

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Office of Zoning



MEMORANDUM

To: Office of Documents and Administrative Issuance

From: Sharon S. Schellin ⁵³
Secretary to the Zoning Commission

Date: December 18, 2006

Re: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on December 29, 2006:

1. Z.C. Notice of Public Hearing (Case No. 06-47);
2. Z.C. Notice of Proposed Rulemaking (Case No. 04-33A); and
3. Z.C. Order No. 619A (Case No. 88-34A).

Attachment

8-11-27 3-3C/PN

ZONING COMMISSION
District of Columbia

441 4th Street, N W , Suite 200/210-S, Washington. D C 20001
Telephone (202) 727-6311 Facsimile (202) 727-6072 E-Mail dcoz@dc.gov

CASE NO. 04-33A

Web Site www.dcoz.dc.gov

EXHIBIT NO.

ZONING COMMISSION
District of Columbia
CASE NO. 04-33A
EXHIBIT NO. 85

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: MS SHARON SCHELLIN

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

TELEPHONE: (202) 727-0340

TITLE AND DESCRIPTION OF RULES: ZC CASE NO 04-33A (Text Amendment – Inclusionary Zoning – Locations)

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed Title 11, sections 1402, 1904, 1999, 2601 2602 and 2608

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 DECEMBER 15, 2006 **SIGNED** *Alan Byrte Jr* **PHONE** (202) 442-9777

☒	FINAL	☐	CONDITIONAL	NAME: EUGENE A ADAMS	TITLE: INTERIM ATTORNEY GENERAL
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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:

12-11-06

APPROVAL OF ATTEST.

Sharon J. Schellin

Secretary to the Zoning

TITLE: Commission

PHONE. (202) 727-0340

Office of Documents use only:

THIS NOTICE PUBLISHED AT

VOL

DCR.

DATE.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING
Z.C. Case No. 04-33A
(Text Amendment – Inclusionary Zoning – Locations)

The Zoning Commission for the District of Columbia, pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat 797, D C Official Code § 6-641 01 (2001)), hereby gives notice of its intent to amend the §§ 1402 1, 1904 2,, 1999 2, 2601 1, 2602.1, 2602.3, and 2608 1 of the Zoning Regulations (Title 11 DCMR) to specify the locations where the requirements and incentives of Chapter 26, Inclusionary Zoning (“IZ”), will apply

The proposed text would apply the IZ requirements to all Residence Districts zoned R-3 through R-5-D, all Commercial Districts zoned C-1 through C-3-C, all Waterfront Districts zoned W-1 through W-3, all properties zoned Mixed Use (CR) or Special Purpose (SP), and all overlay districts, except the Downtown Development and Southeast Federal Center Overlay Districts. Also exempted from compliance are properties located in the existing five Transferable Development Rights Receiving Zones, the W-2 zoned portions of the Georgetown Historic District, the R-3 zoned properties of the Anacostia Historic District; or the C-2-A portion of the Naval Observatory Precinct District.

Amendments to the text of the Reed-Cooke and Uptown Arts-Mixed Use Overlay District are also proposed to eliminate provisions allowing additional height and bonus density if affordable housing is provided. Since properties in those overlays will be subject to mandatory affordable housing requirements, there is no longer a need to offer incentives to achieve an equivalent result.

Because the geographic reach of the IZ program is easily described in text, and because so much of the District would be subject to its requirements, there is no need to map the subject properties within an overlay. The proposed rules therefore eliminate the references to an Inclusionary Zoning Overlay within Chapter 26.

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*.

The following rulemaking action is proposed:

Title 11 of the DCMR, ZONING, is amended as follows (new language shown in **bold** and underlined, deleted language in strikethrough)

A. Chapter 14, REED-COOKE OVERLAY DISTRICT, § 1402 1, is amended to read as follows:

1402 1 The maximum height permitted in the RC Overlay District shall not exceed forty feet (40 ft) plus roof structure as defined in this title, ~~provided, that in the RC/C-2-B Overlay District, the Board of Zoning Adjustment may approve a maximum height of fifty feet (50 ft) with appropriate setbacks from the street, plus roof structures, subject to determination by the Board that the project will provide for~~

Z.C. NOTICE OF PROPOSED RULEMAKING

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~~the on-site construction or substantial rehabilitation of low and moderate income household units, as defined by the regulations of the D.C. Department of Housing and Community Development, of a total gross floor area equal to fifty percent (50%) of the additional gross floor area made possible by this exception.~~

B Chapter 19, UPTOWN ARTS-MIXED USE (ARTS) OVERLAY DISTRICT, is amended as follows:

1 By amending the table following § 1904.2 to remove the reference to “Below-market housing” as follows.

	Gross floor area devoted to the bonus use	Proportionate number of square feet of additional gross floor area earned for on-site or off-site development
(a) ~~Below market housing;~~	~~1~~	~~to~~ 3

2 By striking the definition “Below-market housing” from § 1999 2.

C Chapter 25, INCLUSIONARY ZONING, is amended as follows.

1. Section 2601, DEFINITIONS, § 2601.1, is amended by deleting the definition “Inclusionary Zoning Overlay ”

2 Section 2602, APPLICABILITY, is amended as follows

(a) By amending § 2602 1(a) to read as follows.

2602.1 Except as provided in § 2602 3, the requirements and incentives of this Chapter shall apply to developments that.

(a) ~~Are mapped within the Inclusionary Zoning Overlay; and the R-3~~ **through R-5-D, C-1 through C-3-C, CR, SP, or W-1 through W-3 zone districts, unless exempted pursuant to § 2602.3;**

(b) By amending § 2602 3 to read as follows

2602.3 This Chapter shall not apply to.

(a) Hotels, motels, inns, or dormitories,

- (b) Housing developed by or on behalf of a local college or university exclusively for its students, faculty or staff,
- (c) Housing that is owned or leased by foreign missions exclusively for diplomatic staff,
- (d) Rooming houses, boarding houses, community-based residential facilities, single room occupancy developments, or ~~developments in R-1, R-2 and C-4 Districts~~

(e) Properties located in any of the following areas:

- (1) The Downtown Development or Southeast Federal Center Overlay Districts;**
- (2) The Downtown East, New Downtown, North Capitol, Southwest, or Capitol South receiving zones;**
- (3) The W-2 zoned portions of the Georgetown Historic District;**
- (4) The R-3 zoned portions of the Anacostia Historic District; and**
- (5) The C-2-A zoned portion of the Naval Observatory Precinct Districts.**

(c) Subsection 2608.1 is amended to read as follows:

2608 1 The provisions of this Chapter shall become effective following the issuance of the first purchase/rental schedule¹ or the publication date in the *D C Register* of Zoning Commission ~~_____~~ **Order 04-33A**, establishing the ~~Inclusionary Zoning Overlay~~ **locations subject to this chapter**, whichever is the last to occur

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, to Sharon Schellin, 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

¹ If this schedule is not published by the time the Commission considers this matter for final action, it is likely that the Commission will delete the reference to ZC Order that will contain the final text