

**MEMORANDUM**

**TO:** District of Columbia Zoning Commission  
**FROM:** <sup>JLS</sup> Jennifer Steingasser, Deputy Director, Development Review & Historic Preservation  
**DATE:** December 11, 2020  
**SUBJECT:** ZC Case 20-19 – Public Hearing Report for a Proposed Text Amendment to Subtitles B, D, E, and F

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**I. RECOMMENDATION**

The Office of Planning recommends that the Zoning Commission **approve** the proposed text amendments, as provided in draft form in Section V of this report. The proposal would *not be inconsistent* with the Comprehensive Plan.

**II. BACKGROUND**

At its September 14, 2020 public meeting, the Zoning Commission set down for a public hearing text amendment case 20-19, which would amend Subtitles B, D, E, and F. These text amendments are intended to clarify and provide consistency in the regulations governing accessory buildings across zones. The following is a summary of key changes.

Shed - define a shed as an accessory building, not used for habitable purposes or automobile parking, that is less than ten feet (10 ft.) in height and no more than fifty square feet (50 sq. ft.) in area; and to permit a shed to be located in a required rear or side yard in the R, RF, and RA zones.

Rules of Measurement – define how the height of accessory buildings is measured in Subtitle B Rules of Measurement.

Height of Accessory Buildings - increase the permitted of height of accessory buildings to allow two (2) additional feet of height.

Maximum Building Area/Lot Occupancy - standardize this language under the “Building Area” development standard in the R and RF zones and continue to limit the maximum building area for accessory buildings to the greater of thirty percent (30%) of the required rear yard or four-hundred and fifty square feet (450 sq. ft.).

Use Permissions – delete redundant use-related permissions that are contained in Subtitle U such as private parking in the RA zones (F-5004.4).

Georgetown Zone – align the accessory building regulations for the R-19 and R-20 zones with the base zone regulations.

Alley Centerline Setback - incorporate the same reduced alley setback (7.5 feet rather than 12 feet) for accessory buildings on street-facing lots.

### III. CHANGES TO THE APPLICATION SINCE SET-DOWN

Minor, non-substantive, changes were made to the text to improve clarity and ensure consistency of language across Subtitles, including a reorganization of the Accessory Building General Provisions section on each Subtitle. In lieu of creating a new section for the rules of measurement for height of accessory buildings, the rule was incorporated in existing B § 308, Rules of Measurement for Building Height: Residential Zones.

### IV. COMMISSION COMMENTS FROM SET-DOWN MEETING

The following summarizes Zoning Commission comments and requests for additional information relating to the proposed text amendment from the setdown meeting:

Comment	Response
The Commission asked whether there was a side yard setback requirement for sheds.	No side yard setback is proposed for a shed, which is consistent with the existing regulations that permit an accessory building measuring no more than 10 feet in height and 100 square feet in area in a required side yard or rear yard.

The following additional comments were received through discussions with community members after the issuance of the Public Hearing Notice.

Community Comment	Response
Ten-foot maximum height for sheds is too high.	The 1958 regulations established the 10-foot maximum height for accessory buildings, which was subsequently increased to 20-feet in the 2016 Zoning Regulations. A reduction to the 10-foot permitted height could result in a large number of nonconforming structures.
The method of height measurement for accessory buildings should align with the method of measurement for principal buildings.	Although changes were made in ZC Case 17-18 for principal buildings, those refinements were related to how cellars and basements interacted with height measurement. Accessory buildings are limited to two stories and generally do not have cellars or basements; therefore, OP is not proposing to change the method of measurement for accessory buildings. As previously stated, the height for accessory buildings dates to the 1958 Zoning Regulations and new changes could have unintended consequences for existing buildings.
The reference to penthouses in the accessory building height measurement provisions was eliminated.	Penthouses are not permitted on accessory buildings; therefore, the statement that penthouses should be included in the overall height measurement for accessory buildings was proposed to be deleted. OP recommends that clarifying language be included that states that penthouses are not permitted on accessory buildings, new §308.10 below.

## V. PROPOSED TEXT AMENDMENTS

The proposed text amendments are as follows. Text in **bold underline** is new proposed text; the text in **~~bold strikethrough~~** is a proposed deletion. Changes made to the text after publication of the Public Hearing Notice, including corrections to numbering, are shown in **blue bold underline** for new proposed text and in **~~blue bold strikethrough~~** for new proposed deletions.

### I. Proposed Amendment 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 revised to add a new definition of “Shed” to read as follows:

100.2 When used in this title, the following terms and phrases shall have the meanings ascribed:

...<sup>1</sup>

Sexually-Oriented Business Establishment: An establishment ...

**Shed: An accessory building, not used for habitable or automobile purposes, that does not exceed 50 square feet (50 sq. ft.) in area and is less than 10 feet (10 ft.) in overall height.**

Short-Term Rental: A use as defined by the Short-Term Rental Regulation Act ...

...

New §§ 308.9 and 308.10 are proposed to be added to § 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, to read as follows:

**308.9 The building height of accessory buildings shall be measured from the finished grade at the middle of the side of the accessory building that faces the main principal building to the highest point of the roof of the building.**

**308.10 Penthouses and rooftop structures are not permitted above the matter of right height and number of stories on accessory buildings.**

*Rationale: OP proposes adding a declarative statement to clarify that penthouses are not permitted on accessory buildings.*

<sup>1</sup> The uses of this and other ellipses indicate that other provisions exist in the subsection being amended and that the amendment of the provisions does not signify an intent to repeal.

**II. Proposed Amendment to Subtitle D, RESIDENTIAL HOUSE (R) ZONES**

**Section 1209, ACCESSORY BUILDINGS, of Chapter 12, GEORGETOWN RESIDENTIAL HOUSE ZONES – R-19 AND R-20, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is proposed to be revised by amending §§ 1209.1 and 1209.3 through 1209.4, by deleting § 1209.5, and by adding a new § 1209.5, to read as follows:**

- 1209.1 Accessory buildings ~~in the~~ **shall be permitted within an** R-19 ~~and or~~ R-20 ~~zones~~ **shall be zone** subject to the ~~development regulations~~ **conditions** of this section.
- 1209.2 ~~The~~ **Except for a shed, an** accessory building shall be located facing an alley, or private alley to which the owner has access by an easement recorded with the Recorder of Deeds, and shall be set back a maximum of five feet (5 ft.) from the rear property line or a line perpendicular to the façade of the principal building.
- 1209.3 In the R-19 zone, an accessory building within five feet (5 ft.) of a public or private vehicular alley may have a maximum height of twenty-~~two~~ **feet (20 22 ft.)**, a maximum building area of four hundred and fifty square feet (450 sq. ft.) and a maximum number of two (2) stories.
- 1209.4 In the R-20 zone, an accessory building within five feet (5 ft.) of a public or private vehicular alley may have a maximum height of ~~fifteen~~ **twenty-two** feet (~~15~~ **22** ft.), a maximum building area of four hundred and fifty square feet (450 sq. ft.) and a maximum number of ~~one (1)-story~~ **two (2) stories**.
- ~~1209.5 In the R-19 and R-20 zones, an accessory building on a property that is not adjacent to a public or private vehicular alley or that is more than five feet (5 ft.) from a public or private vehicular alley may have a maximum height of ten feet (10 ft.) and a maximum building area of one hundred square feet (100 sq. ft.).~~
- 1209.5 In the R-19 and R-20 zones, a shed may be permitted in a required rear or side yard provided it is at least five feet (5 ft.) from a public or private vehicular alley.**
- 1209.6 Roof decks ...

**Chapter 50, ACCESSORY BUILDING REGULATIONS FOR R ZONES, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is proposed to be revised by revising various §§, deleting §§ 5000.4, 5003, and 5004, and renumbering, to read as follows:**

**5000 GENERAL PROVISIONS**

- 5000.1 Accessory buildings ~~may~~ **shall** be permitted within an R zone subject to the conditions of this section.
- 5000.2 An accessory building shall ~~be~~ **be**:

- (a) Be subordinate to and located on the same lot as the principal building, to which it is accessory; provided, that an accessory building may contain a parking space accessory to, and required for, a use on another lot where specifically permitted under other provisions of this title;**
- (b) ~~and shall be~~ Be used for purposes that which are incidental to the use of the principal building, provided that no more than one (1) accessory apartment shall be allowed;**
- (c) Be secondary in size compared to the principal building;**
- (d) Be constructed after the construction of a principal building on the same lot; and**
- (e) Not be constructed in front of the principal building.**

5000.3 An accessory building shall be ~~secondary in size compared to the principal building included in the calculation of lot occupancy,~~ and shall comply with all ~~required~~ yards required for accessory buildings ~~based on~~ in the zone ~~in which they are located.~~

~~5000.4~~ ~~Notwithstanding Subtitle D § 5000.3, an accessory building shall not be located in the front yard of a lot in an R zone developed with a residential building.~~

~~5000.5~~ 5000.4 A private garage permitted in an R zone as a principal use on a lot other than an alley lot, shall open directly onto an alley, and shall not be located within fifty feet (50 ft.) of the front building line or within ~~twelve~~ seven and one-half (~~12~~ 7.5 ft.) of the ~~center line~~ centerline of the alley upon which it opens.

## 5001 DEVELOPMENT STANDARDS

5001.1 The bulk of accessory buildings in the R zones shall be controlled through the development standards in Subtitle D §§ 5002 through 5006.

## 5002 HEIGHT

5002.1 The maximum height of an accessory building in an R zone shall be two (2) stories and twenty two feet (~~20~~ 22 ft.), ~~including the penthouse. The height of an accessory building permitted by this section shall be measured from the finished grade at the middle of the side of the accessory building that faces the main building to the highest point of the roof of the building.~~

## ~~5003~~ LOT OCCUPANCY

~~5003.1~~ ~~An accessory building in an R zone as a principal use on a lot other than an alley lot shall be exempt from the requirements for minimum lot dimensions, but shall be subject to the limitation on percentage of lot occupancy of the zone in which the lot is located.~~

**5006 5003 MAXIMUM BUILDING AREA**

**5006.1 5003.1** The maximum building area for an accessory building in an R zone shall be the greater of thirty percent (30%) of the required rear yard or four hundred and fifty square feet (450 sq. ft.).

**5004 REAR YARD**

5004.1 An accessory building ~~in an R zone other than a shed~~ may be located within a rear yard in an R zone provided, ~~where abutting an alley, that the accessory building is:~~

(a) Not in a required rear yard; and

(b) it shall be set Set back at least ~~twelve~~ seven and one-half feet (12 7.5 ft.) from the center line centerline of the any alley.

**5004.2 A shed may be located within a required rear yard of a principal building.**

**5005 SIDE YARD**

5005.1 ~~No minimum side yard is required for an~~ An accessory building ~~in a R zone, other than a shed unless the accessory building is may be~~ located ~~beside the principal building, whereby it shall be in a side yard in a R zone, provided that it is~~ removed from the side lot line a distance equal to the required side yard and from the principal building a minimum of ten feet (10 ft.).

**5005.2 A shed may be located within a required side yard of a principal building.**

~~5006~~ [RESERVED]

**5007 5006 SPECIAL EXCEPTION**

**5007.1 5006.1** Exceptions to the development standards of this chapter shall be permitted ~~as a special exception~~ if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle D § 5201.

**III. Proposed Amendment to Subtitle E, RESIDENTIAL FLATS (RF) ZONES**

**Chapter 50, ACCESSORY BUILDING REGULATIONS FOR RF ZONES, of Subtitle E, RESIDENTIAL FLAT (RF) ZONES, is proposed to be revised to read as follows:**

**5000 GENERAL PROVISIONS**

5000.1 Accessory buildings shall be permitted within an RF zone subject to the **following conditions: of this section.**

**5000.2** ~~(a)~~—An accessory building shall ~~be~~:

~~(a)~~ **Be** subordinate to and located on the same lot as the building to which it is accessory; provided, that **an accessory building may contain a required accessory parking space may be permitted accessory to, and required for, a use** on another lot, where specifically permitted under other provisions of this title;

~~(b)~~ **Be** used for purposes ~~that which~~ are incidental to the use of the principal building ~~but may house~~ **provided that no more than one (1) accessory apartment shall be allowed no more than one (1) principal dwelling unit shall be allowed;**

~~(c)~~ **Be secondary in size compared to the principal building;**

~~(e)~~ ~~(d)~~ **Be** constructed ~~prior to a~~ **after the construction of the** principal building ~~on the same lot~~; and

~~(d)~~ ~~(e)~~ **Not** be constructed in front of the principal building.

*Rationale: In the RF zones, the accessory building may contain a second principal dwelling unit.*

5000.2 ~~The~~ **An** accessory ~~buildings~~ **building** shall be ~~secondary in size compared to the principal building, and shall be considered within the~~ **included in the calculation of** lot occupancy, pervious surface, **and** as applicable, the floor area ratio (**FAR**) of the RF zones, **and shall comply with all required yards for accessory buildings in the zone.**

~~5000.4~~ ~~Notwithstanding Subtitle D § 5000.3, an accessory building shall not be located in the front yard of a lot in an R zone developed with a residential building.~~

*Rationale: Subtitle E § 5000.4 does not exist and does not need to be deleted.*

~~5000.5~~ **5000.3** A private garage permitted in an RF zone as a principal use on a lot other than an alley lot, shall open directly onto an alley, and shall not be located within fifty feet (50 ft.) of the front building line or within ~~twelve~~ **seven and one-half (7.5)** ft.) of the ~~center line~~ **centerline** of the alley upon which it opens.

*Rationale: The renumbering is unnecessary because Subtitle E § 5000.4 does not exist and does not need to be deleted.*

**5001 DEVELOPMENT STANDARDS**

5001.1 The bulk of accessory buildings in the RF zones shall be controlled through the development standards in Subtitle E §§ 5002 through 5006.

**5002 HEIGHT**

5002.1 The maximum height of an accessory building in an RF zone shall be twenty-two feet (~~20~~ 22 ft.) and two (2) stories, **including the penthouse**.

**5003 ~~LOT OCCUPANCY BUILDING AREA~~**

5003.1 The maximum ~~lot occupancy~~ **building area** for an accessory building in an RF zone shall be the greater of thirty percent (30%) of the required rear yard or four-hundred and fifty square feet (450 sq. ft.).

**5004 REAR YARD**

5004.1 ~~No minimum rear yard is required for an~~ **An** accessory building **other than a shed may be located within a rear yard** in an RF zone **provided that the accessory building is:**

**(a) Not in a required rear yard; and**

**(b) except when abutting an alley, where it shall be set Set back at least ~~twelve~~ **seven and one-half** feet (~~12~~ **7.5** ft.) from the ~~center line~~ **centerline** of ~~the~~ **any** alley.**

~~5004.2 An accessory building shall be permitted in a required rear yard of a principal building pursuant to the following conditions:~~

~~(a) The accessory building is less than ten feet (10 ft.) in height; and~~

~~(b) The accessory building is less than one hundred square feet (100 sq. ft.) in gross floor area.~~

~~5004.3 If the required rear yard of the principal building in which the accessory building will be placed abuts an alley, the accessory building shall be set back at least twelve feet (12 ft.) from the center line of the alley.~~

**5004.2 A shed may be located within a required rear yard of a principal building.**

**5005 SIDE YARD**

5005.1 ~~No minimum side yard is required for an~~ **An** accessory building **other than a shed may be located within a side yard** in an RF zone **provided that the accessory building is**

~~5005.2 An accessory building shall be permitted in a required side yard of a principal building pursuant to the following conditions:~~



- (a) ~~The accessory building is less than ten feet (10 ft.) in height;~~
- (b) ~~The accessory building is less than one hundred square feet (100 sq. ft.) in gross floor area; and~~
- (c) ~~If the required side yard of the principal building in which the accessory building will be placed abuts an alley, the accessory building shall be set back at least twelve seven and one-half feet (12 7.5 ft.) from the center line centerline of the any alley.~~

**5005.2** A shed may be located within a required side yard of a principal building.

*Rationale: Minor numbering correction.*

**~~5006~~** ~~MISCELLANEOUS [RESERVED]~~

**~~5006.1~~** ~~The development standards that permit the following uses are located in Subtitle U, Chapter 3:~~

- (a) ~~A permitted principal dwelling unit in an RF zone within an accessory building; and~~
- (b) ~~A private vehicle garage that is an accessory building in an RF zone.~~

**~~5007~~ 5006** SPECIAL EXCEPTION

**~~5007.1~~ 5006.1** Exceptions to the development standards of this chapter shall be permitted ~~as a special exception~~ if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle E §§ 5201.

**IV. Proposed Amendment to Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES**

The title of Chapter 50, ACCESSORY BUILDING REGULATIONS (RA) ZONES, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be revised to read as follows:

**CHAPTER 50 ACCESSORY BUILDING REGULATIONS FOR (RA) ZONES**

Chapter 50, ACCESSORY BUILDING REGULATIONS FOR (RA) ZONES, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be revised to read as follows:

**5000** GENERAL PROVISIONS

**5000.1** Accessory buildings shall be permitted within an RA zone subject to the ~~following~~ conditions: of this section.

**5000.2** ~~(a)~~ **The An accessory building is shall:**

- (a)** ~~Be~~ subordinate to and located on the same lot as the building to which it is accessory; provided, that **an accessory building may contain a required accessory parking space may be permitted accessory to, and required for, a use** on another lot, where specifically permitted under other provisions of this title;
- (b)** ~~An accessory building shall be~~ **Be** used for purposes ~~that~~ **which** are incidental to the use of the principal building; and
- (c)** **Be secondary in size compared to the principal building;**
- (e) (d)** ~~An accessory building shall not be~~ **Be** constructed ~~prior to~~ **after the construction of** a principal building on the same lot; **and**
- (e)** **Be constructed behind the principal building.**

**5000.2 5000.3** ~~The An accessory buildings building shall be secondary in size compared to the principal building, and shall be considered with the included in the calculation of lot occupancy, Green Area Ratio (GAR), and as applicable, the floor area ratio (FAR) of the RA zones; and shall comply with all ~~required~~ yards **required** for accessory buildings ~~based on in~~ the zone ~~in which it is located.~~~~

**5000.4** **A private garage permitted in an RA zone as a principal use on a lot other than an alley lot, shall open directly onto an alley, and shall not be located within fifty feet (50 ft.) of the front building line or within seven and one-half (7.5 ft.) of the centerline of the alley upon which it opens.**

**5001 DEVELOPMENT STANDARDS FOR ACCESSORY BUILDINGS**

5001.1 The bulk of accessory buildings in the RA zones shall be controlled through the development standards in Subtitle F §§ 5001 through 5004.

**5002 HEIGHT**

5002.1 The maximum permitted height for an accessory building shall be twenty-**two** feet (~~20~~ **22** ft.) and two (2) stories.

**5003 REAR YARD**

5003.1 ~~No rear yard shall be required for an An accessory building other than a shed may be located within a rear yard in an RA zone provided that it is:~~

- (a)** **Not in a required rear yard; and**
- (b)** ~~except where abutting an alley a minimum rear yard of~~ **Set back at least twelve seven and one-half feet (~~12~~ **7.5** ft.) from the ~~center line~~ **centerline** of the ~~any~~ **any** alley.**

**5003.2** **A shed may be located in a required rear yard of a principal building.**

**5004 MISCELLANEOUS**

~~5004.1 The lot upon which a private garage is located shall be exempt from the requirements for minimum lot dimensions, but shall be subject to the limitation on percentage of lot occupancy.~~

~~5004.2 Accessory buildings on any lot shall be included in the maximum lot occupancy and GAR requirements and if applicable, the FAR, as listed and conditioned in this subtitle and the development standards of the penthouse regulations in Subtitle C, Chapter 15.~~

~~5004.3 A private garage that is an accessory building in an RA zone:~~

~~(a) May be located either within a rear yard or beside the main building; provided, if the garage is located beside the main building, it shall be removed from the side lot line a distance equal to the required side yard and from all building lines a distance of not less than ten foot (10 ft.) and~~

~~(a) Where abutting an alley, it shall be set back at least twelve feet (12 ft.) from the center line of the alley.~~

~~5004.4 A private garage permitted in an RA zone as a principal use on a lot other than an alley lot shall open directly onto an alley, and shall not be located within fifty feet (50 ft.) of the front building line or within twelve feet (12 ft.) of the center line of an alley.~~

**5004 SIDE YARD**

5004.1 An accessory building other than a shed may be located in a side yard in an RA zone provided that the accessory building is removed from the side lot line a distance equal to the required side yard and from the principal building a minimum of ten feet (10 ft.).

5004.2 A shed may be located in a required side yard of a principal building.

**5005 SPECIAL EXCEPTION**

5005.1 Exceptions to the development standards of this chapter shall be permitted ~~as a special exception~~ if approved by the Board of Zoning Adjustment ~~as a special exception~~ under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle F § 5201.

**VI. PLANNING CONTEXT**

**a. COMPREHENSIVE PLAN**

As fully discussed in the OP Setdown report of September 4, 2020 (Exhibit 2), the proposed text amendment would further Comprehensive Plan policy objectives, particularly with respect to the *Conservation of Row House Neighborhoods (LU-2.1.7)*, *Expanding Housing Supply (H-1.1)*, *Balanced Growth (H-1.1.3)* and *Land and Building Regulations (H-1.5.1)* policies within the Land Use and Housing Citywide Elements.

## **b. OTHER POLICIES**

Removing barriers to locating permitted dwelling units in accessory buildings would expand the housing supply and provide opportunities for additional housing units across the city on R-, RF-, and RA-zoned property consistent with direction contained in the Mayor’s Order on Housing (2019) and the Housing Equity Report: Creating Goals for our City.

## **VII. COMMUNITY COMMENTS**

Since setdown, OP has responded to inquiries from ANCs, as well as community organizations. At the time this report was drafted, no formal comments had been filed in the case record.

JS/emv