

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING**

Z.C. Case No. 21-02

Office of Planning

(Text Amendment - Modifications and Clarifications to Subtitles C, D, F, G, H, and K for IZ-XL Phase #1 – Exempt Zones and Set-Aside Requirements by Construction Type)

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 the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all references are made unless otherwise specified), with the proposed text at the end of this notice:

- Subtitle C, General Rules - § 1003
- Subtitle D, Residential House (R) Zones - §§ 105, 302, and 5206
- Subtitle F, Residential Apartment (RA) Zones - §§ 105, 302, 304, 602, and 604
- Subtitle G, Mixed-Use (MU) Zones - §§ 104, 502, 503, 504, 802, and 804
- Subtitle H, Neighborhood Mixed-Use (NC) Zones - §§ 103, 702, 703, and 709
- Subtitle K, Special Purpose Zones - §§ 500 and 501

SETDOWN

On January 18, 2021, the Office of Planning (OP) filed a petition (Petition) to the Commission proposing the amendments to expand the applicability of the existing Inclusionary Zoning (IZ) program to zones currently exempt, other than the D, R-1-A, and R-1-B zones, and will increase the height threshold of the current set-aside requirement from fifty feet (50 ft.) to eighty-five feet (85 ft.). This is the first phase of amendments, known as IZ-XL, to the IZ program to increase affordable housing production.

At its January 28, 2021 public meeting, the Commission voted to grant OP's request to set down the Petition for a public hearing and authorized flexibility for OP to work with the Office of the Attorney General to refine the proposed text and add any conforming language as necessary.

PUBLIC HEARING

OP submitted an April 19, 2021 report (OP Hearing Report), that responded to the Commission's questions at setdown as well as consultation with District agencies and members of the public by:

- Requesting further time to analyze possible vesting provisions as requested by property owners; and
- Proposing to address the concerns of ANC 6B that the Petition's proposed IZ height bonus might lead to development that would negatively impact the viewshed of the historic Latrobe Gate at the intersection of 8th and M Streets, S.E.

Several members of the public and organizations submitted comments to the Commission prior to the April 26, 2021 public hearing that:

- Supported the Petition, but sought additional IZ amendments to create a matter-of-right IZ option with increased density for projects that provided a significant amount of IZ units reserved for households at significantly reduced Median Family Income levels;

- Supported the Petition, but requested vesting provisions for projects that were already in the building permit application review process or the discretionary development review process, including zoning and historic preservation reviews; and
- Opposition from members of the Anacostia Historic Preservation Society and community concerned that the Petition targeted the Anacostia Historia District and almost doubled the maximum building height allowed.

At the April 26, 2021 public hearing, OP presented the Petition and responded to questions of the Commission. Several members of the public testified:

- In support of the Petition, especially raising the threshold for projects subject to the higher IZ set-aside category, but seeking the additional matter-of-right IZ bonus density option based on providing substantially more affordable units reserved for lower income levels as a necessary alternative to the discretionary zoning review process that posed significant litigation risks and delays;
- In support of the Petition, but raising concerns about:
 - The Petition’s proposed extension to historic districts where the proposed bonus density that balanced the required IZ might not be granted by the discretionary historic preservation review process; and
 - Additional data was needed to support the Petition’s proposed raising of the IZ set-aside threshold based on a zone’s maximum building height;
- In opposition from several members of the Anacostia historic preservation community concerned that the Petition targeted the Anacostia Historic District but not other historic districts and almost doubled the maximum building height for IZ developments; and
- About concerns that the IZ program is too complicated and should be completely overhauled and simplified instead of being amended in multiple targeted text amendments.

At the conclusion of the April 26, 2021 public hearing, the Commission requested that OP:

- Meet with the Anacostia historic preservation community to address their concerns with the Petition; and
- Propose vesting language to address the concerns raised by the public comments and testimony.

PROPOSED ACTION

The Commission received two letters from entities that had testified at the April 26, 2021, public hearing, reiterating their concerns about vesting, the higher IZ set-aside threshold, and the impact of the Petition on historic districts.

OP submitted a May 17, 2021 report (OP Supplemental Report), responding to the concerns raised by the public comments and the Commission by:

- Reporting that OP had met with the Historic Anacostia Block Association to address the Anacostia preservation community’s concerns stated at the April 26, 2021, public hearing by explaining that:
 - IZ currently applies to thirty-seven (37) neighborhood historic districts;
 - The Petition applied IZ to the four portions of historic districts current exempt, including the portion of the Anacostia Historia District in the R-3 zone;
 - Bonus density to accommodate the IZ requirement is provided by a reduced minimum lot width but this would require review by the Board of Zoning Adjustment (Board) as a special exception, with public comments accepted as part of this review;

- The Petition did not propose to increase the maximum permitted heights in the R-3 zone; and
- The threshold for the higher IZ set-aside that is based on a zone’s maximum building height was increased from 50 to 85 feet to coordinate with Construction Codes for those zones that already allow that height;
- Responded to ANC 6B’s concerns that the Petition’s proposed bonus density should not impinge on viewsheds of the historic Latrobe Gate by proposing revisions to require a one-to-one setback for all portions above forty-five feet (45 ft.) of a building or addition facing 8th Street, S.E; and
- Proposed vesting language based on January 1, 2022, as the Petition’s effective date for matter-of-right projects, and with projects that obtained approval by a vote of the Commission, Board, Historic Preservation Review Board (HPRB), or Commission of Fine Arts (CFA), held before that date, or an order of the Mayor’s Agent for Historic Preservation (Mayor’s Agent) issued before that date, provided that the building permit application is consistent with the plans approved by these votes and orders and accepted by DCRA as complete by January 1, 2025.

At its May 27, 2021, public meeting, the Zoning Commission voted to take **PROPOSED ACTION** to:

- Adopt the Petition as revised by the OP Reports; and
- Authorize the publication of a Notice of Proposed Rulemaking (NOPR).

VOTE (May 27, 2021): **5-0-0** (Peter A. Shapiro, Michael G. Turnbull, Anthony J. Hood, Robert E. Miller, and Peter G. May to **APPROVE**)

REVISED PROPOSED ACTION

Before the Commission published the NOPR, OP submitted a June 17, 2021 report (OP 2nd Supplemental Report), that:

- Proposed revisions to the proposed vesting language by:
 - Deleting the vesting language regarding approvals by the Commission or Board, since these approvals are already vested under the general vesting language of Subtitle A § 301.7; and
 - Applying the same vesting language used for phasing in the new set-aside requirements to cover owners of property in the zones currently exempt from IZ:
 - Matter of right projects – delay the effective date of the text amendment to January 1, 2022;
 - Projects approved by a vote of the HPRB or CFA or by a Mayor’s Agent order prior to January 1, 2022 – vested provided the building permit applications accepted by DCRA as complete prior to January 1, 2025, for plans consistent with the HPRB/CFA/Mayor’s Agent approval; and
- Requested the ability to file a supplemental report responded to the public comments filed in response to the Notice of Proposed Rulemaking.

“Great Weight” to the Recommendations of OP

The Commission must give “great weight” to the recommendations of the Office of Planning (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 persuasive, and concurs with, OP's recommendations that the Commission adopt the Petition, as revised by the OP Reports, particularly:

- OP's report of its meeting with the Historic Anacostia Block Association, which appears to have addressed that community's concerns;
- OP's suggested revisions to address the concerns raised by ANC 6B about potential impact on the historic Latrobe Gate; and
- OP's proposed vesting provisions for projects in the development pipeline.

As to the public comments that the OP Reports did not directly address, the Commission agreed with OP that these comments were either outside the scope of this case (*e.g.*, the proposed matter-of-right option for IZ developments with substantially increased number of affordable units at lower income levels) or were adequately addressed by the Petition (*e.g.*, the request for additional data or sketches to justify the Petition's proposed changes did not persuade the Commission, which believed that the OP Reports provided sufficient support for the Petition, as amended).

“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).)

Since no ANC filed a response to the Petition as advertised in the public hearing notice, there is nothing to which the Commission can give great weight, although the Commission notes that OP revised the Petition to address ANC 6B's concern to preserve the viewsheds of the Latrobe Gate.

At its June 24, 2021, public meeting, the Zoning Commission voted to take **REVISED PROPOSED ACTION** to:

- Adopt the Petition as revised by the OP Reports;
- Authorize the publication of a revised NOPR instead of the originally authorized NOPR; and
- Authorize OP to respond to public comments filed in response to the NOPR.

VOTE (June 24, 2021): **5-0-0** (Robert E. Miller, Michael G. Turnbull, Anthony J. Hood, Peter A. Shapiro, and Peter G. May to **APPROVE**)

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*.

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 email at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

The complete record in the case can be viewed online at the Office of Zoning's 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 Regulations¹ 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 C, GENERAL RULES

Section 1001, APPLICABILITY, of Chapter 10, INCLUSIONARY ZONING, of Subtitle C, GENERAL RULES, is proposed to be amended by revising § 1001.6, to read as follows:

1001.6 The requirements of this chapter shall not apply to:

...

(f) Any development, other than an IZ Plus Inclusionary Development, that is located in the portion of the R-3 zone within the Anacostia Historic District, in the portion of the MU-13 zone within the Georgetown Historic District, or in the RA-5, RA-10, MU-27, NC-6, or CG-1 zones if:

(1) Prior to January 1, 2025, the Department of Consumer and Regulatory Affairs has accepted as complete an application for a building permit, not including a foundation-to-grade permit, to construct the development; and

(2) The plans filed with this building permit application are consistent with an unexpired approval for:

(i) A concept design or project that either the Historic Preservation Review Board or Commission of Fine Arts voted to approve prior to January 1, 2022; or

(ii) A Mayor's Agent decision for which a final order was issued prior to January 1, 2022.

¹ The following text incorporates the amendments proposed to be adopted by the Notice of Third Proposed Rulemaking in Z.C. Case No. 20-02 published in the May 21, 2021, *D.C. Register*, which the Commission took final action to adopt at its June 10, 2021 public meeting. Many of the following provisions are also subject to proposed amendments in Z.C. Case Nos. 14-13E, 19-27, 19-27A, and 19-27B. Upon final action in these cases, the proposed amendments in this case will be updated to reflect the new text adopted in those other cases.

Section 1003, SET-ASIDE REQUIREMENTS, of Chapter 10, INCLUSIONARY ZONING, of Subtitle C, GENERAL RULES, is proposed to be amended by revising §§ 1003.1 and 1003.2 and adding new §§ 1003.11 through 1003.13, to read as follows:

1003.1 ~~An~~ **Except as provided in Subtitle C § 1003.11, an** Inclusionary Development other than an IZ Plus Inclusionary Development that does not employ Type I construction as classified in Chapter 6 of the District of Columbia Building Code (Title 12-A DCMR) to construct a majority of dwelling units and which is located in a zone with a by-right height limit, exclusive of any bonus height, of ~~fifty~~ **eighty-five** feet (~~50 85~~ ft.) or less, shall set aside for Inclusionary Units the sum of the following:

...

1003.2 ~~An~~ **Except as provided in Subtitle C § 1003.11, an** Inclusionary Development other than an IZ Plus Inclusionary Development that employs Type I construction as classified in Chapter 6 of the District of Columbia Building Code (Title 12-A DCMR) to construct a majority of dwelling units, or which is located in a zone with a by-right height limit, exclusive of any bonus height, that is greater than ~~fifty~~ **eighty-five** feet (~~50 85~~ ft.), shall set aside for Inclusionary Units the sum of the following:

...

...

1003.11 An Inclusionary Development other than an IZ Plus Inclusionary Development shall be subject to the set-aside requirements of Subtitle C §§ 1003.12 and 1003.13 (instead of those of Subtitle C §§ 1003.1 and 1003.2) if:

(a) **Prior to January 1, 2025, the Department of Consumer and Regulatory Affairs has accepted as complete an application for a building permit, not including a foundation-to-grade permit, to construct the Inclusionary Development; and**

(b) **The plans filed with this building permit application are consistent with an unexpired approval for:**

(1) **A concept design or project that either the Historic Preservation Review Board or Commission of Fine Arts voted to approve prior to January 1, 2022; or**

(2) **A Mayor's Agent decision for which a final order was issued prior to January 1, 2022.**

1003.12 An Inclusionary Development subject to Subtitle C § 1003.11 that does not employ Type I construction as classified in Chapter 6 of the District of Columbia Building Code (Title 12-A DCMR) to construct a majority of dwelling units and which is located in a zone with a by-right height limit, exclusive of any bonus height, of fifty feet (50 ft.) or less shall set aside for Inclusionary Units the sum of the following:

(a) The greater of ten percent (10%) of the residential gross floor area as defined in Subtitle C § 1003.5(a), excluding penthouse habitable space, or seventy-five percent (75%) of the bonus density utilized; and

(b) An area equal to ten percent (10%) of the penthouse habitable space as described in Subtitle C § 1500.11.

This set-aside requirement shall be converted to net square footage pursuant to Subtitle C § 1003.6.

1003.13 An Inclusionary Development subject to Subtitle C § 1003.11 that employs Type I construction as classified in Chapter 6 of the District of Columbia Building Code (Title 12-A DCMR) to construct a majority of dwelling units, or which is located in a zone with a by-right height limit, exclusive of any bonus height, that is greater than fifty feet (50 ft.), shall set aside for Inclusionary Units the sum of the following:

(a) The greater of eight percent (8%) of the residential gross floor area as defined in Subtitle C § 1003.5(a), excluding penthouse habitable space, or fifty percent (50%) of the bonus density utilized; and

(b) An area equal to eight percent (8%) of the penthouse habitable space as described in Subtitle C § 1500.11.

This set-aside requirement shall be converted to net square footage pursuant to Subtitle C § 1003.6.

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

Section 105, INCLUSIONARY ZONING, of Chapter 1, INTRODUCTION TO RESIDENTIAL HOUSE (R) ZONES, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended to read as follows:

105.1 The Inclusionary Zoning (IZ) requirements and the available IZ modifications to certain development standards, shall apply to the R-2, R-3 ~~(except for the portion in the Anacostia Historic District)~~, R-10, R-13, R-17, and R-20 zones as specified in Subtitle C, Chapter 10, Inclusionary Zoning, and in the zone-specific development standards of this subtitle.

Section 302, DENSITY – LOT DIMENSIONS, of Chapter 3, RESIDENTIAL HOUSE ZONES – R-1-A, R-1-B, R-2, AND R-3, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended by revising §§ 302.2-302.5, to read as follows:

302.1 Except as provided in other provisions of this title ...

302.2 Except for new penthouse habitable space as described in Subtitle C § 1500.11, the Inclusionary Zoning requirements and modifications of Subtitle C, Chapter 10, shall

not apply to the R-1-A and R-1-B zones, ~~or to that portion of the Anacostia Historic District within the R-3 zone.~~

302.3 Except as provided in Subtitle D § 302.4, the minimum dimensions of lots for Mandatory Inclusionary Developments in the R-2 and R-3 (~~other than that portion in the Anacostia Historic District~~) zones, shall be as set forth in the following table, which incorporates the IZ modifications authorized by Subtitle C § 1002.2:

...

302.4 The minimum lot width for Mandatory Inclusionary Developments in the R-2 and R-3 (~~other than that portion in the Anacostia Historic District~~) zones may be reduced to no less than as set forth in the following table if granted as a special exception pursuant to Subtitle D § 5206.1 by the Board of Zoning Adjustment.

302.5 Voluntary Inclusionary Developments in the R-2 and R-3 (~~other than that portion in the Anacostia Historic District~~) zones shall require special exception relief pursuant to Subtitle D § 5206.2 to utilize the following IZ modifications, authorized by Subtitle C § 1002.2:

...

Section 5206, SPECIAL EXCEPTIONS FOR MODIFICATIONS FOR INCLUSIONARY DEVELOPMENTS, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR R ZONES, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended to read as follows:

5206.1 For Mandatory Inclusionary Developments in the R-2, R-3 (~~except that portion in the Anacostia Historic District~~), R-10, R-13, R-17, and R-20 zones, the Board of Zoning Adjustment may grant special exception relief from minimum lot width requirements pursuant to Subtitle X, Chapter 9 as established by Subtitle D §§ 302.4, 502.4, 702.4, 1002.3, and 1202.4.

5206.2 For Voluntary Inclusionary Developments in the R-2, R-3 (~~except that portion in the Anacostia Historic District~~), R-10, R-13, R-17, and R-20 zones, the Board of Zoning Adjustment may grant special exception relief from minimum lot width and lot area requirements pursuant to Subtitle X, Chapter 9 as established by Subtitle D §§ 302.5, 502.5, 702.5, 1002.4, and 1202.5. Relief granted pursuant to this subsection shall not require additional relief pursuant to Subtitle D § 5206.1.

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

Section 105, INCLUSIONARY ZONING, of Chapter 1, INTRODUCTION TO RESIDENTIAL APARTMENT (RA) ZONES, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended to read as follows:

105.1 The Inclusionary Zoning (IZ) requirements, and the available IZ modifications to certain development standards and bonus density, shall apply to all RA zones as specified in Subtitle C, Chapter 10, Inclusionary Zoning, and the zone-specific development standards of this subtitle, ~~provided that in the RA-5 and RA-10 zones~~

~~the IZ requirements, modifications, and bonus density shall not apply except that IZ Plus Inclusionary Developments shall be subject to the IZ requirements of Subtitle C, Chapter 10.~~

Section 302, DENSITY – FLOOR AREA RATIO (FAR), of Chapter 3, RESIDENTIAL APARTMENT ZONES – RA-1, RA-2, RA-3, RA-4, AND RA-5, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended by deleting § 302.2, renumbering and revising current § 302.3, to read as follows:

~~302.2~~ ~~Except for the IZ Plus Inclusionary Developments, the Inclusionary Zoning requirements, modifications, and bonus density of Subtitle C, Chapter 10 shall not apply to the RA-5 zone.~~

~~302.3~~ 302.2 The maximum permitted FAR for Inclusionary Developments in the RA-1 through RA-~~4~~5 zones, incorporating the IZ bonus density authorized by Subtitle C § 1002.3, shall be as set forth in the following table; provided that in the RA-1 zone Voluntary Inclusionary Developments shall require special exception relief pursuant to Subtitle F § 5206.1 to utilize this modification:

TABLE F § 302.3: MAXIMUM PERMITTED FLOOR AREA RATIO (FAR) FOR INCLUSIONARY DEVELOPMENTS

Zone	Maximum FAR for Inclusionary Developments
RA-1	1.08 (Voluntary Inclusionary Developments require special exception relief under Subtitle F § 5206.1)
RA-2	2.16
RA-3	3.6
RA-4	4.2
<u>RA-5</u>	<u>7.2</u>

Section 304, LOT OCCUPANCY, of Chapter 3, RESIDENTIAL APARTMENT ZONES – RA-1, RA-2, RA-3, RA-4, AND RA-5, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended to read as follows:

304.1 Except as provided in other provisions of this chapter, the maximum permitted lot occupancy shall be established for lots in the RA-1, RA-2, RA-3, RA-4, and RA-5 zones as set forth in the following table:

TABLE F § 304.1: MAXIMUM PERMITTED LOT OCCUPANCY

Zone	Maximum Lot Occupancy (Percentage)
RA-1	40
RA-2	60
RA-3	75
RA-4	75
RA-5	75
	<u>80 (IZ)</u>

Section 602, DENSITY – FLOOR AREA RATIO (FAR), of Chapter 6, DUPONT CIRCLE RESIDENTIAL APARTMENT ZONES – RA-8, RA-9, AND RA-10, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended by deleting § 602.2 and renumbering and revising current § 602.3, to read as follows:

~~602.2~~ ~~Except for IZ Plus Inclusionary Developments, the Inclusionary Zoning requirements, modifications, and bonus density of Subtitle C, Chapter 10 shall not apply to the RA-10 zone.~~

~~602.3~~ 602.2 The maximum permitted FAR for Inclusionary Developments in the RA-8 ~~and RA-9 through RA-10~~ zones, incorporating the IZ bonus density authorized by Subtitle C § 1002.3, shall be as set forth in the following table:

TABLE F § 602.2: MAXIMUM PERMITTED FLOOR AREA RATIO (FAR) FOR INCLUSIONARY DEVELOPMENTS

Zone	Maximum FAR for Inclusionary Developments
RA-8	2.16
RA-9	4.2
RA-10	7.2

Section 604, LOT OCCUPANCY, of Chapter 6, DUPONT CIRCLE RESIDENTIAL APARTMENT ZONES – RA-8, RA-9, AND RA-10, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended to read as follows:

604.1 The maximum lot occupancy shall be established for lots in the RA-8, RA-9, and RA-10 zones as set forth in the following table:

TABLE F § 604.1: MAXIMUM PERCENTAGE OF LOT OCCUPANCY

Zone	Maximum Lot Occupancy (Percentage)
RA-8	60
RA-9	75
RA-10	75
	80 (IZ)

IV. Proposed Amendment to Subtitle G, MIXED-USE (MU) ZONES

Section 104, INCLUSIONARY ZONING, of Chapter 1, INTRODUCTION TO MIXED-USE (MU) ZONES, of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be amended to read as follows:

104.1 The Inclusionary Zoning (IZ) requirements, and the available IZ modifications and bonus density, shall apply to all MU zones, ~~except for the portion of the MU-13 zone in the Georgetown Historic District and the MU-27 zone,~~ as specified in Subtitle C, Chapter 10, Inclusionary Zoning, and in the zone-specific development standards of this subtitle; ~~provided that new penthouse habitable space, as described in Subtitle C § 1500.11, and IZ Plus Inclusionary Developments, that are located in the portion of the MU-13 zone in the Georgetown Historic District or in the MU-27 zone shall be subject to the IZ requirements of Subtitle C, Chapter 10.~~

Subsection 502.1 of § 502, DENSITY – FLOOR AREA RATIO (FAR), of Chapter 5, MIXED-USE ZONES – MU-11, MU-12, MU-13, AND MU-14, of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be amended to read as follows:

502.1 The maximum permitted FAR of buildings, incorporating the IZ bonus density authorized by Subtitle C § 1002.3, in the MU-11 through MU-14 zones shall be as set forth in the following table, except as provided in Subtitle G §§ 502.2 and 502.3:

TABLE G § 502.1: MAXIMUM PERMITTED LOT FLOOR AREA RATIO (FAR)

Zone	Maximum FAR	
	Maximum Total Permitted FAR	Maximum Non-Residential Use FAR
MU-11	0.5	0.5
MU-12	2.5	1.0
	3.0 (IZ)	
MU-13	4.0	2.0
	<u>4.8 (IZ)²</u>	
MU-14	6.0	5.0
	7.2 (IZ)	

Subsection 503.1 of § 503, HEIGHT, of Chapter 5, MIXED-USE ZONES – MU-11, MU-12, MU-13, AND MU-14, of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be amended to read as follows:

503.1 The maximum permitted building height, not including the penthouse, in the MU-11 through MU-14 zones shall be as set forth in the following table, except as provided in Subtitle G § 503.3:

TABLE G § 503.1: MAXIMUM PERMITTED PENTHOUSE HEIGHT AND STORIES

Zone	Maximum Height (ft.)
MU-11	40
MU-12	45
	50 (IZ)
MU-13	60
	<u>80 (IZ)</u>
MU-14	90
	100 (IZ)

Subsection 504.3 of § 504, LOT OCCUPANCY, of Chapter 5, MIXED-USE ZONES – MU-11, MU-12, MU-13, AND MU-14, of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be deleted:

~~**504.3** Except for new penthouse habitable space as described in Subtitle C § 1500.11, the Inclusionary Zoning requirements and modifications of Subtitle C, Chapter 10, shall not apply to the portion of the MU-13 zone in the Georgetown Historic District.~~

Subsection 802.1 of § 802, DENSITY – FLOOR AREA RATIO (FAR), of Chapter 8, NAVAL OBSERVATORY MIXED-USE ZONE – MU-27, of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be amended to read as follows:

² The current version of the unofficial Zoning Regulations erroneously prescribes a 4.8 IZ FAR.

802.1 The maximum permitted FAR in the MU-27 zone shall be ~~2.5 FAR with a maximum density of 1.5 FAR for non-residential use.~~ shall be as set forth in the following table:

TABLE G § 802.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Maximum Total FAR	Maximum Non-Residential FAR
<u>2.5</u>	<u>1.5</u>
<u>3.0 (IZ)</u>	

Section 804, LOT OCCUPANCY, of Chapter 8, NAVAL OBSERVATORY MIXED-USE ZONE – MU-27, of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be amended to read as follows:

804.1 The maximum permitted lot occupancy for residential use in the MU-27 zone shall be sixty percent (60%), or seventy-five percent (75%) for Inclusionary Developments.

~~804.2 Except for new penthouse habitable space as described in Subtitle C § 1500.11, the Inclusionary Zoning requirements and modifications of Subtitle C, Chapter 10 shall not apply to the MU-27 zone.~~

V. Proposed Amendment to Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES

Section 103, INCLUSIONARY ZONING, of Chapter 1, INTRODUCTION TO NEIGHBORHOOD MIXED-USE (NC) ZONES, of Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES, is proposed to be amended to read as follows:

103.1 The Inclusionary Zoning (IZ) requirements, and the available IZ modifications and bonus density, shall apply to all NC zones, except for Square 907 in the NC-6 zone, as specified in Subtitle C, Chapter 10, Inclusionary Zoning, and in the zone-specific development standards of this subtitle; provided that new penthouse habitable space, as described in Subtitle C § 1500.11, in Square 907 in the NC-6 zone shall be subject to the IZ requirements.

Section 702, DENSITY – FLOOR AREA RATIO (FAR), of Chapter 7, EIGHTH STREET SOUTHEAST NEIGHBORHOOD MIXED-USE ZONE – NC-6, of Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES, is proposed to be amended to read as follows:

702.1 The maximum permitted FAR ~~for permitted commercial and residential uses~~ in the NC-6 zone shall be ~~3.0.~~ as set forth in the following table:

TABLE H § 702.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Maximum Total FAR	Maximum Non-Residential FAR
<u>3.0</u>	<u>3.0</u>
<u>3.6 (IZ)</u>	

702.2 Except for new penthouse habitable space as described in Subtitle C § 1500.11, the Inclusionary Zoning requirements, modifications, and bonus density of Subtitle C, Chapter 10 shall not apply to Square 907 in the NC-6 zone.

Subsection 703.1 of § 703, HEIGHT, of Chapter 7, EIGHTH STREET SOUTHEAST NEIGHBORHOOD MIXED-USE ZONE – NC-6, of Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES, is proposed to be amended to read as follows:

703.1 The maximum permitted building height, not including the penthouse, in the NC-6 zone shall be ~~forty-five feet (45 ft.)~~ as follows:

(a) Forty-five feet (45 ft.), or fifty-five feet (55 ft.) for Inclusionary Developments; and

(b) A one-to-one (1:1) building setback shall be provided for any portion of a building or structure facing Eighth Street, S.E., that exceeds forty-five feet (45 ft.).

A new § 709, SPECIAL EXCEPTION CRITERIA – EIGHTH STREET SOUTHEAST NEIGHBORHOOD MIXED-USE ZONE, is proposed to be added to Chapter 7, EIGHTH STREET SOUTHEAST NEIGHBORHOOD MIXED-USE ZONE – NC-6, of Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES, to read as follows:

709 SPECIAL EXCEPTION CRITERIA – EIGHTH STREET SOUTHEAST MIXED-USE ZONE

709.1 The Board of Zoning Adjustment may grant as a special exception pursuant to Subtitle X, Chapter 9, the reduction or elimination of the required one-to-one (1:1) building setback under Subtitle H § 703.1(b); provided that the reduction or elimination of the required setback would not unduly impact the viewshed of the Latrobe Gate.

709.2 The Office of Zoning shall refer the application to the Historic Preservation Office (HPO) for their review and recommendation, to be filed in the case record within the forty (40)-day period established by Subtitle A § 211.

VI. Proposed Amendment to Subtitle K, SPECIAL PURPOSE ZONES

Subsection 500.6 of § 500, GENERAL PROVISIONS (CG), of Chapter 5, CAPITOL GATEWAY ZONES – CG-1 THROUGH CG-7, of Subtitle K, SPECIAL PURPOSE ZONES, is proposed to be deleted:

~~500.6 Except for IZ Plus Inclusionary Developments, the Inclusionary Zoning requirements, modifications, and bonus density of Subtitle C, Chapter 10, shall not apply to the CG-1 zone; provided that the IZ bonus density of Subtitle C § 1002.3 is available for Voluntary Inclusionary Developments in the CG-1 zone.~~

Subsections 501.3 and 501.6³ of § 501, DEVELOPMENT STANDARDS (CG-1), of Chapter 5, CAPITOL GATEWAY ZONES – CG-1 THROUGH CG-7, of Subtitle K, SPECIAL PURPOSE ZONES, are proposed to be amended to read as follows:

³ The current version of the unofficial Zoning Regulations erroneously prescribes 90% IZ lot occupancy.

- 501.3 The maximum permitted floor area ratio (FAR) in the CG-1 zone shall be 6.0, **or 7.2 for Inclusionary Developments.**
- 501.6 The maximum permitted lot occupancy for residential use in the CG-1 zone shall be seventy-five percent (75%), **or ninety percent (90%) for Inclusionary Developments.**