

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
Z.C. Case No. 12-08B¹
(Text Amendment to 11 DCMR Subtitle K §§ 603, 612, and 614 – StE Zones)
January 28, 2019

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 (2016 Rep1.)), hereby gives notice of the adoption of amendments to Subtitle K (Special Purpose Zones) of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR).

Description of Amendments

The text amendment amends 11-K DCMR § 603 to establish maximum building heights for the StE-2 zone (none are presently specified). The amendment also amends 11-K DCMR §§ 612 and 614 to permit emergency shelter use as a matter-of-right use in the StE-2 zone, with no numeric limitation as to persons housed; whereas, all other StE zones retain the current matter-of-right limit for emergency shelter uses at four (4) persons, with up to fifteen (15) permitted by special exception. Finally, the text amendment corrects (i) the first sentence of 11-K DCMR § 612.1 to fix a typographical error (singular for plural) and (ii) paragraph (m) of that subsection to replace an erroneous reference to a “Health Care” use category with a correct reference to the “Medical Care” use category.

Procedures Leading to Adoption of Amendments

The District of Columbia Office of Planning (OP) submitted a memorandum dated September 7, 2018 that served as a petition requesting the text amendment, which also served as OP’s supplemental filing. (Exhibit [“Ex.”]. 2.) The Commission accepted the memorandum and voted to set down the text at its September 17, 2018 public meeting.

¹ For Office of Zoning tracking purposes, this Notice of Final Rulemaking shall also be known as Z.C. Order No. 12-08B.

OP submitted a hearing report dated November 21, 2018, recommending approval of the amendments with slight variations to the text stated in its September 7, 2018 memorandum. (Ex. 6.)

ANC 8C submitted a report dated November 2, 2018 in support of the amendments as enhancing the development of the St. Elizabeths East campus. The ANC report also authorized its chair, Mary Cuthbert, to represent the ANC to the Commission on this issue. (Ex. 7.)

A public hearing was scheduled for and held on December 3, 2018. At the hearing, Maxine Brown-Roberts represented OP in recommending approval of the text amendments. The only other witness was the authorized representative of ANC 8C, Mary Cuthbert. At the close of the hearing, upon the motion of Peter A. Shapiro, as seconded by Michael G. Turnbull, the Zoning Commission took **PROPOSED ACTION** to authorize a Notice of Proposed Rulemaking by a vote of **5-0-0** (Anthony J. Hood, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve; Robert E. Miller to approve by absentee ballot).

A Notice of Proposed Rulemaking for this case was published in the *D.C. Register* on December 14, 2018, at 65 DCR 13581. No comments were received.

The National Capital Planning Commission (NCPC), through a delegated action dated December 21, 2018, found that the proposed text amendments would not be inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any other federal interest. (Ex. 10.)

At a public meeting held on January 28, 2019, upon the motion of Peter A. Shapiro, as seconded by Michael G. Turnbull, the Zoning Commission took **FINAL ACTION** to adopt the amendments making no changes to the text as proposed by a vote of **4-0-1** (Anthony J. Hood, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve; Robert E. Miller, not present, not voting).

The following amendments to the text of Title 11 DCMR (Zoning Regulations of 2016) are adopted.

Chapter 6, SAINT ELIZABETHS EAST CAMPUS ZONES – STE-1 THROUGH STE-19, of Title 11-K DCMR, SPECIAL PURPOSE ZONES, is amended as follows:

Section 603, HEIGHT (STE), is amended as follows:

Table K § 603, MAXIMUM PERMITTED BUILDING HEIGHT, PENTHOUSE HEIGHT, AND PENTHOUSE STORIES, is amended to read as follows:

**TABLE K § 603.1: MAXIMUM PERMITTED BUILDING HEIGHT,
PENTHOUSE HEIGHT, AND PENTHOUSE STORIES**

Zone	Maximum Building Height (ft.)	Maximum Penthouse Height	Maximum Penthouse Stories
StE-1	25	12 ft. except 15 ft. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
StE-2	Subtitle K § 603.3	12 ft. except 18 ft. 6 in. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
StE-3	... ²		

A new § 603.3 is added to read as follows:

603.3 The maximum permitted building height, not including the penthouse, for any portion of a building shall be as follows based on the building’s distance from the property line along Martin Luther King, Jr. Avenue:

- (a) For a distance of two hundred thirty feet (230 ft.) or less, the maximum permitted building height, not including the penthouse, shall be forty feet (40 ft.);
- (b) For a distance of more than two-hundred thirty feet (230 ft.) and less than five hundred sixty feet (560 ft.), the maximum permitted building height, not including the penthouse, shall be eighty feet (80 ft.); and
- (c) For a distance of five hundred sixty feet (560 ft.) or more, the maximum permitted building height, not including the penthouse, shall be ninety feet (90 ft.).

Paragraphs (j) and (m) of § 612.1 of § 612, USE PERMISSIONS (STE), are amended as follows:

² The uses of this and other ellipses indicate that other provisions exist in the subsection being amended and that the omission of the provisions does not signify an intent to repeal.

612.1 The following use categories shall be permitted as a matter of right in all of the StE zones, except as limited in Subtitle K §§ 613 and 614, or if specifically prohibited by Subtitle K § 615:


- (a) ...
- (j) Emergency shelter uses that house no more than four (4) persons, not including resident supervisors or staff and their families, except in the StE-2 zone where no numeric limit applies;
...
- (m) Medical Care;

Subsection 614.1 of § 614, USES PERMITTED BY SPECIAL EXCEPTION (StE), is amended as follows:


614.1 The uses in this section shall be permitted in the StE zones as a special exception if approved by the Board of Zoning Adjustment pursuant to the general standards of Subtitle X, the criteria set forth in Subtitle K § 615.2, and subject to applicable conditions of each section as stated below:

- (a) Except as permitted as a matter of right in the StE-2 zone by Subtitle K § 612.1(j), emergency shelter uses for five (5) to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the following conditions:
 - (1) ...

The text amendments shall become effective upon publication of this notice in the *D.C. Register*, that is on March 1, 2019.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING