

NOTICE OF PROPOSED RULEMAKING
Z.C. CASE NO. 20-01
(Text Amendment – 11-C DCMR)
(To Amend General Waterfront Regulations)

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 the following provisions of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the “Zoning Regulations,” to which all references are made unless otherwise specified):

- Subtitle C (General Rules), §1102.2

The text amendment proposes to change certain uses currently prohibited in the one-hundred (100)-year floodplain to be permitted by special exception subject to specific criteria and review and report by the District Department of Energy and Environment (DOEE).

The Office of Planning (OP) filed a report dated January 3, 2020, that served as the pre-hearing report required by Subtitle Z § 501 and as a petition proposing the text amendment to the Zoning Regulations. OP filed a supplementary report dated January 24, 2020, that modified the proposed text amendment and requested flexibility to work with the Office of the Attorney General (OAG) on the final text.

At its January 27, 2020, public hearing, the Commission heard testimony from OP in support of the proposed text amendment.

At the close of its January 27, 2020 public meeting, the Commission voted to take **PROPOSED ACTION** to authorize the publication of a Notice of Proposed Rulemaking:

VOTE (January 27, 2020): 5-0-0 (Anthony J. Hood, Peter A. Shapiro, Robert E. Miller, Peter G. May, Michael G. Turnbull to **APPROVE**)

The complete record in the case, including the OP reports and transcript of the public hearings, 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

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*.

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

Proposed Amendments to Subtitle C, GENERAL RULES

Section 1102, GENERAL WATERFRONT REGULATIONS, of Chapter 11, WATERFRONT, of Subtitle C, GENERAL RULES, is amended by revising current § 1102.4, adding a new § 1102.5, and renumbering current §§ 1102.5 and 1102.6 as new §§ 1102.6 and 1102.7, to read as follows:

1102.1 A waterfront setback to any building ...

...

1102.4 The following uses ~~are prohibited~~ **shall be permitted as a special exception within a one hundred (100)-year floodplain, if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9 and subject to the conditions in Subtitle C § 1102.5:**

- (a) Residential uses with only one (1) or two (2) dwelling units;
- (b) Animal sales, care, and boarding;
- (c) Community-based institutional facilities;
- (d) Daytime care;
- (e) Education;
- (f) Emergency shelter;
- (g) Hospital; and
- (h) Lodging.

1102.5 The following conditions shall apply to any application for a special exception use under Subtitle C § 1102.4:

- (a) The application shall include an analysis that provides the following:**
 - (1) A site plan showing the one hundred (100)-year floodplain boundaries and base flood elevations for the property that is certified by a registered professional engineer, architect, landscape architect, or other qualified person;**

(2) A description of how the project has been designed to meet applicable flood resistant design and construction standards that is certified by a registered professional engineer, architect, landscape architect, or other qualified person;

(3) An evacuation plan that describes the manner in which the property would be safely evacuated before or during the course of a one-hundred (100)-year flood event; and

(4) A description of how of the proposed use would not result in any adverse impacts to the health or safety for the project's occupants or users due to the proposed use's location in the floodplain; 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) District Department of Energy and Environment (DOEE);

(2) District of Columbia Fire and Emergency Medical Service Department (FEMS);

(3) Metropolitan Police Department (MPD); and

(4) The District of Columbia Homeland Security and Emergency Management Agency (HSEMA).

~~1102.5~~ **1102.6** Parking space requirements for the waterfront areas are ...

~~1102.6~~ **1102.7** The following structures and projections may encroach ...

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 zsubmissions@dc.gov; or by fax to (202) 727-6072. Ms. Schellin may be contacted by telephone at (202) 727-6311 or by email at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.