published in the "Final Rulemaking" section of this edition of the *D.C. Register*.