

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



MEMORANDUM

To: Office of Documents and Administrative Issuance

From: Sharon S. Schellin *SS*
Secretary to the Zoning Commission

Date: February 13, 2008

Re: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on February 22, 2008:

1. Z.C. Notice of Final Rulemaking & Order No. 05-05; and
2. Z.C. Notice of Final Rulemaking & Order No. 07-19.

Attachment

Office of
Documents and
Administrative
Issuances
2008 FEB 13 AM 11:39

ZONING COMMISSION
District of Columbia

CASE NO. 07-19
EXHIBIT NO. 7

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ZONING COMMISSION
District of Columbia
CASE NO. 07-19
EXHIBIT NO. 7

2008 FEB 13

AM 11:40

RULEMAKING TRANSMITTAL FORM

TYPE OF RULEMAKING ACTION: ☐ EMERGENCY RULES

☒ FINAL RULES ☐ PROPOSED RULES ☐ COMBINED

DATE AND TIME RECEIVED

Office of Documents use only

AGENCY: OFFICE OF ZONING

AGENCY REPRESENTATIVE: SHARON SCHELLIN

ADDRESS: 441 4th Street, N.W., Suite 210 South

TELEPHONE: 727-0340

TITLE AND DESCRIPTION OF RULES: Z.C. Case No. 07-19 (Text Amendment to Repeal § 411.10)

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: Title 11 (Zoning) Subsection 411.10

FINAL RULES ONLY: Give the D.C. REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules: 54 DCR 7257 DATE: July 27, 2007

COMPLETE CITATION to the statute, regulation, or other legal authority which specifically authorizes the issuance of the substance of these rules: Section 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799 D.C. Official Code § 6-641.01).

LEGAL CERTIFICATION: I certify that I have reviewed the attached rulemaking and, in my opinion, the substance of the text of the rules is legally sufficient.

DATE: FEBRUARY 7, 2008

SIGNED: *Alan Bergstein* for

PHONE: (202) 442-9777

☒ FINAL

☐ CONDITIONAL

NAME: PETER J. NICKLES

TITLE: INTERIM ATTORNEY
GENERAL

PROMULGATOR: Name and title of the person legally authorized to adopt and promulgate these rules (or the name of the board or other body authorized to adopt rules by vote)

Zoning Commission For The District Of Columbia

Title:

COMPLETE CITATION to the statute, regulation, order, or other legal authority that specifically authorizes this person or agency to adopt and promulgate these rules. Section 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799 D.C. Official Code § 6-641.01).

SIGNATURE OF THE PERSON AUTHORIZED TO ADOPT RULES OR ATTEST TO THE ADOPTION OF RULES

DATE OF
APPROVAL
OF VOTE:

10-15-07

APPROVAL
OF ATTEST:

Sharon G. Schellen

Secretary to the Zoning

TITLE:

Commission

PHONE: (202) 727-0340

Office of Documents
use only:

THIS NOTICE
PUBLISHED AT:

VOL:

DCR:

DATE:

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

AND

Z.C. ORDER NO. 07-19

Z.C. Case No. 07-19

(Text Amendment - 11 DCMR)

(Repeal of 11 DCMR § 411.10)

October 15, 2007

The Zoning Commission for the District of Columbia (the "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); having held a public hearing as required by § 3 of the Act (D.C. Official Code § 6-641.03); and having referred the proposed amendments to the National Capital Planning Commission for a 30-day period of review pursuant to § 492 of the District of Columbia Charter; hereby gives notice of the adoption of the following amendment to repeal § 411.10 of the Zoning Regulations (Title 11 DCMR).

A Notice of Proposed Rulemaking was published in the *D.C. Register* ("DCR") on July 27, 2007, at 54 DCR 7257. The Commission took final action to adopt the repealer at a public meeting on October 15, 2007. This final rulemaking is effective upon publication in the *D.C. Register*.

Existing Regulations

Subsection 11 DCMR § 411.10 requires that the Zoning Administrator submit roof structure plans to the Office of Planning for its review and report within fifteen (15) days. Subsection 411.10 now reads:

Before taking final action on a roof structure plan, the Zoning Administrator shall submit the plan to the D.C. Office of Planning for review and report. The report shall be returned within fifteen (15) days of the date of submission unless a different period has been provided by mutual agreement of all parties involved.

Description of Text Amendment

The text amendment repeals § 411.10.

Relationship to the Comprehensive Plan

The amendment is not inconsistent with the Comprehensive Plan.

Set Down Proceeding

The Office of Planning initiated this rulemaking by filing a report. The report indicated that the repeal would address unintended delays in the permitting process due to the increase in the volume of development projects submitted to the Department of Consumer and Regulatory Affairs (DCRA).

The Zoning Commission set down the case for a public hearing at its July 9, 2007 public meeting. The Commission also authorized immediate publication of a notice of proposed rulemaking.

Public hearing

The Commission held a public hearing on September 20, 2007. The Office of Planning testified in support of the text amendment.

Proposed Action

The Zoning Commission took proposed action at the conclusion of the public hearing. A Notice of Proposed Rulemaking was published in the *D.C. Register* on July 27, 2007, at 54 DCR 7257. No comments were received.

The proposed rulemaking was referred to the National Capital Planning Commission ("NCPC") under the terms of § 492 of the District of Columbia Charter. On October 5, 2007, the Commission received a communication from NCPC stating that it was not scheduling the matter for a meeting within the 30 day review period. The communication further stated that the staff had reviewed the proposed amendment, that the staff had not identified any adverse effects on the federal interest, and that the communication did not constitute the official comments of NCPC in the case. NCPC did not issue an official comment within the 30-day time period provided by the District Charter.

The Office of the Attorney General has determined that this rulemaking meets its standards of legal sufficiency.

Final Action

At its properly noticed October 15, 2007 public meeting, the Commission took final action to approve the proposed text amendments. The final action became effective when the NCPC 30-day comment period expired.

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, consistent with the purpose of the Zoning Regulations and the Zoning Act.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following amendments to Chapter 4 of the Zoning Regulations, Title 11 DCMR.

Subsection 411.10 is repealed.

Vote of the Zoning Commission taken at the conclusion of the public hearing on September 20, 2007 to **APPROVE** the proposed rulemaking by a vote of: **3-0-2** (John G. Parsons, Gregory N. Jeffries, and Anthony J. Hood to approve; Carol J. Mitten and Michael G. Turnbull, not having participated, not voting).

The Zoning Commission took final action to **ADOPT** the text amendment at its public meeting on October 15, 2007 by a vote of **3-0-2** (Anthony J. Hood, John G. Parsons, and Gregory N. Jeffries to adopt; Carol J. Mitten and Michael G. Turnbull, not having participated, not voting).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in *the D.C. Register*; that is, on ~~_____~~ **FEB 22 2008** ~~_____~~.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND
Z.C. ORDER NO. 07-19
Z.C. Case No. 07-19
(Text Amendment - 11 DCMR)
(Repeal of 11 DCMR § 411.10)
October 15, 2007**

The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.