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: October 19, 2005

SUBJECT: Publication for the Office of Zoning

2005 OCT 19 PM 1:01
Office Of Documents And Administrative Issuances

Please publish the following in the *D C Register* on October 28, 2005

1 Z.C Notice of Public Hearing (Case No 03-12A/03-13A),
2. Z.C. Order No. 02-32A (Case No. 02-32);
3 Z C. Order No. 03-03A (Case No. 03-03A),
4. Z C Order No. 03-29A (Case No. 03-29A),
5 Z.C. Order No 04-23 (Case No 04-23);
6 Z.C Order No 05-13 (Case No 05-13), and
7. Z.C. Notice of Final Rulemaking & Z.C. Order No 04-31 (Case No. 04-31).

The Final Rulemaking is also included on the enclosed diskette.

Attachments

ZONING COMMISSION
District of Columbia
CASE NO. 04-31
EXHIBIT NO. 12

441 4th St , N W , Suite 210-S, Washington, D C 20001
Telephone (202) 727-6311 E-Mail Address zoning_info@dcoz.dc.gov Web Site www.dcoz.dc.gov

ZONING COMMISSION
District of Columbia
CASE NO.04-31
EXHIBIT NO.12

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: MS JERRILY R KRESS

ADDRESS: 441 4th Street, N W., Suite 210 South TELEPHONE. (202) 727-6311

TITLE AND DESCRIPTION OF RULES: Text amendment to Definitions section of Zoning Regulations – Title 11, DCMR, § 199.1, to add two new definitions – one for "clear height, floor to ceiling," and one for "glass, clear and/or low-emissivity "

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: Title 11 (Zoning), Section 199 1

FINAL RULES ONLY: Give the D C REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules 52 DCR 5092, DATE MAY 27, 2005

COMPLETE CITATION to the statute, regulation, or other legal authority which specifically authorizes the issuance of the substance of these rules Sections 1 and 3 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat 797, 798, D C Official Code §§ 6-641.01 and 6-641 03)

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: SEPTEMBER 7, 2005 SIGNED: Alan Bryden for PHONE: (202) 442-9777

X	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. Sections 1 and 3 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat 797, 798, D C Official Code §§ 6-641.01 and 6-641 03)

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

DATE OF APPROVAL OF VOTE 7-11-05

APPROVAL OF ATTEST Jerrily R. Kress

TITLE: Director, Office of Zoning PHONE: (202) 727-6311

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

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
and
Z.C. ORDER NO. 04-31
Z.C. Case No. 04-31
(Text Amendments to Definitions Section, 11 DCMR § 199)
July 11, 2005

The Zoning Commission for the District of Columbia (the "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 § 492 of the District of Columbia Charter, hereby gives notice of the adoption of amendments to § 199 (Definitions) of the Zoning Regulations (Title 11 DCMR) The amendments will define the terms "clear height" and "clear or low-emissivity glass " The Commission took final action to adopt the amendments at a public meeting held on July 11, 2005

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

Existing Regulations

The existing regulations do not provide definitions of either term However "clear height" is a term that has been included in the text of pending map amendments that would establish the Takoma Neighborhood Commercial Overlay District (Z C Case No 04-16) and the Mount Vernon Triangle sub-area of the Downtown Development District (Z C Case No 04-08) In addition to these proposed amendments, "Clear or low-emissivity glass" has also been used in the following overlays· Capital Gateway (§ 1604 6) Downtown Development District (§ 1701.5(a)), Southeast Federal Center (§§ 1803 3(e) & 1804.3(e)), and Uptown Arts-Mixed Use (§ 1903 4(a)) Without these amendments, "clear height" or "clear or low-emissivity glass" would need to be defined in each section in which the term was used This would be an unnecessary encumbrance to the Zoning Regulations

Description of Text Amendment

Given the multiple instances in which these terms now appear or are proposed to appear in the Zoning Regulations, the Office of Planning initiated this rulemaking to define these terms once, rather than defining them repeatedly within individual overlay or sub-district regulations These specifications reflect new industry standards for quality retail space and other space not intended

for living-units. The clear height requirement, as defined, is intended to be flexible enough to change with interior and market needs over time, and to stimulate pedestrian activity

Relationship to the Comprehensive Plan

The amendments are not inconsistent with the goals of the Comprehensive Plan and are consistent with the following sections of the Comprehensive Plan· § 708.2, which advocates designing buildings to complement or enhance the physical character of the District, §709 2(i) which encourages design features such as storefront windows to promote pedestrian activity along streets, and §713.2, which emphasizes the design of functionally active commercial areas throughout the District, and the orientation of major new development toward the street in order to emphasize the public space as a setting for active use.

Public Hearing and Proposed Action

The Commission held a public hearing on March 31, 2005 and took proposed action immediately thereafter to approve the advertised text There was only one comment at the hearing, a strongly supportive statement from the Retail Committee of the District of Columbia Building Industry Association. A Notice of Proposed Rulemaking was published in the *D C Register* on May 27, 2005 at 52 DCR 5092, for a 30-day notice and comment period. No comments were received

The proposed rulemaking was also referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the District of Columbia Charter NCPC, by report dated April 28, 2005, found that the proposed text amendment would not adversely affect the federal interests nor be inconsistent with the Federal Elements of the Comprehensive Plan.

The Office of the Attorney General determined that this rulemaking meets its standards of legal sufficiency

Final Action

The Commission took final action to adopt the rulemaking at its regularly scheduled public meeting on July 11, 2005 No substantive changes were made to the advertised prepared text.

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

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the amendment of 11 DCMR § 199.1, to insert the following new definitions, in proper alphabetical order

1 **Clear Height, Floor to Ceiling** – floor to ceiling height is a vertical distance measured from the finished floor to the finished ceiling that is unobstructed by any of the following:

(a) Elements of the building structure, other than columns and walls,
(b) Components of mechanical, plumbing, or fire suppression systems, or
(c) Components of electrical systems, except lighting fixtures.

If the ceiling is not finished, the distance shall be measured to the lowest point of any of the structural elements of systems referenced in (a), (b) or (c) above

2. **Glass, Clear and/or Low-Emissivity** – glass with a visible light transmission rating of at least seventy percent (70%) and an outdoor visible light reflectance rating of no greater than seventeen percent (17%).

Vote of the Zoning Commission taken at its public meeting on March 31, 2005, to **APPROVE** the proposed rulemaking 5-0-0 (Carol J Mitten, Kevin L Hildebrand, Anthony J Hood, Gregory N Jeffries, and John G. Parsons)

This order was **ADOPTED** by the Zoning Commission at its public meeting on July 11, 2005, by a vote of **5-0-0** (Carol J Mitten, Anthony J. Hood, Gregory N. Jeffries, Kevin L. Hildebrand, and John G Parsons)

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 OCT 2 8 2005

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
and
Z.C. ORDER NO. 04-31
Z.C. Case No. 04-31
(Text Amendments to Definitions Section, 11 DCMR § 199)
July 11, 2005

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