


MEMORANDUM

TO: Sara Bardin, Director, Office of Zoning

FROM:  Joel Lawson, Associate Director, Development Review

DATE: March 31, 2025

SUBJECT: Zoning Commission Case No. 08-06R
Request for Consent Calendar consideration of technical corrections to DCMR 11 Zoning Regulations as originally adopted in Case 08-06A, in 2016, and subsequently reorganized in Case 19-27.

I. RECOMMENDATION

Pursuant to Z §§ 703.1 and 703.2, the Office of Planning recommends that the Commission make the following technical corrections to the Zoning Regulations as approved in case 08-06A and subsequently modified. OP further requests that the matter be placed on the Consent Calendar for the Zoning Commission April 10, 2025 Public Meeting pursuant to Z § 703.4 of the regulations.

II. PROPOSED AMENDMENTS

The following technical corrections represent a continuation of the on-going effort to correct and clarify the regulations when needed, as requested by the Zoning Commission at the time ZR-16 was adopted. This proposal follows a series of similar cases, all considered technical corrections and placed on the Consent Calendar, in 2016 through 2018.

The technical corrections included in this report (see Attachment I) are the following:

1	Replace, wherever it occurs, the terms "Department of Consumer and Regulatory Affairs" or "DCRA" with "Department of Buildings".	Update of the term. No substantive change.
2	Subtitle B § 304.5(d) - Add missing word "floor" at the end of the provision	For clarity, add the missing word. No substantive change
3	Subtitle I § 570.5 (new) - Re-instate the maximum permitted height in the D-7 zones for properties not fronting onto Pennsylvania Avenue NW, inadvertently not carried forward into ZR-16.	ZR-58 included a maximum building height of 130 feet for property not fronting onto Pennsylvania Ave. NW (per Section 770.1), and a building height limit of 160 ft. along a portion of Pennsylvania Avenue NW. (§ 770.5). ZR-16 inadvertently did not include the building height for properties that do <u>not</u> front onto Pennsylvania Ave NW. While this effectively makes the permitted building height 130 feet pursuant to the Height Act, clarity in the zoning regulations is needed. As with any zone, any property without the street width required for this height would be limited to a lower building height. As such, this represents a clarification of the current regulations consistent with the ZR-58 regulations, and not a substantive change.

4	Subtitle I § 607 - Correct cross reference in as the list of Arts uses in the Downtown zones refers to Subtitle U § 700.5 instead of Subtitle U § 700.6 as intended.	Correct a cross reference. No substantive change
5	Subtitle K § 412.1(k) - Correct reference error which refers to Subtitle K § 416 (Inclusionary Housing) rather than the intended Subtitle K § 413 (Special Exceptions)	Correct a cross reference. No substantive change.
6	Subtitle Y § 101.9 – Correct reference error which refers to Subtitle Y § 604.6, rather than the intended Subtitle Y § 604.5	Correct a cross reference, to be consistent with the ZR-58 regulations which were not intended to be changed in ZR-16. No substantial change.

III. OP ANALYSIS

These are technical corrections to the current zoning regulations, and not substantive changes. In particular, they would provide additional clarity in the regulations which would be of benefit to all DC residents and landowners, and are not specific to any specific part of the District or any specific set of residents. In general, they would make the regulations easier to understand and administer.

As such, they would particularly address the following policy and action items in the Implementation Chapter of the Comprehensive Plan:

Policy IM-1.3.1: Updating Land Use Controls

Regularly review and update the District's land use controls and building codes to eliminate obsolete regulations and develop new regulations that address emerging issues, land uses, building types, and technologies. 2504.3

Action IM-1.3.A: Monitor and Review New Zoning Regulations

Regularly monitor and review the zoning regulations to verify that they are working to achieve their purpose and submit corrections, changes, and amendments as necessary. 2504.8

The Zoning Commission's Racial Equity Tool requires that every zoning action be considered through a racial equity lens. As this proposal would not change the substance of the regulations and would apply city-wide, the provision of a comprehensive Racial Equity Analysis including demographic data would not be relevant to this case. The proposed corrections would not be inconsistent with the Comprehensive Plan, including when viewed through a Racial Equity Lens, and would provide additional clarity and certainty to the regulations for all users.

OP consulted with the Department of Buildings and the Legal Division of the Office of Zoning, both of which proposed technical corrections which are included in this report.

OP recommends that the technical corrections be approved at this time and incorporated into the Zoning Regulations.

Attachment I – Technical Corrections to the Zoning Regulations

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	Section	Correction
1		Replace the terms “Department of Consumer and Regulatory Affairs” or “DCRA” with “Department of Buildings”.
	SUBTITLE A	AUTHORITY AND APPLICABILITY
	CHAPTER 1	INTRODUCTION TO TITLE 11
	A § 102	VESTED RIGHTS UNDER THE PREVIOUS 1958 ZONING REGULATIONS, AS AMENDED
	A § 102.2	An application for a building permit that has been officially accepted by the Department of Consumer and Regulatory Affairs Department of Buildings as being complete prior to the effective date of this title, if the building permit plans are consistent with the 1958 Regulations, shall be considered a vested project.
	CHAPTER 3	ADMINISTRATION AND ENFORCEMENT
	A § 301	BUILDING PERMITS
	A § 301.5 (a)	If one (1) of the building permit applications listed in Subtitle A § 301.6 is officially accepted as being complete and under review by the Department of Consumer and Regulatory Affairs Department of Buildings on or before the date on which the Zoning Commission makes a decision to hold a hearing on the amendment, the processing of the application and completion of the work shall be governed by the property’s existing zoning classification pursuant to Subtitle A § 301.4. However, if no building permit has been issued prior to the date that the zoning map amendment becomes effective, the building permit application shall be processed in accordance with the adopted zoning map amendment. The building permit application shall;
	A 301.9 (a)	The Permit Application was legally filed with, and accepted as complete by, the Department of Consumer and Regulatory Affairs Department of Buildings prior to February 1, 2015; or
	A 301.10 (a)	The Permit Application was legally filed with, and accepted as complete by, the Department of Consumer and Regulatory Affairs prior to July 17, 2014; or
	A 301.11 (a)	The Permit Application was legally filed with, and accepted as complete by the Department of Consumer and Regulatory Affairs Department of Buildings prior to June 26, 2015; or
	A 301.13	Notwithstanding Subtitle A § 301.4, a building permit application (including a foundation-to grade permit application) (the Application) for construction involving any penthouse or rooftop structure other than as restricted in Subtitle C § 1501.1(b) may be processed, and any work authorized by the building permit may be carried to completion, pursuant to the provisions of the roof structure regulations in place as of November 19, 2015, if the Application was legally filed with, and accepted as complete by, the Department of Consumer and Regulatory Affairs Department of Buildings , and had received a Letter of Zoning Compliance from the Zoning Administrator prior to that date.
	A 301.14	Notwithstanding Subtitle A § 301.4, Subtitle D §§ 306.3, 306.4, 706.3, 706.4, 1006.2, 1006.3 1206.3, and 1206.4, and Subtitle E §§ 205.4 and 205.5, a rear wall of a row or semi-detached building may be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal residential building on an adjoining property provided that the building permit application for such construction was filed and accepted as complete by the Department of

	Section	Correction
		Consumer and Regulatory Affairs <u>Department of Buildings</u> on or before March 27, 2017 and not substantially changed after filing.
	A 301.15	Notwithstanding Subtitle A § 301.4, any building permit application including a foundation-to grade permit application (the Permit Application), shall be processed, and any work authorized by the permit may be carried to completion pursuant to the rules for measuring floor area ratio, height, and stories ¹ as existed on August 17, 2018 if the Permit Application was legally filed with, and accepted as complete by the Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> on or before that date and not substantially changed after filing
	SUBTITLE B	DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES
	CHAPTER 1	DEFINITIONS
	B § 102	Short-Term Rental: A use as defined by the Short-Term Rental Regulation Act of 2018 (D.C. Law 22-307), that has a valid Basic Business License from the Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> with a “Short-Term Rental” or “Short-Term Rental: Vacation Rental” endorsement
	SUBTITLE C	GENERAL RULES
	CHAPTER 6	GREEN AREA RATIO
	C § 601	APPLICABILITY OF GREEN AREA RATIO STANDARDS
	C § 601.4	Notwithstanding Subtitle C § 601.2 and Subtitle A § 301.4, the provisions of this chapter shall not apply to any application for a building permit: (a) That has been officially accepted by the Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> as being complete prior to October 1, 2013 if the building permit plans are consistent; or
	C § 604	SUBMITTAL REQUIREMENTS FOR GREEN AREA RATIO
	C § 604.8	Prior to the issuance of the certificate of occupancy, a landscape checklist must be signed by a Certified Landscape Expert, verifying that that landscaping was installed according to the building permit approved by Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> .
	CHAPTER 10	INCLUSIONARY ZONING
	C § 1001	APPLICABILITY
	C § 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 MU13 zone within the Georgetown Historic District, or in the RA-5, MU-4/NO, NMU-7/ES, or CG-1 zones if: (1) Prior to January 1, 2025, the Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> has accepted as complete an application for a building permit, not including a foundation-to-grade permit, to construct the development; and ...

¹ ANC 6C had recommended a reference to “rules for measuring ... grade.” However, no such rules exist and therefore the Office of the Attorney General removed the referenced from the final rule.

	Section	Correction
	C § 1003	SET-ASIDE REQUIREMENTS
	C § 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 <u>Department of Buildings</u> has accepted as complete an application for a building permit, not including a foundation-to grade permit, to construct the Inclusionary Development; and ...
	CHAPTER 12	COMBINED LOT PROVISIONS
	C § 1200	GENERAL PROVISIONS
	C § 1200.6	A certified copy of the instrument of transfer shall be filed with the Zoning Administrator before approval by the Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> of any building permit application affected by such transfer.
	CHAPTER 15	PENTHOUSES AND ROOFTOP STRUCTURES
	C § 1507	AFFORDABLE HOUSING PRODUCTION REQUIREMENT GENERATED BY CONSTRUCTION ON A NONRESIDENTIAL BUILDING OF PENTHOUSE HABITABLE SPACE
	C § 1507.10(a)	Where the proposed penthouse habitable space or the building on which it is located is subject to a Planned Unit Development, or is located on property for which the Zoning Commission approved a Map Amendment no more than five (5) years prior to the filing of the building permit application to construct the penthouse or building, the Housing Production Trust Fund payment required pursuant to Subtitle C §§ 1507.6 through 1507.8, shall be as follows: (a) Prior to the issuance of a building permit for any penthouse space, not less than one-half (1/2) of the required total Housing Production Trust Fund contribution shall be made in accordance with the calculation of Subtitle C § 1507.7, based on the fair market value of the land as indicated in the property tax assessment records of the OTR at the time that the building permit application is accepted as complete by the Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> ; and
	SUBTITLE I	DOWNTOWN ZONES
	CHAPTER 8	INTRODUCTION TO THE CREDIT SYSTEM
	I § 805	ACKNOWLEDGMENT OF RESIDENTIAL, ARTS, AND PREFERRED USE CREDITS
	I § 805.3	The Zoning Administrator, in his or her discretion, may request the General Counsel of the Department of Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> or the Office of Zoning Legal Division to undertake a legal sufficiency review.
	I § 807	GENERATION AND CERTIFICATION OF CREDITS FOR HISTORIC PRESERVATION
	I § 807.14	The Zoning Administrator, in his or her discretion, may request the General Counsel of the Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> or the Office of Zoning Legal Division to undertake a legal sufficiency review.

	Section	Correction
	CHAPTER 9	USE OF CREDITS
	I § 901	TRANSFER OF CREDITS
	I § 901.5	The Zoning Administrator, in his or her discretion, may request the General Counsel of the Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> or the Office of Zoning Legal Division to undertake a legal sufficiency review of the draft Certificate of Credit Transfer.
	I § 902	RETRANSFER OF CREDITS
	I § 902.4	The Zoning Administrator, in his or her discretion, may request the General Counsel of the Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> or the Office of Zoning Legal Division to undertake a legal sufficiency review of the draft Certificate of Credit Retransfer.
	SUBTITLE K	SPECIAL PURPOSE ZONES
	CHAPTER 6	SAINT ELIZABETHS EAST CAMPUS ZONES – StE-1 THROUGH StE19
	K § 608	PARKING (StE)
	K § 608.2	Each application to the Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> for a development that includes above-grade or below-grade structured parking or surface parking shall provide an accounting of the total number of parking spaces within the StE zones which count towards the four thousand eight hundred (4,800) parking space limit.
	CHAPTER 9	WALTER REED ZONES – WR-1 THROUGH WR-15
	K § 917	VEHICLE PARKING (WR)
	K § 917.3	Each application to the Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> for a development within the WR-1 through WR-8 zones that includes parking shall provide an accounting of the total number of parking spaces which count towards the parking space limit of Subtitle K § 917.2.
	K § 917.5	Each application to the Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> for a development within the WR-9 through WR-15 zones that includes parking shall provide an accounting of the total number of parking spaces which count towards the parking space limit of Subtitle K § 917.4.
	CHAPTER 10	NORTHERN HOWARD ROAD (NHR) ZONE
	K § 1008	SUSTAINABILITY (NHR)
	K § 1008.1	Each building constructed or substantially improved shall earn certification at the LEED v4.1 for New Construction Gold level, provided that prior to receipt of the first certificate of occupancy for the new construction or substantial improvement, the applicant shall submit to the Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> a financial security that is compliant with the provisions of § 6 of the Green Building Act of 2006, as amended (D.C. Official Code § 61451.05).
	K § 1008.2	Each building constructed or substantially improved shall have an on-site renewable energy system installed and operating prior to receipt of the first certificate of occupancy for the new construction or substantial improvement, which renewable energy system shall generate at least one percent (1%) of the total energy estimated to be needed to operate the building as calculated in the energy model submitted

	Section	Correction
		with the building permit application to the Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> .
	CHAPTER 11	BARRY FARM ZONES – BF-1 THROUGH BF-2
	K § 1103	VEHICLE AND CICYCLE PARKING (BF)
	K § 1103.2	Required vehicle parking spaces need not be located on the same lot as the building or building(s) that generates the requirement, subject to the following conditions: ... (c) Each application to the Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> for a development that requires parking shall clearly demonstrate compliance with conditions (a) and (b) of this subsection.
	SUBTITLE U	USES
	CHAPTER 2	USE PERMISSIONS RESIDENTIAL HOUSE (R) ZONES
	U § 253	PARKING (StE)
	U § 253.13	Prior to renting an accessory apartment in any zone, the property owner shall obtain a Residential Rental Business License from the Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> and the property shall be inspected for relevant housing code compliance.
	CHAPTER 3	USE PERMISSIONS RESIDENTIAL HOUSE (R) ZONES
	U § 301	MATTER-OF-RIGHT USES (RF)
	U § 301.2	The conversion of an existing non-residential building or structure to an apartment house shall be permitted as a matter of right in any of the RF-1 zones subject to the following conditions: (a) The building or structure to be converted is in existence on the property at the time the building permit application for the conversion is accepted as complete by the Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> ; and ...
	U § 320	SPECIAL EXCEPTION USES (RF)
	U § 320.2	The conversion of an existing residential building existing on the lot prior to May 12, 1958, to an apartment house, or the renovation or expansion of an existing apartment house deemed a conforming use pursuant to Subtitle U § 301.4 that increases the number of units, shall be permitted in any of the RF-1 zones if approved by the Board of Zoning Adjustment as a special exception pursuant to Subtitle X, Chapter 9, and subject to the following conditions: (a) The building to be converted or expanded is in existence on the property at the time the Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> accepts as complete the building permit application for the conversion or expansion; ...
	CHAPTER 8	USE PERMISSIONS PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES
	U § 805	EXTERNAL EFFECTS PERMIT APPLICATIONS (PDR)
	U § 805.1	When filing an application for a building permit or certificate of occupancy with the Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> for

	Section	Correction
		a use permitted subject to Subtitle U § 804, the applicant shall submit with the application three (3) copies of
	SUBTITLE Y	BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE
	CHAPTER 5	PRE-HEARING AND HEARING PROCEDURES: ZONING APPEALS
	Y § 501	INTERVENOR STATUS: GENERAL GUIDELINES
	Y § 501.2	In a civil infraction appeal, only the persons who participated as parties in the proceeding below shall have party status: ... (b) The Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> ; and
	Y § 501	ORAL ARGUMENT PROCEDURES: CIVIL INFRACTION APPEALS
	Y § 508.2	The order of procedure for presenting oral argument at a public hearing on a civil infraction appeal shall be as follows: ... (d) Oral argument by the appellee, the Department of Consumer and Regulatory Affairs <u>Department of Buildings</u> ;
2		Add missing word “floor” at the end of B § 304.5(d)
	SUBTITLE B	DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES
	CHAPTER 3	GENERAL RULES OF MEASUREMENT
	B § 304	RULES OF MEASUREMENT FOR GROSS FLOOR AREA (GFA)
	B § 304.5	For a semi-detached or attached building, GFA for the portion of a story below the finished floor of the ground floor and partly above adjacent natural or finished grade shall be calculated by the grade-plane method, which is as follows: ... (d) Determine the portion of this line that is five feet (5 ft.) or more below the finished floor of the ground <u>floor</u> ;
3		The ZR-58 zones established a maximum building height of 130 feet for a property not fronting onto Pennsylvania Avenue NW; this was inadvertently not translated into ZR16 or ZR23. Re-instate this maximum permitted height in the D-7 zones for properties not fronting onto Pennsylvania Avenue NW.
	SUBTITLE I	DOWNTOWN ZONES
	CHAPTER 5	REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES
	I § 570	HEIGHT (D-7)
	NEW I § 570.5	<u>The maximum permitted building height, not including the penthouse or rooftop structure, in the D-7 zone on a lot with no frontage on Pennsylvania Avenue, N.W. shall be one hundred thirty feet (130 ft.).</u>

	Section	Correction
4		Correct cross reference in Subtitle I § 607 – list of arts uses references the incorrect section
	SUBTITLE I	DOWNTOWN ZONES
	CHAPTER 6	LOCATION-BASED REGULATIONS FOR DOWNTOWN SUB-AREAS AND DESIGNATED STREET SEGMENTS
	I § 607	DOWNTOWN ARTS SUB-AREA
	I § 607.5	Arts uses shall comprise the arts uses listed in Subtitle U , § 700.5 <u>U § 700.6.</u>
5		Correct reference error – Subtitle K § 412.1(k) refers to Subtitle K § 416 (Inclusionary Housing) rather than the intended Subtitle K § 413 (Special Exceptions)
	SUBTITLE K	SPECIAL PURPOSE ZONES
	CHAPTER 4	HILL EASE ZONES – HE-1 THROUGH HE-4
	K § 412	USES PERMITTED BY SPECIAL EXCEPTION (HE)
	K § 412.1(k)	Other principal uses that are not permitted by Subtitle K § 410, but not prohibited by Subtitle K § 415 shall be permitted in the HE zones as a special exception subject to the following conditions in addition to the general special exception criteria of Subtitle X and Subtitle K § 416 <u>413</u> ; provided the Zoning Commission considers that the use is appropriate in furthering the purposes of the HE zones.
6		Correct reference error – Subtitle Y § 101.9 refers to Subtitle Y § 604.6 rather than the intended Subtitle Y § 604.5
	SUBTITLE Y	BOARD OF ZONING ADJUSTMENT JURISDICTION; AUTHORITY; POWERS
	CHAPTER 1	ADMINISTRATION
	Y § 101	GENERAL PROVISIONS
	Y § 101.9	Except for Subtitle Y §§ 100 through 105, 604.6 <u>604.5</u> , 700.3, and 1602.5 the Board may, for good cause shown, waive any of the provisions of this subtitle if, in the judgment of the Board, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.