

NOTICE OF PROPOSED RULEMAKING
Z.C. CASE NO. 19-13

(Text Amendment – Subtitles B-G, I, J, & U of Title 11 DCMR regarding Alley Lots)

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 (2018 Repl.), and pursuant to § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), hereby gives notice of its intent to amend Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016 [Zoning Regulations], to which all references are made unless otherwise specified).

The proposed text amendment clarifies the application of the requirements for alley lots, as follows:

- Subtitle B (Definitions, Rules of Measurement, and Use Categories) - §§ 100, 307, & 308
- Subtitle C (General Rules) - §§ 302, 303, & 306
- Subtitle D (Residential House (R) Zones) – Chapter 51
- Subtitle E (Residential Flat (RF) Zones) – Chapter 51
- Subtitle F (Residential Apartment (RA) Zones) – Chapter 51
- Subtitle G (Mixed-Use (MU) Zones) – Chapter 11
- Subtitle I (Downtown (D) Zones) – § 210
- Subtitle J (Production, Distribution, and Repair (PDR) Zones) – Chapter 3
- Subtitle U (Use Permissions) - §§ 600 & 601

Setdown

On June 28, 2019, the Office of Planning (OP) filed a petition proposing these changes that would clarify the regulations governing alley lots - including the minimum alley centerline setback, the process for converting alley tax lots to alley record lots, and the ability to hold limited performances or art shows in alley artist studios - and ensure consistent language across different subtitles. The OP setdown report included a graphic illustration of the existing alley tax lots that would be affected by the proposed text amendment.

At its July 8, 2019, public meeting, the Commission voted to grant OP’s request to set down the proposed text amendment for a public hearing.

OP submitted a July 6, 2020, hearing report (the “OP Hearing Report”) that responded to the Commission’s questions at its setdown meeting, specifically:

- The impact of the proposed text amendment on previous cases before the Board of Zoning Adjustment;
- An analysis of the turning radii for vehicles and garage entry based on input from the District Department of Transportation as well as an architect and transportation consultant experienced in designing and analyzing alley garages that confirmed that a fifteen foot (15 ft.)-alley width created by the seven and one-half foot (7.5 ft.) minimum alley centerline setback was adequate and sufficient for garage access; and
- An explanation of the proposed limited artist performances.

The OP Hearing Report provided a breakdown of the existing alley lots that would be impacted by the proposed text amendment and proposed updated text that made minor changes to clarify the intent of the proposed text amendment.

ANC Reports

Advisory Neighborhood Commission (ANC) 6B submitted a June 22, 2020, report that supported the proposed text amendment because it would support the Mayor's Housing Equity Framework to add 3200 units to the Capitol Hill Planning Area by 2025 by:

- Increasing residential use on alleys;
- Aligning historic record lots and historic tax lots under the Zoning Regulations; and
- Allow artist studios to include limited performances.

ANC 6C submitted a July 13, 2020, report that supported the proposed text amendment but proposed the following revisions:

- The proposed seven and one-half foot (7.5 ft.)-alley centerline setback for alley lots be extended to cover garages and accessory structures on non-alley lots (currently twelve feet [12 ft.]); and
- Including specific criteria, including traffic and parking for special exception relief for alley lot subdivisions in addition to reports from relevant agencies.

The Commission received public comments both opposed to and supporting the proposed text amendment, with several comments in support recommending changes that would reduce the current limitations on development of alley lots.

Public Hearing

At its July 13, 2020, public hearing, the Commission heard from:

- OP, which testified in support of the proposed text amendment and responded to the written comments in the record and to the Commission's questions;
- ANCs 6B and 6C, which testified in support, repeating the substance of their respective reports; and
- Members of the public, who testified in support of the proposed text amendment but proposing changes that would reduce the current limitations on development of alley lots.

The Commission noted that it favored consideration of many of the suggested revisions proposed by public comments and testimony but did not want to delay the proposed text amendment by incorporating these revisions which the Commission believed would require further analysis by OP. The Commission did agree with OP to incorporate ANC 6C's request to incorporate specific special exception criteria for traffic and parking and with this proposed revision.

Great Weight" to the Recommendations of OP

The Commission must give "great weight" to the recommendations of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Z § 405.8. *Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)

The Commission finds OP’s recommendation that the Commission take proposed action to adopt the proposed text amendment persuasive and concurs in that judgment.

“Great Weight” to the Written Report of the ANCs

The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. *Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016). The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” *Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).

The Commission finds ANC 6B’s report persuasive in its support for the text amendment as supporting expanded residential opportunities in the District and concurs in that judgment.

The Commission finds ANC 6C’s report persuasive in its support for the text amendment as well as its suggestion to retain specific special exception criteria and concurs in that judgment. The Commission does not find persuasive ANC 6C’s proposal to extend the seven and one-half foot (7.5 ft.)-alley centerline setback for alley lots to accessory buildings on non-alley lots because that is outside of the proposed text amendment’s focus on alley lots and more appropriate to a future text amendment on accessory buildings.

At the close of the public hearing, the Commission voted to take **PROPOSED ACTION** to adopt the text advertised in the public hearing notice, as modified by the revisions proposed by the OP Hearing Report and the specific special exception criteria proposed by ANC 6C, and to authorize the publication of a Notice of Proposed Rulemaking:

VOTE (July 13, 2020): **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, Michael G. Turnbull to **APPROVE**)

The complete record in the case, including the OP reports and transcript of the public meeting and hearing, can be viewed online at the Office of Zoning website, through the Interactive Zoning Information System (IZIS), at <https://app.dcoz.dc.gov/Content/Search/Search.aspx>.

PROPOSED TEXT AMENDMENT

The proposed amendments to the text of the Zoning Regulations are as follows) text to be deleted is marked in ~~bold and strikethrough~~ text; new text is shown in **bold and underline** text).

I. Proposed amendments to Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES

Subsection 100.2, of § 100, DEFINITIONS, of Chapter 1, DEFINITIONS, of Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is proposed to be amended by revising the definitions of “Alley” and “Lot, Alley” and by adding a new definition of “Lot Line, Alley,” to read as follows:

...¹

Alley: A public way, **whether named or unnamed**, designated as an alley in the records of the Surveyor of the District of Columbia. An alley is not a street for the purposes of this title.

...

Lot, Alley: ~~Is either a A lot that is recorded on the records of the Surveyor, District of Columbia, that (i) faces or abuts an alley; (ii) does not face or abut a street at any point, and (iii) is recorded either on the records of the D.C. Surveyor (an alley record lot) or a lot that is recorded on the records of the D.C Office of Tax and Revenue, on or before November 1, 1957, that faces or abuts an alley that does not face or abut a street at any point (alley tax lot) (an alley tax lot).~~

...

Lot Line, Alley: A lot line that abuts an alley.

...

Section 307, RULES OF MEASUREMENT FOR BUILDING HEIGHT: NON-RESIDENTIAL ZONES, of Chapter 3, GENERAL RULES OF MEASUREMENT, of Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is proposed to be amended by revising § 307.1 and adding a new § 307.8, to read as follows:

307.1 In other than residential zones, as defined in Subtitle A § 101.9, and except **alley lots** as permitted elsewhere in this section and the regulations, the building height measuring point (BHMP) shall be established at the ~~at the~~ level of the curb, opposite the middle of the front of the building, and the building height shall be the vertical distance measured from the BHMP to the highest point of the roof or parapet or **to** a point designated by a specific zone district; **except that alley lots shall be regulated by Subtitle B § 307.8.**

...

307.8 For alley lots, the BHMP shall be established at grade at the mid-point of the alley lot line or, where an alley lot abuts more than one alley, the mid-point of

¹ The use of this and other ellipses indicate that other provisions exist in the subsection being amended and that the amendment of the text at issue does not signify an intent to repeal those other provisions.

the alley lot line that would result in the BHMP with the highest elevation. Building height for alley lots shall be the vertical distance measured from the BHMP to the highest point of the roof or parapet or to a point designated by the rules provided in the applicable zone district, with any conflict resolved in favor of the lowest maximum height.

Section 308, RULES OF MEASUREMENT FOR BUILDING HEIGHT: RESIDENTIAL ZONES AS DEFINED IN SUBTITLE A § 101.9, of Chapter 3, GENERAL RULES OF MEASUREMENT, of Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is proposed to be amended by revising §§ 308.1 and 308.2 and by adding a new § 308.8, to read as follows:

308.1 The height of buildings, not including a penthouse, in residential zones, as defined in Subtitle A § 101.9, shall be measured in accordance with the rules provided in this section; **except that the height of buildings on alley lots shall be regulated by Subtitle B § 308.9.** If more than one (1) of these subsections applies to a building, the rule permitting the greater height shall apply.

308.2 The building height measuring point (BHMP) shall be established at the adjacent natural or finished grade, whichever is the lower in elevation, at the mid-point of the building façade of the principal building that is closest to a street lot line. For any excavations projecting from the building’s façade other than an exception to grade as defined at ~~11-B-DCMR~~ **Subtitle B** § 100.2 the elevation of the midpoint of a building façade shall be the equivalent of the lowest such elevation; excluding existing driveways adjacent to the midpoint(s) directly connecting a garage and public right of way.

...

308.9 For alley lots, the BHMP shall be established at grade at the mid-point of the alley lot line or, where an alley lot abuts more than one alley, the mid-point of the alley lot line that would result in the BHMP with the highest elevation. Building height for alley lots shall be measured in accordance with Subtitle B §§ 308.2 through 308.4 and the rules provided in the applicable zone district, with any conflict resolved in favor of the lowest maximum height.

II. Proposed amendments to Subtitle C, GENERAL RULES

Subsection 302.1 of § 302, SUBDIVISION REGULATIONS, of Chapter 3, SUBDIVISION, of Subtitle C, GENERAL RULES, is proposed to be amended as follows:

302.1 Where a lot is divided, the division shall be effected in a manner that will not violate the provision of this title for yards, courts, other open space, minimum lot width, minimum lot area, floor area ratio, percentage of lot occupancy, parking spaces, or loading berths applicable to that lot or any lot created; **except that:**

(a) A non-alley lot recorded as a tax lot with the Office of Tax and Revenue prior to May 12, 1958, which shared an underlying record lot with an alley tax lot that has been converted to an alley record lot under Subtitle C § 306.3, may be converted to a record lot without complying with these development standards; and

(b) A non-alley lot recorded as a tax lot with the Office of Tax and Revenue prior to September 6, 2016, which shared an underlying record lot with an alley tax lot that has been converted to an alley record lot under Subtitle C § 306.4, may be converted to a record lot if granted by the Board of Zoning Adjustment as a special exception pursuant to Subtitle X, Chapter 9.

Section 303, LOT FRONTAGE, of Chapter 3, SUBDIVISION, of Subtitle C, GENERAL RULES, is proposed to be amended by revising § 303.1 and by deleting § 303.3 and renumbering current §§ 303.4 and 303.5 as new §§ 303.3 and 303.4, to read as follows:

303.1 ~~Except for alley lots, all~~ All new record lots shall have at least one (1) street lot line on a public street or a public access easement approved by the District Department of Transportation, except that new alley record lots shall instead comply with the rules of Subtitle C § 306.

303.2 Where a minimum lot width is required ...

~~303.3 New alley record lots shall comply with the following:~~

- ~~(a) Have frontage along a public alley with a minimum alley width of twenty-four feet (24 ft.) and have from the alley access to a street through an alley or alleys not less than twenty-four feet (24 ft.) in width;~~
- ~~(b) Meet the lot area standards applicable under the title of the respective zone and, if no minimum lot area standard is provided, the alley lot shall be a minimum of eighteen hundred square feet (1,800 sq. ft.) of lot area; and~~
- ~~(c) Where existing abutting alley record lots or alley tax lots created on or before May 12, 1958 are combined into a larger alley record lot, the subdivision need not comply with paragraphs (a) and (b) of this subsection.~~

~~303.4~~ 303.3 Each new lot being created to be used and occupied by a single dwelling ...

~~303.5~~ 303.4 Each new lot being created to be used and occupied by an apartment house ...

A new § 306, NEW ALLEY RECORD LOTS, is proposed to be added to Chapter 3, SUBDIVISION, of Subtitle C, GENERAL RULES, as follows:

306 NEW ALLEY RECORD LOTS

306.1 A new alley record lot shall:

- (a) Have frontage along a public alley with a minimum alley width of twenty-four feet (24 ft.), with the alley frontage no less than fourteen feet (14 ft);**
- (b) Have access to a public street through a public alley or alleys with an alley width of not less than twenty-four feet (24 ft.) at any point between the new alley record lot and the street;**
- (c) Meet the lot area standards applicable for non-alley lots in the same zone; if no minimum lot area standard is provided, the alley record lot shall be a minimum of eighteen hundred square feet (1,800 sq. ft.) of lot area; and**
- (d) Not be created by subdividing an existing record lot unless the subdivision application includes a statement, supported by a plat depicting the proposed alley record lot and its existing record lot, that establishes to the Zoning Administrator's satisfaction that the remainder of that existing record lot and the new alley record lot each comply with Subtitle C § 302 in addition to all other applicable requirements.**

306.2 An alley record lot may be combined with an abutting alley record lot to create a larger alley record lot without meeting the requirements of Subtitle C §§ 306.1.

306.3 An alley tax lot recorded with the Office of Tax and Revenue prior to May 12, 1958, may be converted into an alley record lot without meeting the requirements of Subtitle C § 306.1, if the alley tax lot:

- (a) Has a minimum square footage of four hundred and fifty square feet (450 sq. ft.); or**
- (b) Is combined with an abutting alley tax lot created before May 12, 1958, or with an abutting alley record lot, to create a larger alley record lot.**

306.4 An alley tax lot not meeting the requirements of Subtitle C §§ 306.1 through 306.3 that was recorded with the Office of Tax and Revenue prior to September 6, 2016, may be converted to an alley record lot if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, and subject to the following requirements:

- (a) The alley tax lot connects to an improved public street through an improved alley or system of alleys that provides adequate public safety, and infrastructure availability; and**

(b) The Office of Zoning shall refer the application to the following agencies for their review and recommendation, if filed to the case record within the forty (40) day period established by Subtitle A § 211:

(1) Department of Transportation (DDOT);

(2) Department of Public Works (DPW);

(3) Metropolitan Police Department (MPD);

(4) Fire and Emergency Medical Services Department (FEMS);

(5) DC Water (WASA); and

(6) If a historic district or historic landmark is involved, the Historic Preservation Office (HPO).

Subsection 711.7 of § 711, ACCESS REQUIREMENTS, of Chapter 7, VEHICLE PARKING, of Subtitle C, GENERAL RULES, is revised to read as follows:

711.7 ~~When~~ **Except for alley lots, when** parking spaces are provided within a building or structure, all vehicular entrances or exits shall be setback at least twelve feet (12 ft.) from the center line of any adjacent alley for a minimum height of ten feet (10 ft.).

III. Proposed amendments to Subtitle D, RESIDENTIAL HOUSE (R) ZONES

The title of Chapter 51, ALLEY LOT REGULATIONS FOR R ZONES, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended as follows:

CHAPTER 51, ALLEY LOT REGULATIONS (R) ~~FOR R ZONES~~

Chapter 51, ALLEY LOT REGULATIONS (R), of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended by revising § 5100, GENERAL PROVISIONS, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, and by deleting §§ 5101 through 5107², to read as follows:

5100 GENERAL PROVISIONS

~~5100.1 All alley lots must be recorded in the records of the Office of the Surveyor, District of Columbia as a record lot.~~

² Former § 5108 of Subtitle D was deleted effective with the July 3, 2020 publication in the *D.C. Register* of a Notice of Final rulemaking in Z.C. Case No. 19-14.

~~5100.2~~ — ~~New alley lots may be created as provided in the subdivision regulations in Subtitle C § 303.3.~~

~~5100.1~~ — ~~The following development standards shall apply to buildings on alley record lots in the R zones:~~

~~TABLE D § 5100.1: ALLEY LOT DEVELOPMENT STANDARDS (R)~~

(a) Maximum Height	20 ft. and 2 stories, including the penthouse
(b) Maximum Lot Occupancy	
Less than 1,800 sq. ft. of lot area	N/A
Between 1,800 and 2,000 sq. ft. of lot area	90%
Over 2,000 sq. ft. of lot area	80%
(c) Minimum Rear Yard	5 ft. from any lot line of all abutting non-Alley Lots
(d) Minimum Side Yard	5 ft. from any lot line of all abutting non-Alley Lots
(e) Minimum Alley Centerline Setback	7.5 ft. from the centerline of all abutting alleys
(f) Minimum Pervious Surface	10%

~~5100.2~~ — ~~Uses on alley lots shall be as permitted in Subtitle U, Chapter 6.~~

~~5101~~ — ~~DEVELOPMENT STANDARDS~~

~~5101.1~~ — ~~The development standards in Subtitle D §§ 5102 through 5107 shall apply to buildings on alley lots in R zones.~~

~~5102~~ — ~~HEIGHT~~

~~5102.1~~ — ~~The maximum height and stories of buildings on alley lots in R zones shall be twenty feet (20 ft.) and two (2) stories, including the penthouse.~~

~~5103~~ — ~~LOT OCCUPANCY~~

~~5103.1~~ — ~~A building or structure shall not occupy an alley lot in excess of the maximum lot occupancy as set forth in the following table:~~

~~TABLE D § 5103.1: MAXIMUM LOT DEVELOPMENT STANDARDS (R)~~

Alley Lot Size	Maximum Lot Occupancy
Less than 1,800 sq. ft. of lot area	N/A
Between 1,800 sq. ft. and 2,000 sq. ft.	90%
Larger than 2,000 sq. ft.	80%

~~5104~~ — ~~REAR YARD~~

~~5104.1~~ — ~~A minimum rear yard of five feet (5 ft.) shall be provided along any lot line of all abutting non-alley lots.~~

~~5105~~ — ~~SIDE YARD~~

~~5105.1~~ — ~~A minimum side yard of five feet (5 ft.) shall be provided along any lot line of all abutting non-alley lots.~~

~~5106 ALLEY CENTERLINE SETBACK~~

~~5106.1 A required twelve foot (12 ft.) setback from the centerline of all alleys to which the alley lot abuts shall be provided.~~

~~5107 PERVIOUS SURFACE~~

~~5107.1 The minimum percentage of pervious surface requirement of an alley lot in an R zone shall be ten percent (10%).~~

IV. Proposed amendments to Subtitle E, RESIDENTIAL FLAT (RF) ZONES

The title of Chapter 51, ALLEY LOT REGULATIONS, of Subtitle E, RESIDENTIAL FLAT (RF) ZONES, is proposed to be amended as follows:

CHAPTER 51, ALLEY LOT REGULATIONS (RF)

Chapter 51, ALLEY LOT REGULATIONS (RF), of Subtitle E, RESIDENTIAL FLAT (RF) ZONES, of Subtitle E, RESIDENTIAL FLAT (RF) ZONES, is proposed to be amended by revising § 5100, GENERAL PROVISIONS, and by deleting §§ 5101 through 5107³, to read as follows:

5100 GENERAL PROVISIONS

~~5100.1 All alley lots must be recorded in the records of the Office of the Surveyor, District of Columbia as a record lot.~~ **The following development standards shall apply to buildings on alley record lots in the RF zones:**

TABLE E § 5100.1: ALLEY LOT DEVELOPMENT STANDARDS (RF)

<u>(a) Maximum Height</u>	<u>20 ft. and 2 stories, including the penthouse</u>
<u>(b) Maximum Lot Occupancy</u>	
<u>Less than 1,800 sq. ft. of lot area</u>	<u>N/A</u>
<u>Between 1,800 and 2,000 sq. ft. of lot area</u>	<u>90%</u>
<u>Over 2,000 sq. ft. of lot area</u>	<u>80%</u>
<u>(c) Minimum Rear Yard</u>	<u>5 ft. from any lot line of all abutting non-alley lots</u>
<u>(d) Minimum Side Yard</u>	<u>5 ft. from any lot line of all abutting non-alley lots</u>
<u>(e) Minimum Alley Centerline Setback</u>	<u>7.5 ft. from the centerline of all abutting alleys</u>
<u>(f) Minimum Pervious Surface</u>	<u>10%</u>

~~5100.2 New alley lots may be created as provided in the subdivision regulations in Subtitle C § 303.3.~~ **Uses on alley lots shall be as permitted in Subtitle U, Chapter 6.**

³ Former § 5108 of Subtitle E was deleted effective with the July 3, 2020, publication in the *D.C. Register* of a Notice of Final Rulemaking in Z.C. Case No. 19-14.

5101 DEVELOPMENT STANDARDS

5101.1 ~~The bulk of accessory buildings in the RF zones shall be controlled through the development standards in Subtitle E §§ 5102 through 5108.~~

5102 HEIGHT

5102.1 ~~The maximum height and stories of buildings on alley lots in RF zones shall be twenty feet (20 ft.) and two (2) stories, including the penthouse.~~

5103 LOT OCCUPANCY

5103.1 ~~A building or structure shall not occupy an alley lot in excess of the maximum lot occupancy as set forth in the following table:~~

TABLE E § 5103.1: MAXIMUM LOT DEVELOPMENT STANDARDS (RF)

Alley Lot Size	Maximum Lot Occupancy
Less than 1,800 sq. ft. of lot area	N/A
Between 1,800 sq. ft. and 2,000 sq. ft.	90%
Larger than 2,000 sq. ft.	80%

5104 REAR YARD

5104.1 ~~A minimum rear yard of five feet (5 ft.) shall be provided along any lot line of all abutting non-alley lots.~~

5105 SIDE YARD

5105.1 ~~A minimum side yard of five feet (5 ft.) shall be provided along any lot line of all abutting non-alley lots.~~

5106 ALLEY CENTERLINE SETBACK

5106.1 ~~A required twelve foot (12 ft.) setback from the centerline of all alleys to which the alley lot abuts shall be provided.~~

5107 PERVIOUS SURFACE

5107.1 ~~The minimum percentage of pervious surface requirement shall be ten percent (10%).~~

V. Proposed amendments to Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES

The title of Chapter 51, ALLEY LOT REGULATIONS, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended as follows:

CHAPTER 51, ALLEY LOT REGULATIONS (RA)

Chapter 51, ALLEY LOT REGULATIONS (RA), of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended by revising § 5100, GENERAL PROVISIONS, and by deleting §§ 5101 through 5106⁴, to read as follows:

5100 GENERAL PROVISIONS

5100.1 ~~All alley lots must be recorded in the records of the Office of the Surveyor, District of Columbia as a record lot. The following development standards shall apply to buildings on alley record lots in RA zones:~~

TABLE F § 5100.1: ALLEY LOT DEVELOPMENT STANDARDS (RA)

(a) Maximum Height	20 ft. and 2 stories, including the penthouse
(b) Minimum Rear Yard	5 ft. from any lot line of all abutting non-alley lots
(c) Minimum Side Yard	5 ft. from any lot line of all abutting non-alley lots
(d) Minimum Alley Centerline Setback	7.5 ft. from the centerline of all abutting alleys
(e) Minimum Pervious Surface	10%

5100.2 ~~New alley lots may be created as provided in the subdivision regulations in Subtitle C § 303.3. Uses on alley lots shall be as permitted in Subtitle U, Chapter 6.~~

5101 DEVELOPMENT STANDARDS

5101.1 ~~The development standards of this chapter shall apply to buildings on alley lot in RA zones.~~

5102 HEIGHT

5102.1 ~~The maximum height and stories of buildings on alley lots in RA zones shall be twenty feet (20 ft.) and two (2) stories, including the penthouse.~~

5103 REAR YARD

5103.1 ~~A required rear yard shall be provided with a minimum depth of five feet (5 ft.) along any lot line of all abutting non-alley lots.~~

5104 SIDE YARD

5104.1 ~~A required side yard shall be provided with a minimum depth of five feet (5 ft.) along any lot line of all abutting non-alley lots.~~

5105 ALLEY CENTERLINE SETBACK

5105.1 ~~A required twelve foot (12 ft.) setback from the centerline of all alleys to which the alley lot abuts shall be provided.~~

5106 PERVIOUS SURFACE

⁴ Former § 5107 of Subtitle F was deleted effective with the July 3, 2020, publication in the *D.C. Register* of a Notice of Final Rulemaking in Z.C. Case No. 19-14.

~~5106.1 The minimum required pervious surface shall be not less than ten percent (10%).~~

VI. Proposed amendments to Subtitle G, MIXED-USE (MU) ZONES

The title of Chapter 11, ALLEY LOT REGULATIONS FOR MU ZONES, of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be amended as follows:

CHAPTER 11 ALLEY LOT REGULATIONS FOR MU ZONES (MU)

Chapter 11, ALLEY LOT REGULATIONS (MU), of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be amended by revising § 1100, GENERAL PROVISIONS, and by deleting §§ 1101 through 1106, to read as follows:

1100 GENERAL PROVISIONS

1100.1 ~~All alley lots must be recorded in the records of the Office of the Surveyor, District of Columbia as a record lot.~~ The following development standards shall apply to buildings on alley record lots in MU zones:

TABLE G § 1100.1: ALLEY LOT DEVELOPMENT STANDARDS (MU)

(a) Maximum Height	
<u>MU-6, MU-8, MU-9, MU-10, MU-19, MU-20, MU-22, MU-29, and MU-30 zones</u>	<u>30 ft. and 3 stories, including the penthouse</u>
<u>All other MU zones</u>	<u>20 ft. and 2 stories, including the penthouse</u>
(b) Minimum Rear Yard	<u>5 ft. from any lot line of all abutting non-alley lots</u>
(c) Minimum Side Yard	<u>5 ft. from any lot line of all abutting non-alley lots</u>
(d) Minimum Alley Centerline Setback	<u>7.5 ft. from the centerline of all abutting alleys</u>
(e) Minimum Green Area Ratio (GAR)	<u>As required by zone</u>

1100.2 ~~New alley lots may be created as provided in the subdivision regulations in Subtitle C § 303.3.~~ Uses on alley lots shall be as permitted in Subtitle U, Chapter 6.

~~1101 DEVELOPMENT STANDARDS~~

~~1101.1~~ ~~The development standards in Subtitle G §§ 1101 through 1106 shall apply to buildings on alley lot in MU zones.~~

~~1102 HEIGHT~~

~~1102.1~~ ~~The maximum height and stories of the building in MU-6, MU-8, MU-10, MU-19, MU-20, MU-21, MU-22, and MU-29 zones shall be thirty feet (30 ft.) and three (3) stories, including the penthouse.~~

~~1102.2 The maximum height and stories of the building in all other MU zones shall be twenty feet (20 ft.) and two (2) stories, including the penthouse.~~

~~1103 REAR YARD~~

~~1103.1 A minimum rear yard of five feet (5 ft.) shall be provided from any lot line of all abutting non-alley lots.~~

~~1104 SIDE YARD~~

~~1104.1 A minimum side yard of five feet (5 ft.) shall be provided from any lot line of all abutting non-alley lots.~~

~~1105 ALLEY CENTERLINE SETBACK~~

~~1105.1 A required twelve foot (12 ft.) setback from the centerline of all alleys to which the alley lot abuts shall be provided.~~

~~1106 GREEN AREA RATIO~~

~~1106.1 The minimum required GAR shall be as required by the zone.~~

VII. Proposed amendments to Subtitle I, DOWNTOWN (D) ZONES

Subsection 210.3 of § 210, ALLEY LOTS, of Chapter 2, GENERAL DEVELOPMENT STANDARDS FOR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN (D) ZONES, is proposed to be amended as follows:

210.3 Residential use is permitted, subject to the following conditions:

- (a) A building may not be constructed or converted to a single or multiple dwelling unit unless **the lot is an alley record lot and** there is a minimum of four hundred and fifty square feet (450 sq. ft.) of lot area per unit; and
- (b) The alley lot has access to an improved public street as follows:
 - (1) Through an improved **public** alley or alleys **with an alley width of not less than** twenty-four feet (24 ft.) ~~or more in width at any point between the alley lot and the street;~~ or
 - (2) ~~On~~ **The public street is within three hundred (300) linear feet of the alley lot as measured along** an improved **public** alley ~~no or~~ **alleys with an alley width of not** less than fifteen feet (15 ft.) **in width at any point and within three hundred (300) linear feet of a public street, as measured along the aforementioned fifteen-foot (15 ft.) wide alley.**

VIII. Proposed amendments to Subtitle J, PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES

The title of Chapter 3, ALLEY LOT REGULATIONS, of Subtitle J, PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, is proposed to be amended as follows:

CHAPTER 3, ALLEY LOT REGULATIONS (PDR)

Chapter 3, ALLEY LOT REGULATIONS (PDR), of Subtitle J, PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, is proposed to be amended by revising § 300, GENERAL PROVISIONS, and by deleting § 301, DEVELOPMENT REGULATIONS FOR BUILDINGS ON ALLEY LOTS, to read as follows:

300.1 ~~All alley lots must be recorded in the records of the Office of the Surveyor, District of Columbia, as a record lot.~~ The following development standards shall apply to buildings on alley record lots in PDR zones:

TABLE J § 300.1: ALLEY LOT DEVELOPMENT STANDARDS (PDR)

(a) Maximum Height	
<u>If the alley lot is located in a square with R or RF zoned properties</u>	<u>20 ft., including the penthouse</u>
<u>All other alley lots</u>	<u>30 ft., including the penthouse</u>
(b) Minimum Rear Yard	<u>5 ft. from any lot line of all abutting non-alley lots</u>
(c) Minimum Side Yard	<u>5 ft. from any lot line of all abutting non-alley lots</u>
(d) Minimum Alley Centerline Setback	<u>7.5 ft. from the centerline of all abutting alleys</u>

~~300.2~~ ~~New alley lots may be created as provided in the subdivision regulations in Subtitle C § 303.3.~~

~~301~~ ~~DEVELOPMENT REGULATIONS FOR BUILDINGS ON ALLEY LOTS~~

~~301.1~~ ~~The bulk of buildings on alley lots in a PDR zone shall be controlled through the specified development standards of this chapter.~~

~~301.2~~ ~~The following development standards shall apply to buildings on alley lots in PDR zones:~~

TABLE J § 301.2: ALLEY LOT DEVELOPMENT STANDARDS

<u>Maximum Lot Occupancy</u>	<u>GAR</u>	<u>Rear Yard Min.</u>	<u>Side Yard Min.</u>	<u>Alley Centerline Yard Min.</u>
<u>N/A</u>	<u>As required by applicable zone</u>	<u>5 ft. from any lot line of all non-alley lots</u>		<u>12 ft. from the centerline of all alleys to which the alley lot abuts</u>

~~301.3~~ ~~The maximum height of a building on an alley lot shall be determined as follows:~~

~~(a) If the alley lot is located in a square that contains R or RF zone properties, the height shall be limited to twenty feet (20 ft.), including the penthouse;~~

- (b) ~~If the alley lot is located in a square that does not contain R or RF zoned properties, the height shall be limited to thirty feet (30 ft.), including the penthouse.~~

IX. Proposed amendments to Subtitle U, USE PERMISSIONS

The title of Chapter 6, USE PERMISSIONS FOR ALLEY LOT, of Subtitle U, USE PERMISSIONS, is proposed to be amended as follows:

CHAPTER 6, USE PERMISSIONS FOR ALLEY LOTS

Subsection 600.1 of § 600, MATTER-OF-RIGHT USES ON ALLEY LOTS (R, RF, AND RA), of Chapter 6, USE PERMISSIONS FOR ALLEY LOTS, of Subtitle U, USE PERMISSIONS, is proposed to be amended by revising paragraphs (b), (e), and (f), to read as follows:

600.1 The following uses shall be permitted as a matter-of-right on an alley lot in the R, RF, and RA zones subject to any applicable conditions:

- (a) Agricultural, both residential and large;
- (b) Artist studio inside a building, subject to the following conditions:
- (1) An artist may teach one (1) or more apprentices;
 - ~~(1) (2)~~ Occupancy Regular occupancy of the building shall be limited to one (1) artist and one (1) apprentice for each four hundred and fifty square feet (450 sq. ft.) of gross floor area ~~of a building on an alley lot;~~
 - ~~(2) (3)~~ All operations and storage of materials shall occur inside the building;
 - ~~(3) (4)~~ Incidental sales of ~~art-work~~ artwork produced by the occupants of the studio shall be permitted within the studio; ~~and~~
 - ~~(4) — The artist may teach one (1) or more apprentices.~~
 - (5) Noise volume shall be governed by the regulations of Title 20 DCMR (Environment);
 - (6) Rehearsals for performing arts may be undertaken in the artist studio; and
 - (7) A maximum of five (5) art shows or performances open to the public are permitted per calendar year, and occupancy for the

art show or performance shall be governed by the regulations of Title 12-H (Fire Code).

- (c) Camping by the owner ...
- (d) Community solar facility ...
- (e) Parking, subject to the following conditions:
 - (1) Surface parking spaces for use by residents of the square;
 - (2) Not more than two (2) car-sharing spaces **shall be permitted on any one (1) alley lot**; and
 - (3) Parking garage on an **alley** lot not containing another use shall meet the following conditions:
 - (A) No more than two (2) motor vehicles may be housed on the **alley** lot;
 - (B) The building may not exceed four hundred fifty square feet (450 sq. ft.); and
 - (C) The **building garage door** shall open directly onto an alley; and
- (f) Residential **dwelling use**, ~~provided that the use shall be limited to one (1) dwelling unit on an alley lot~~, subject to the following **limitations conditions**:
 - (1) The alley lot is **not wholly or partially within the R-1-A, R-1-B, R-2, R-6 through R-12, R-14 through R-16, or R-19 through R-21 zones an R-3, R-13, or R-17; zone, an RF zone, or an RA zone**;
 - (2) A **residential dwelling building** may not be constructed **as** or **other building** converted **for to** a dwelling unit unless the lot is an **Alley R-record L** lot and there is a minimum of four hundred and fifty square feet (450 sq. ft.) of lot area;
 - (3) **The use shall be limited to one (1) dwelling unit per lot; accessory apartments are not permitted;**
 - ~~(3)~~ **(4)** The alley lot has access to an improved public street as follows:

(A) Through an improved **public** alley or alleys **with an alley width of not less than** twenty-four feet (24 ft.) **or more in width at any point between the lot and the public street;**
or

(B) ~~Through~~**The public street is within three hundred (300) linear feet of the alley lot as measured along an improved public alley ~~no~~ or alleys with an alley width of not less than fifteen feet (15 ft.) in width at any point and within three hundred (300) linear feet of an improved public street; and**

~~(4) The residential dwelling shall meet all building code requirements for a permanent residential structure; and~~

~~(5) If the Zoning Administrator or other authorized building official determines that the access from a proposed dwelling on an alley lot is insufficient to provide the intended public safety, hygiene, or other building code requirement, the application for the residential dwelling shall be referred to the Board of Zoning Adjustment.~~

(5) The dwelling unit may also contain a parking garage for use by residents of the dwelling.

...

Subsection 601.1 of § 601, SPECIAL EXCEPTION USES ON ALLEY LOTS (R, RF, AND RA), of Chapter 6, USE PERMISSIONS FOR ALLEY LOTS, of Subtitle U, USE PERMISSIONS, is proposed to be amended by adding new paragraphs (a) and (b) and renumbering current paragraphs (a) to (e) as new paragraphs (c) to (g), and by revising new paragraphs (e), (f), and (g), to read as follows:

601.1 The following uses shall be permitted on an alley lot in the R, RF, and RA zones, as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to any specific provisions of each section:

(a) [RESERVED]

(b) Artist studio not meeting the criteria of Subtitle U § 600.1(b), subject to the following conditions:

(1) Any use authorized in this section shall not be likely to become objectionable because of noise, traffic, or number of employees or visitors; and

(2) The hours of active operation shall be arranged so as not to prove disturbing or otherwise objectionable to other properties in the square;

~~(a)~~ **(c)** No camp or any temporary place ...

~~(b)~~ **(d)** Community solar facility ...

~~(e)~~ **(e)** Parking uses not meeting the ~~matter-of-right standards, provided that a publicly operating parking area use shall be~~ **criteria of Subtitle U § 600.1(e)**, subject to the following conditions:

(1) Any use authorized in this section shall not be likely to become objectionable because of noise, traffic, or number of employees or visitors; and

(2) The hours of active operation shall be arranged so as not to prove disturbing or otherwise objectionable to persons residing around the perimeter of the square in which the use is located;

~~(d)~~ **(f)** Residential use **dwelling** not meeting the ~~matter-of-right requirements criteria~~ of Subtitle U § 600.1(f), ~~provided that the use shall be limited to one (1) dwelling unit on an alley lot~~, subject to the following conditions:

(1) The alley lot is not wholly or partially within the R-1-A, R-1-B, or R-2 zones;

(2) A building may not be constructed or converted for a dwelling unit unless the lot is an Alley Record Lot and there is a minimum of four hundred and fifty ~~(450)~~ square feet **(450 sq. ft.)** of lot area;

(3) The use shall be limited to one (1) dwelling unit per lot; accessory apartments are not permitted;

~~(3)~~ **(4)** The alley lot connects to an improved public street through an improved alley or system of alleys that provides adequate public safety; and infrastructure availability; ~~and~~

(5) The Office of Zoning shall refer to the following agencies for their review and recommendation, if filed to the case record within the forty (40) day period established by Subtitle A § 211:

(A) Department of Transportation (DDOT);

(B) Department of Public Works (DPW);

(C) Metropolitan Police Department (MPD);

(D) Fire and Emergency Medical Services Department (FEMS);

(E) DC Water (WASA); and

(F) If a historic district or historic landmark is involved, the Historic Preservation Office (HPO); and

~~(4)~~ (6) The Board of Zoning Adjustment shall consider relevant agency comments concerning:

(A) Public safety, ~~including any comments from the Fire and Emergency Medical Services Department and Metropolitan Police Department;~~

(B) Water and sewer services, ~~including any comments from the Water and Sewer Authority, especially the Department of Permit Operations);~~

(C) Waste management, ~~including any comments from the Department of Public Works;~~ and

(D) Traffic and parking, ~~including any comments from the District Department of Transportation;~~ and

(E) Historic preservation; and

~~(5) An applicant shall submit or arrange for the submission of agency comments to the official case record. If no agency submission occurs, an applicant shall instead describe any communications with relevant agencies; and~~

~~(e)~~ (g) Storage of wares or goods ...

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, through the Interactive Zoning Information System (IZIS) at <https://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Ms. Schellin may be contacted by telephone at (202) 727-6311 or by e-mail at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

Final rulemaking action shall be taken not less than thirty (30) days from the date of publication of this notice of proposed rulemaking in the *D.C. Register*.