

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF VIRTUAL PUBLIC HEARING**

TIME AND PLACE: **Monday, June 28, 2021, @ 4:00 p.m.**
**WebEx or Telephone – Instructions will be provided on
the OZ website by Noon of the Hearing Date**

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

Z.C. Case No. 21-05 (Office of Planning – Text Amendment to Subtitle C - Inclusionary Zoning XL, Phase #2 - Applying Inclusionary Zoning to Conversions of Non-Residential Gross Floor Area to Residential Use)

THIS CASE IS OF INTEREST TO ALL ANCs

Oral and Written Testimony

- All who wish to testify in this case are **strongly encouraged** to sign up to do so **at least 24 hours prior to the start of the hearing** on OZ's website at <https://dcoz.dc.gov/> – see below: *How to participate as a witness – oral statements.*
- All written comments and/or testimony **must be submitted to the record at least 24 hours prior to the start of the hearing** – see below: *How to participate as a witness – written statements.*

On March 1, 2021, the Office of Planning (“OP”) filed a petition (the “Petition”) to the Zoning Commission (the “Commission”) proposing the following amendments to the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all references herein refer unless otherwise specified): Subtitle C, General Rules - § 1001

OP proposed the text amendment to apply the existing Inclusionary Zoning (“IZ”) program to buildings that are converted from non-residential use to residential use. This text amendment is the second of three phases of OP’s proposed IZ updates – Phase I is the subject of Z.C. Case No. 21-02, and Phase 3 will follow this case.

Setdown

At its March 11, 2021, public meeting, the Commission heard testimony from OP in favor of the amendment. At the close of the meeting, the Commission voted to set the Petition for a public hearing.

The complete record in the case can be viewed online at the Office of Zoning’ 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 Amendment to Subtitle C, GENERAL RULES

Subsections 1001.2, 1001.3, 1001.4, and 1001.6 of § 1001, APPLICABILITY, of Chapter 10, INCLUSIONARY ZONING, of Subtitle C, GENERAL RULES, are proposed to be amended, to read as follows:

1001.2 Except as provided in Subtitle C § 1001.5, the requirements of this chapter shall apply to, and the modifications to certain development standards and bonus density of this chapter shall be available to, developments in zones in which this chapter is identified as applicable as specified in the individual subtitles of this title; provided the development falls into one of the following categories:

(a) A “Mandatory Inclusionary Development” – a development that ~~meets one or more of the following criteria:~~

(1) **Proposes to create ten (10) or more new dwelling units, including dwelling units located in a cellar or penthouse, by:**

(i) ~~Adding~~ **Is proposing** new gross floor area beyond that existing at the time of the building permit application ~~that would result in ten (10) or more new dwelling units, including dwelling units located in a cellar or penthouse;~~

~~(2) Will have ten (10) or more new dwelling units constructed concurrently or in phases, on a lot, on contiguous lots, or on lots divided by an alley, if such lots were under common ownership, control, or affiliation within one (1) year prior to the application for the first building permit;~~

(ii) **Changing the use of existing gross floor area to the “Residential” use category of Subtitle B § 200.2; or**

A combination of (i) and (ii);

~~(3)~~ **(2)** Consists of a residential building that has penthouse habitable space pursuant to Subtitle C § 1500.11; or

¹ The following text incorporates the amendments adopted by the Commission in Z.C. Case No. 20-02, for which the Notice of Final Rulemaking is expected to be published prior to the hearing in this case. Most of the following provisions are also subject to proposed amendments in Z.C. Case Nos. 14-13E, 19-27, 19-27A, & 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.

~~(4)~~ **(3)** An “IZ Plus Inclusionary Development” – a development located on property that was the subject of a map amendment that increased the allowable FAR pursuant to Subtitle X § 502 and as indicated with an “IZ+” on the Zoning Map and that meets one of the categories of subparagraphs (1) through ~~(3)~~ **(2)** of this paragraph 1001.2(a); or

(b) A “Voluntary Inclusionary Development” – any single household ...²

1001.3 ~~If more than one (1) building permit is issued for a development, the~~ **The** number of dwelling units and ~~new the~~ gross floor area used **pursuant to Subtitle C § 1001.2(a)** to establish the applicability of the IZ requirements, and associated IZ modifications, shall be based on:

(a) The new dwelling units and the gross floor area constructed or converted to the “Residential” use category of Subtitle B § 200.2 concurrently or in phases, on a single lot, on contiguous lots, or on lots divided by an alley, that were under common ownership, control, or affiliation within one (1) year prior to the application for the first building permit; and

(b) All all the building permits issued for the development within a three (3)-year period, starting from the issuance of the first building permit for the development.

1001.4 For existing buildings that become subject to the requirements of this chapter pursuant to Subtitle C § 1001.2, the requirements of Subtitle C §§ 1003.1 through 1003.4 and the available modifications to applicable development standards shall apply **as follows**:

(a) For any development described by Subtitle C §§ 1001.2(a), to ~~To~~ both the existing and new gross floor area if **the development**:

- (1) Utilizes the bonus density provided by Subtitle C § 1002; or
- (2) Results in an increase of fifty percent (50%) or more in the building’s existing gross floor area; **and**

(b) For developments described by Subtitle C §§ 1001.2(a)(1)(i) or (a)(3), to ~~To~~ only the new gross floor area if it the development:

- (1) Does not utilize the bonus density provided by Subtitle C § 1002; and

² 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.

- (2) Does not result in an increase of fifty percent (50%) or more in the building's existing gross floor area;

(c) For developments described by Subtitle C § 1001.2(a)(1)(ii), to only the existing gross floor area for which the use is changed to the "Residential" use category of Subtitle B § 200.2 if the development:

- (1) Does not utilize the bonus density provided by Subtitle C § 1002; and**

- (2) Does not result in an increase of fifty percent (50%) or more in the building's existing gross floor area; and**

(d) For developments described by Subtitle C §§ 1001.2(a)(1)(iii), to the portion of the existing gross floor area for which the use is changed to the "Residential" use category of Subtitle B § 200.2 as well as to the new gross floor area if the development:

- (1) Does not utilize the bonus density provided by Subtitle C § 1002; and**

- (2) Does not result in an increase of fifty percent (50%) or more in the building's existing gross floor area.**

...

1001.6 The requirements of this chapter shall not apply to:

- (a) Any development subject to a mandatory affordable housing requirement that exceeds the requirements of this chapter as a result of District of law of financial subsidies ... ; provided:

- (1) The development shall set aside, for so long as the project exists, affordable dwelling units (**Temporarily Exempt Affordable Inclusionary** Units) in accordance with the minimum income standards of Subtitle C § 1001.6(a)(2) and equal to at least the gross square footage that would have been otherwise required pursuant to the set-aside requirements in Subtitle C § 1003 for the zone in which the development is located, **and these Temporarily Exempt Inclusionary Units shall be identified on plans submitted for building permit;**

- (2) The **Temporarily Exempt Affordable Inclusionary** Units shall be reserved ...

- (3) The **Temporarily Exempt Affordable Inclusionary** Units shall be sold or rented in accordance with the Inclusionary Zoning Program (as defined by the IZ Act) upon the expiration of the affordable housing requirements of the District law or financial subsidies administered by DHCD, DCHFA, or DCHA;
 - (4) The requirements set forth in subparagraphs (1), (2), and (3) of this paragraph, shall be stated as declarations, **accompanied by plans identifying the Temporarily Exempt Affordable Inclusionary Units**, within a covenant running with the land for the benefit of the District of Columbia ...
- ...

This public hearing will be conducted in accordance with the rulemaking provisions of Subtitle Z, Chapter 5, of the Zoning Regulations as well as the text adopted by the Commission on October 15, 2020, in Z.C. Case No. 20-11, as published in the Notice of Final Rulemaking published in the D.C. Register on October 30, 2020.

How to participate as a witness – oral presentation

Interested persons or representatives of organizations may be heard at the virtual public hearing. All individuals, organizations, or associations wishing to testify in this case are **strongly encouraged to sign up to testify at least 24 hours prior to the start of the hearing** on OZ’s website at <https://dcoz.dc.gov/> or by calling Sharon Schellin at (202) 727-0340 in order to ensure the success of the new virtual public hearing procedures.

The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The Commission must base its decision on the record before them. The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

- | | |
|------------------|----------------|
| 1. Organizations | 5 minutes each |
| 2. Individuals | 3 minutes each |

How to participate as a witness - written statements

Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record, provided that **all written comments and/or testimony must be submitted to the record at least 24 hours prior to the start of the hearing, unless approved by the Commission upon request to be introduced at the public hearing.** The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at <https://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by e-mail to zsubmissions@dc.gov. Please include the case number on your submission. If you are unable to use either of these means of submission, please contact Sharon Schellin at (202) 727-0340 for further assistance.

"Great weight" to written report of ANC

Subtitle Z § 406.2 provides that the written report of an affected ANC shall be given great weight if received at any time prior to the date of a Commission meeting to consider final action, including any continuation thereof on the application, and sets forth the information that the report must contain. Pursuant to Subtitle Z § 406.3, an ANC that wishes to participate in the hearing must file a written report at least seven days in advance of the public hearing and provide the name of the person who is authorized by the ANC to represent it at the hearing.

FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.

ANTHONY J. HOOD, ROBERT E. MILLER, PETER G. MAY, PETER A. SHAPIRO, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.

Do you need assistance to participate? If you need special accommodations or need language assistance services (translation or interpretation), please contact Zee Hill at (202) 727-0312 or Zelalem.Hill@dc.gov five days in advance of the meeting. These services will be provided free of charge.

¿Necesita ayuda para participar? Si tiene necesidades especiales o si necesita servicios de ayuda en su idioma (de traducción o interpretación), por favor comuníquese con Zee Hill llamando al (202) 727-0312 o escribiendo a Zelalem.Hill@dc.gov cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.

Avez-vous besoin d'assistance pour pouvoir participer ? Si vous avez besoin d'aménagements spéciaux ou d'une aide linguistique (traduction ou interprétation), veuillez contacter Zee Hill au (202) 727-0312 ou à Zelalem.Hill@dc.gov cinq jours avant la réunion. Ces services vous seront fournis gratuitement.

참여하시는데 도움이 필요하세요? 특별한 편의를 제공해 드려야 하거나, 언어 지원 서비스(번역 또는 통역)가 필요하시면, 회의 5일 전에 Zee Hill 씨께 (202) 727-0312 로 전화 하시거나 Zelalem.Hill@dc.gov 로 이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

您需要有人帮助参加活动吗? 如果您需要特殊便利设施或语言协助服务(翻译或口译)·请在见面之前提前五天与 Zee Hill 联系·电话号码 (202) 727-0312, 电子邮件 Zelalem.Hill@dc.gov 这些是免费提供的服务。

Quý vị có cần trợ giúp gì để tham gia không? Nếu quý vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc Zelalem.Hill@dc.gov trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

ለሚሳተፍ ዕርዳታ ያስፈልግዎታል? የተለየ እርዳታ ከስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጎም) ከስፈለገዎት እባክዎን ከስብሰባው አምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ። እነኚህ አገልግሎቶች የሚሰጡት በነጻ ነው።