

View Submitted/Confirmed Items, DC Regulations - Internet Explorer, optimized for Bing and MSN

dcregs.org

File Edit View Favorites Tools Help

Favorites DC Council DCHR Google Maps DC Register Yahoo! Mail RemARKable Creations Stampin' Up! Time WeightWatchers

View Submitted/Confirme... DC Zoning Map (1 unread) Yahoo! Mail, shar...

District of Columbia MAYOR PENTY DC GUIDE RESIDENTS BUSINESS VISITORS GOVERNMENT FOR KIDS

D.C. Municipal Regulations and D.C. Register

Secretary of the District of Columbia | Office of Documents and Administrative Issuances

Home Search Subscribe Comment About Us Contact Us Help

Schellin, Sharon Logout

View Submitted/Confirmed Items Back to Agency Home

Click on a Notice ID to browse the Agency Notice Home.
Press **Ctrl-F** to search by text.

Total Records: 13

ID	Status	Register Category	Subject	Register Issue	Action Date
489981	Submitted to ODAI	Public Hearing	Zoning Commission Notice of Public Hearing: Case No. 04-33D (Text Amendment - Inclusionary Zoning Exemption for Federal and District Funded Affordable Housing Development)	8/6/2010 Vol 57/32	8/2/2010 10:07:19
489805	Submitted to ODAI	Emergency and Proposed	Zoning Commission Notice of Emergency & Proposed Rulemaking: Case No. 04-33D (Text Amendment - Inclusionary Zoning Exemption for Federal & District Funded Affordable Housing Development)	8/6/2010 Vol 57/32	8/2/2010 10:05:48
489497	Submitted to ODAI	Notices, Opinions	Zoning Commission Notice of Filing: Case Number 10-20	8/6/2010 Vol 57/32	7/30/2010 10:06:54

Done Internet 100%

start Taskbar - Microsoft Out... View Submitted/Conf... DC Orders Microsoft Word 10:01 AM

ZONING COMMISSION
District of Columbia

Case No. 04-33D
Exhibit No. 3

ZONING COMMISSION
District of Columbia
CASE NO.04-33D
EXHIBIT NO.3

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING**

TIME AND PLACE: **Thursday, October 21, 2010, @ 6:30 p.m.**
 Office of Zoning Hearing Room
 441 4th Street, N.W. Suite 220-S
 Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 04-33D (Text Amendment – Inclusionary Zoning Exemption for Federal and District Funded Affordable Housing Development)

THIS CASE IS OF INTEREST TO ALL ANCs

The Office of Planning (“OP”), in a report dated July 16, 2010, petitioned the Zoning Commission (the “Commission”) for a text amendment to exempt certain federal and District Government funded projects from the Inclusionary Zoning provisions of Chapter 26 of the Zoning Regulations

The effect of these amendments will be to exempt such projects from the entire Inclusionary Zoning Program, which includes those implementing provisions added by the Council through its enactment of the Inclusionary Zoning Implementation Amendment Act of 2006 and by the Office of the Deputy Mayor for Planning and Economic Development through its adoption of Chapter 22 of Title 14 of the DCMR. The amendments also allow exempted projects to utilize the bonus density if the owner covenants to maintain IZ-type controls over a portion of the project after the federal or District funding controls end

The Commission invites comments concerning an alternative means of retaining some of the affordable units once an exempted project’s funding controls expire. Rather than rely upon a voluntary agreement to retain the number of affordable units that would be required under IZ, the Commission invites comment as to whether IZ should automatically apply to an exempted development once its federal or District program controls end

At its regular public meeting held July 26, 2010, the Commission set down this case for a public hearing and adopted the proposed text on an emergency basis,

The Commission also authorized the publication of a notice of proposed rulemaking, which is also published in this edition of the *D C Register* together with a notice of the adoption of the emergency rule. In addition, the Commission also authorized the immediate publication of this public hearing notice, and a 30 day advertisement period for the public hearing notice. In doing so, the Commission waived its normal rule requiring certain supplemental filings before advertising the public hearing notice, 11 DCMR 3013, and the 40 day notice period requirements of 11 DCMR § 3014.1

ZONING COMMISSION
District of Columbia

CASE NO. 04-33D
EXHIBIT NO. 3

The proposed amendments to the Zoning Regulations, Title 11 DCMR, are as follows

- A Section 2602, APPLICABILITY, is amended by adding a new paragraph (f) to subsection 2602.3, so that the entire provision will 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,
- (e) Properties located in any of the following areas:
 - (i) The Downtown Development or Southeast Federal Center Overlay Districts,
 - (ii) The Downtown East, New Downtown, North Capitol, Southwest, or Capitol South Receiving Zones on February 12, 2007,
 - (iii) The W-2 zoned portions of the Georgetown Historic District,
 - (iv) The R-3 zoned portions of the Anacostia Historic District; and
 - (v) The C-2-A zoned portion of the Naval Observatory Precinct District.
 - (vi) The Eighth Street Overlay; and
- (f) Any development funded in whole or in part by the federal or District government if
 - (i) At least eighty percent (80%) of its dwelling unit will be reserved for low-or-moderate-income households,

- (ii) Each unit will be sold or rented to such households for an amount no greater than would be permitted for a moderate-income household under the purchase/rental schedule in effect as of the date that the purchase agreement or lease for the unit was executed or at the price or rent established by the federal or District of Columbia funding source, whichever would be lower,
- (iii) The set aside and price controls described in subparagraphs (f) (i) and (ii) will remain in place for a period of not less than thirty (30) years for for-rent units and fifteen (15) years for for-sale units beginning from the date the development was "placed in service", as that term is defined by the federal or District funding program, and
- (iv) The obligations of subparagraphs (f) (i) through (iii) are stated as declarations within a covenant, which may be the covenant required by the federal or District government, that is recorded in the Land Records of the District of Columbia and are binding upon the present and future owners of all or part of the development

B Section 2604, BONUS DENSITY, is amended by adding new §§ 2604 4 and 2604 5 to read as follows

2604 4 A development exempted by § 2602 3 (f) may nevertheless utilize the bonus density provided for in this section and the zoning overlay provisions of Chapters 11 – 16, 18, or 19 if the covenant described in § 2602 4 (f) (iv) includes a declaration that the set aside and price controls described in subparagraphs (f) (i) and (ii) will remain in place as long as the development exists for at least the number of units that would have been required to have been set aside for moderate or low income households had §§ 2603 1 and 2603 2 applied

2604.5 If the affordability levels required by the federal or District program are greater than what would be required for the property's zone district pursuant to §§ 2603.3 or 2603 4, an exempted development utilizing bonus density need only comply with the applicable requirement of those provisions the once control period for the federal or District program expires

C. Section 2605, DEVELOPMENT STANDARDS, is amended by repealing § 2605 1

**Z.C. NOTICE OF PUBLIC HEARING
Z.C. CASE NO. 04-33D
PAGE 4**

Proposed amendments to the Zoning Regulations of the District of Columbia are authorized pursuant to the Zoning Act of June 20, 1938, (52 Stat 797), as amended, D C Official Code § 6-641 01, *et seq*

The public hearing on this case will be conducted as a rulemaking in accordance with the provisions of 11 DCMR § 3021 Pursuant to that section, the Commission will impose time limits on testimony presented to it at the public hearing

All individuals, organizations, or associations wishing to testify in this case should file their intention to testify in writing Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusion in the record

Information should be forwarded to Sharon Schellin, the Secretary of the Zoning Commission, Office of Zoning, Suite 200-S, 441 4th Street, N W , Washington, D.C., 20001. Please include the number of this particular case and your daytime telephone number **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

ANTHONY J. HOOD, KONRAD S. SCHLATER, GREG M. SELFRIDGE, MICHAEL G. TURNBULL, AND PETER G. MAY -- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY JAMISON L. WEINBAUM, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF EMERGENCY AND PROPOSED RULEMAKING
Z.C. Case No. 04-33D**

**Text Amendment – Inclusionary Zoning Exemption for Federal and District Funded
Affordable Housing Development)**

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, D.C. Official Code § 6-641.01) and the authority set forth in 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)), hereby gives notice of the adoption, on an emergency basis, of amendments to §§ 2602, 2604, and 2605 of the Zoning Regulations (Title 11, DCMR)

The amendments exempt certain federal and District Government funded projects from the Inclusionary Zoning provisions of Chapter 26 of the Zoning Regulations. However, the effect of these amendments will be to exempt such projects from the entire Inclusionary Zoning Program, which includes those implementing provisions added by the Council through its enactment of the Inclusionary Zoning Implementation Amendment Act of 2006 and by the Office of the Deputy Mayor for Planning and Economic Development through its adoption of Chapter 22 of Title 14 of the DCMR. The amendments also allow exempted projects to utilize the bonus density if the owner covenants to maintain IZ-type controls over a portion of the project after the federal or District funding controls end.

The Commission also gives notice of its intent to take final rulemaking action to adopt these amendments to the Zoning Regulations in not less than 30 days from the date of publication of this notice in the *D.C. Register* or 30 days following referral of this amendment to the National Capital Planning Commission, whichever occurs last. However, the Commission invites comments concerning an alternative means of retaining some of the affordable units once an exempted project's funding controls expire. Rather than rely upon a voluntary agreement to retain the number of affordable units that would be required under IZ, the Commission invites comment as to whether IZ should automatically apply to an exempted development once its federal or District program controls end.

This action is being taken on an emergency basis in order to prevent the loss of several large affordable housing projects being funded by federal or District government programs. As a result of conflicts between the requirements of these funding sources and several provisions contained in the Council Act or the DMPED regulations, many of these projects are being delayed to the point where their funding, and therefore their existence, is in jeopardy. None of these conflicts relate to either set-aside or affordability levels. Rather than risk the loss of affordable housing during this period of economic distress, the Commission decided to adopt this exemption on an emergency basis, believing it necessary "for the immediate preservation of the public . . . welfare." D.C. Official Code § 2-505.

This emergency rule was adopted on July 26, 2010, and became effective on that date.

The emergency rule will expire on November 23 2010, which is the 120th day after the adoption of the rule, or upon the publication of a Notice of Final Rulemaking in the *Register* adopting any or all of the proposed rules, whichever occurs first

The Zoning Regulations, Title 11 DCMR, Chapter 26, ICNCLUSIONARY ZONING, is amended as follows

- A Section 2602, APPLICABILITY, is amended by adding a new paragraph (f) to § 2602.3, so that the entire provision will 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,
- (e) Properties located in any of the following areas.
 - (i) The Downtown Development or Southeast Federal Center Overlay Districts,
 - (ii) The Downtown East, New Downtown, North Capitol, Southwest, or Capitol South Receiving Zones on February 12, 2007,
 - (iii) The W-2 zoned portions of the Georgetown Historic District,
 - (iv) The R-3 zoned portions of the Anacostia Historic District; and
 - (v) The C-2-A zoned portion of the Naval Observatory Precinct District.
 - (vi) The Eighth Street Overlay; and

- (f) Any development funded in whole or in part by the federal or District government if
 - (i) At least eighty percent (80%) of its dwelling unit will be reserved for low-or-moderate-income households,
 - (ii) Each unit will be sold or rented to such households for an amount no greater than would be permitted for a moderate-income household under the purchase/rental schedule in effect as of the date that the purchase agreement or lease for the unit was executed or at the price or rent established by the federal or District of Columbia funding source, whichever would be lower,
 - (iii) The set aside and price controls described in subparagraphs (f) (i) and (ii) will remain in place for a period of not less than thirty (30) years for for-rent units and fifteen (15) years for for-sale units beginning from the date the development was “placed in service”, as that term is defined by the federal or District funding program, and
 - (iv) The obligations of subparagraphs (f) (i) through (iii) are stated as declarations within a covenant, which may be the covenant required by the federal or District government, that is recorded in the Land Records of the District of Columbia and are binding upon the present and future owners of all or part of the development

B Section 2604, BONUS DENSITY, is amended by adding new §§ 2604.4 and 2604.5 to read as follows

2604.4 A development exempted by § 2602.3 (f) may nevertheless utilize the bonus density provided for in this section and the zoning overlay provisions of Chapters 11 – 16, 18, or 19 if the covenant described in § 2602.4 (f) (iv) includes a declaration that the set aside and price controls described in subparagraphs (f) (i) and (ii) will remain in place as long as the development exists for at least the number of units that would have been required to have been set aside for moderate or low income households had §§ 2603.1 and 2603.2 applied

2604.5 If the affordability levels required by the federal or District program are greater than what would be required for the property’s zone district pursuant to §§ 2603.3 or 2603.4, an exempted development utilizing

bonus density need only comply with the applicable requirement of those provisions the once control period for the federal or District program expires

C Section 2605, DEVELOPMENT STANDARDS, is amended by repealing § 2605.1

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the D C Register Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N W., Suite 200-S, Washington, D.C 20001 Copies of this proposed rulemaking action may be obtained at cost by writing to the above address