

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
Z.C. NOTICE OF FINAL RULEMAKING
AND
Z.C. ORDER NO. 14-13D
Z.C. Case No. 14-13D
(Text Amendment – 11 DCMR)
Technical Corrections to Z.C. Order Nos. 14-13 and 08-06A
March 26, 2018

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 (2012 Rep1.)), hereby gives notice of the adoption of amendments to Z.C. Order Nos. 14-13 and 08-06 to amend Subtitle C (General Rules) of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR) to reflect technical corrections. Z.C. Order No. 14-13 made amendments to Chapter 4 of Title 11 DCMR, which Z.C. Order No. 08-06A repealed and replaced with Chapter 15 of Subtitle C.

The corrections clarify that penthouse area is limited to one-third (1/3) of total roof area only in zones with a three (3)- story or less limitation and strike the references to specific zones. As part of Z.C. Case No. 14-13, the Commission significantly revised the regulations pertaining to roof structures, which it renamed “penthouses.” The record of that case makes plain the Commission’s intent to eliminate the limitation on penthouse area to one-third (1/3) of the roof for all zones except zones with a story limitation of three (3) or less. The adopted rule did not expressly state that numeric limit, but required compliance for areas in “Zones where there is a limitation on the number of stories other than the C-3-B Zone District,” which had a story limit of six (6). Because the rule failed to explicitly apply the roof area limit to just those zones with a story limit of three (3) and then exempted a zone with a story limit of six (6), the rule could be misinterpreted as applying to all zones with a story limit except C-3-B. Since Z.C. Order No. 08-06A repealed § 411.12, and replaced it with 11-Z DCMR § 1503.2, the only mechanism clarify the Commission’s intent is to amend § 1503.2(a) to apply the penthouse area limit to: “Zones or portions of zones where there is a limitation on the number of stories of three (3) or less.”

In addition, the corrections to Z.C. Order No. 08-06A further amend 11-Z DCMR § 1503.2 to strike its reference to the MU-8, MU-20, and NC-13 zones. These zones had been the C-3-B Zone District, but no longer have a story limit. Even if the zones still had a story limit of six (6), the proposed clarification eliminates the need to exempt them.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on February 23, 2018, at Vol. 65 No. 8 DCR 001900 proposing the amendments described above, and the Commission

received no comments. Because the proposed amendments are technical in nature, no public hearing was held and no referral to the National Capital Planning Commission made. (See 11-Z DCMR § 703.1). The Commission took final action to adopt the amendments at a public meeting on March 26, 2018.

The amendments shall become effective upon publication of this notice in the *D.C. Register*.

Title 11 DCMR, ZONING REGULATIONS OF 2016, is amended as follows:

Chapter 15, PENTHOUSES, of Subtitle C, GENERAL RULES, is amended as follows:

Paragraph (a) of § 1503.2, § 1503, PENTHOUSE AREA, is amended to read as follows:

1503.2 Penthouses shall not exceed one-third (1/3) of the total roof area upon which the penthouse sits in the following areas:

- (a) Zones or portions of zones where there is a limitation on the number of stories of three (3) or less; and
- (b) Any property fronting directly onto Independence Avenue, S.W. between 12th Street, S.W. and 2nd Street, S.W.


On January 29, 2018, upon the motion of Commissioner Shapiro, as seconded by Chairman Hood, the Zoning Commission **APPROVED IMMEDIATE PUBLICATION** of the proposed rulemaking at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

On March 26, 2018, upon the motion of Commissioner Shapiro, as seconded by Chairman Hood, the Zoning Commission took **FINAL ACTION** to **APPROVE** the petition at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on May 11, 2018.

BY THE ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

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