

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 *SS*
Secretary to the Zoning Commission

Date: July 9, 2006

Re: Publication for the Office of Zoning

Please publish the following in the *D C Register* on July 21, 2006

- 1 Z C Notice of Filing (Case No. 06-30),
- 2 Z C Notice of Filing (Case No. 06-31),
- 3 Z C Notice of Filing (Case No. 06-32);
- 4 Z C Notice of Filing (Case No. 06-34);
- 5 Z C Notice of Emergency Rulemaking (Case No. 06-06),
- 6 Z C Notice of Final Rulemaking & Order No. 05-20 (Case No. 05-20), *2 copies SS*
- 7 Z C Notice of Public Hearing (Case No. 04-14),
- 8 Z C Notice of Public Hearing (Case No. 05-02),
- 9 Z C Notice of Public Hearing (Case No. 05-42),
- 10 Z C Notice of Public Hearing (Case Nos. 06-11 & 06-12),
- 11 Z C Notice of Public Hearing (Case No. 06-19),
- 12 Z C Notice of Public Hearing (Case No. 06-25),
- 13 Z C Order No. 05-15 (Case No. 05-15), and
- 14 Z C Order No. 05-19 (Case No. 05-19).

The Final Rulemaking (item 6 above) is also included on the enclosed diskette.

Attachments

ZONING COMMISSION
District of Columbia

CASE NO. 06-06

EXHIBIT NO. 60

RULEMAKING TRANSMITTAL FORM

TYPE OF RULEMAKING ACTION: ☒ EMERGENCY RULES
☐ FINAL RULES ☐ PROPOSED RULES ☐ COMBINED

DATE AND TIME RECEIVED

Office of Documents use only

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

TELEPHONE:

AGENCY: OFFICE OF ZONING

AGENCY REPRESENTATIVE: SHARON SCHELLIN

TITLE AND DESCRIPTION OF RULES.

Zoning Commission Case No. 06-06 (Zoning Text Amendments - Charter Schools)

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed Title 11 (Zoning) Sections 199.1, 400.10, 400.11, 401.3, 401.8, and 403.1.

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: JULY 7, 2006

SIGNED.

Robert J. Spagnoletti

PHONE: (202) 442-9777

☒ 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.

Section 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799 D.C. Official Code § 6-641.01).

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

DATE OF APPROVAL OF VOTE:

6/12/06

APPROVAL OF ATTEST:

Sharon S. 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 EMERGENCY RULEMAKING**

Case No. 06-06

(Text Amendments – Charter Schools)

June 12, 2006

The Zoning Commission for the District of Columbia, pursuant to the authority set forth in section 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat 797, D C. Official Code § 6-641 01 (2001 ed.)), 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 re-adoption, on an emergency basis, of amendments to §§ 199.1, 400 10, 400 11, 401 3, 401 8, 403 1 of the Zoning Regulations (DCMR, Title 11)

The amendments modify the definition of “School, public” in the Zoning Regulations to include schools chartered by the District of Columbia Board of Education or the District of Columbia Public Charter School Board. The amendments also increase area requirements that apply to all public schools in Residence Districts.

The Commission takes this emergency action because the Zoning Administrator received several building permit applications for Charter Schools, but cannot process the applications because Charter Schools do not fit within the definition of “Schools, public” (which only pertains to buildings “operated and maintained by the District of Columbia Board of Education”), and the Zoning Regulations do not recognize Charter Schools as a distinct use classification. Immediate action is required to remove this ambiguity, and permit construction these new Charter Schools by the start of the next school year. Because the immediate proliferation of Charter Schools in Residence Districts has the potential for adverse impacts, the emergency action also includes amendments to the area provisions that govern public schools in Residence Districts.

The rules in this emergency rulemaking are identical to those adopted by the Commission on February 13, 2006, and published in the March 17, 2006 edition of the D C Register (53 DCR 2017). The Commission re-adopts the emergency rules because it did not have enough time to complete its permanent rulemaking process before the emergency rules expired on June 13, 2006. On May 11, 2006, the Commission held a public hearing on the proposed permanent version of these rules, and intends to take proposed action to adopt permanent regulations at its July 10, 2006 public meeting.

These emergency rules were adopted on June 12, 2006, and became effective on that date.

The emergency rules will expire on October 10, 2006, which is the 120th day after the adoption of the rule, or upon the publication of a Notice of Final Rulemaking in the *Register*, whichever occurs first.

Title 11 (DCMR) is amended as follows (additions to the text are underlined, deletions are ~~struck through~~)

A Chapter 1, THE ZONING REGULATIONS, § 199.1, is amended as follows

School, public - A building or use within a building operated ~~and maintained or chartered~~ by the District of Columbia Board of Education or the District of Columbia Public Charter School Board for educational purposes and other such community uses as deemed necessary and desirable

B Chapter 4, RESIDENCE DISTRICTS HEIGHT, AREA, AND DENSITY REGULATIONS, is amended as follows:

1 By amending §§ 400 10 and 400 11 to read as follows

400 10 In an R-1, R-2, R-3, and R-4 District, a public school building or structure may be erected to a height not exceeding sixty feet (60 ft)

400 11 In an ~~R-3, R-4,~~ R-5-A, R-5-B, and R-5-C District, a public school building or structure may be erected to a height not exceeding ninety feet (90 ft)

2 By amending the table in § 401 3 to read as follows

ZONE DISTRICT AND STRUCTURE	MINIMUM LOT AREA (square feet)	MINIMUM WIDTH OF LOT (feet)
<u>R-1-A</u> <u>Public School</u>	<u>15,000</u>	<u>120</u>
R-1-A All <u>other</u> structures	7,500	75
<u>R-1-B</u> <u>Public School</u>	<u>15,000</u>	<u>120</u>
R-1-B All <u>other</u> structures	5,000	50
<u>R-2</u> <u>Public School</u>	<u>9,000</u>	<u>120</u>
R-2 One-family semi- detached dwelling	3,000	30

R-2 All other structures	4,000	40
<u>R-3</u> <u>Public School</u>	<u>9,000</u>	<u>120</u>
R-3 Row dwelling	2,000	20
R-3 One-family semi-detached dwelling	3,000	30
R-3 All other structures	4,000	40
<u>R-4</u> <u>Public School</u>	<u>9,000</u>	<u>120</u>
R-4 Row dwelling and flat	1,800	18
R-4 One-family semi-detached dwelling	3,000	30
R-4 Conversion to apartment house	900/apartment or bachelor apartment	None prescribed
R-4 All other structures	4,000	40
<u>R-5-A</u> <u>Public School</u>	<u>9,000</u>	<u>120</u>
R-5-A All other structures	As prescribed by the Board pursuant to § 3104	As prescribed by the Board pursuant to § 3104
<u>R-5-B, R-5-C, R-5-D, R-5-E</u> <u>Public School</u>	<u>9,000</u>	<u>120</u>

R-5-B, R-5-C, R-5-D, R-5-E All other structures	None prescribed	None prescribed
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3 By adding a new § 401 8 to read as follows

401 8 For public schools minimum lot area may include adjacent parcels under the same ownership that are separated only by a public alley

4 By amending § 403 1 to read as follows

403 1 A public school building 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 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 rights-of-way 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 In the R-2, R-3, and R-4 zones, the total lot occupancy should not exceed 70 percent