



ZONING COMMISSION CASE 14-13E

OFFICE OF PLANNING PROPOSED

PENTHOUSE & ROOFTOP STRUCTURE

TEXT MODIFICATIONS

JANUARY 21, 2021 PUBLIC HEARING





Main issues identified:

- Reorganize, Clarify, and Simplify; more substantive changes as well
- Add necessary definitions and measurement clarity (Subtitle B)
- Rooftop access on low density residential buildings (C § 1501)
- Setback provisions, especially from building side wall (C § 1504)
- Simplify special exception criteria (C § 1506)
- Clarify and strengthen affordable housing linkage requirements (C § 1507)



Process:

- 14-13 originally enacted in January 2016 under ZR-58; since translated into ZR-16
- Ongoing monitoring of BZA and Zoning Commission cases and affordable housing linkage
- ZC Public Meetings January 27 and February 24, 2020 – set down
- Main additional issues identified at setdown:
 - Refinement of solar panel provisions, low density residential
 - Additional illustrations
- Additional consultation with DCRA, OAG, and DOEE
- Input from members of the public
- Publication of the Public Hearing Notice and filing of OP public hearing report
- NOTE – in the following summary of changes, all Section references are the proposed new section numbers.

Main Proposed Amendments

Subtitle B – Definitions

- Distinguish penthouse and rooftop structures
- Clarify existing definitions, provide new definitions
- Move general provisions not related to penthouses to Subtitle B

Additional comments since setdown:

- ANC 6C – proposed changes to definitions of both “penthouse” and “rooftop structure” related to level of enclosure.
OP response – consulted with DCRA; not recommended
- ANC 6C - proposed reversal of OP response to issues related to “screening” of mechanical equipment.
OP response - agree; OP to work with OAG to provide corrected wording



Main Proposed Amendments

Subtitle B – Rules of Measurement

- Clarify how to measure height

Additional comments since setdown:

- ANC 6C – define what is “top of roof” for purposes of measuring penthouse height.
OP response - consulted with DCRA; additional definition not required.



Main Proposed Amendments

Subtitle C, Chapter 10 – Inclusionary Zoning

- Clarify uses for which housing linkage is required
- Eliminate ability to provide affordable housing off-site

Additional comments since setdown:

- OP - Corrected language as included in PHN – IZ would remain applicable to a seniors Continuing Care Retirement facility (but would not be applicable to an assisted living facility)

1001.5 *None of the requirements of this chapter except for Subtitle C § 1507 shall apply to hotels, motels, inns, **boarding houses, and single room occupancy projects within a single building.***

1001.6 *The requirements of this chapter shall not apply to:*

...

- (b) ~~**Boarding houses,**~~ *Assisted living facilities, community residence facilities, youth residential care homes, substance abusers' homes, or community based institutional facilities,* ~~**or single room occupancy projects within a single building;**~~

Main Proposed Amendments

Subtitle C, Chapter 15 – Penthouses and Rooftop Structures

- Reorganize and add additional titles

Section 1500 Introduction

- Penthouse or rooftop structure > 4 feet in height - all provisions apply
- Penthouse or rooftop structure < 4 feet in height - setback provisions apply

Additional comments since setdown:

- None



Main Proposed Amendments

Section 1501 Uses

- On roof of a dwelling or flat, permit a stairwell of 9 feet in height plus 30 sq.ft. storage area:
 1. By right if it is entirely within the permitted building height;
 2. By special exception if it is partially or entirely above the permitted building height.
- Any larger penthouse would also require special exception approval.

Why? For a two story building, owner could make it larger with more enclosed space, so that it is a “story” rather than a penthouse. It would then be larger, by-right, and not subject to setback requirements for a penthouse. Proposal would eliminate the incentive in the current regulations to do this.

Additional comments since setdown:

- Numerous comments in opposition to this change filed today

Main Proposed Amendments

Section 1501 Uses (cont'd) – Stairwell on roof of an existing 3 story house:



Main Proposed Amendments

Section 1501 Uses (cont'd) – Stairwell on roof of a third floor addition on a corner lot:



Main Proposed Amendments

Section 1501 Uses (cont'd) – Stairwell on roof of a third floor addition on an interior lot:





Main Proposed Amendments

Section 1501 Uses (cont'd)

- Expand existing requirement that a rooftop restaurant or bar be permitted by special exception, to include a rooftop deck for this use

Additional comments since setdown:

- ANC 6C – noted inconsistency in the special exception requirement for a rooftop eating or drinking establishment deck requiring special exception; potentially apply special exception requirement broadly.
OP - recommendation is consistent with Zoning Commission direction. Not recommended.
- ANC 6C – noted temporary structures, like rooftop tents, may need to be addressed.
OP – Discussed with DCRA; temporary structures are regulated in Subtitle C § 204; additional regulations are not needed.



Main Proposed Amendments

Section 1502 Height

- Height of a penthouse, when permitted, on a one family dwelling or flat limited to nine feet
- Otherwise, no changes to proposed height or number of stories for penthouses –

Additional comments since setdown:

- None

Main Proposed Amendments

Section 1503 Enclosing Walls

- Allow a sloped roof (walls of unequal height) on a rooftop access stairwell





Main Proposed Amendments

Section 1503 Enclosing Walls (con'd)

- Allow mechanical equipment on a public school, recreation center, or library to not all be in one enclosure
- Allow a stand-alone elevator override (a standalone stairwell is currently allowed)
- Allow sloping penthouse walls

Additional comments since setdown:

- ANC 6C suggested self-enclosed mechanical equipment should not require additional screening.
- OP response – Discussed with DCRA; typically not required now, unless the equipment is not fully enclosed.

Main Proposed Amendments

Section 1504 Setbacks

- From Front Building Wall - Required
- From Rear Building Wall – Required for an enclosed structure
- From a Court Wall – Required for an enclosed structure, except elevator or stair

Additional comments since setdown:

- ANC and G&S – setback for a guardrail on a balcony, and/or for a deck on a lower roof should not be required.
- OP response – proposed language was intended to be consistent with current DCRA interpretation and practice, but agree that a setback for a guardrail in these instances should not be required.

Potentially remove 1504.2(f), or amend to clarify setback is not required:

(f) Guardrails required by the building code, ~~for a balcony that does not exceed a depth of ten feet (10 ft.) from the façade of the building, or for a deck not located on the highest roof of a building and which does not exceed a depth of ten feet (10 ft.) from the façade of the building;~~



Main Proposed Amendments

Section 1504 Setbacks (cont'd)

- From Side Building Wall – Required for an enclosed structure when:
 - Side building wall is set back from a property line;
 - Side building wall faces a public or private street or alley right-of way, or a public park;
 - Adjacent property has a lower permitted matter-of-right building height; or
 - Adjacent property is designated or contributing and building on that lot is lower by 10 feet or more

Additional comments since setdown:

- G&S – re-introduce $\frac{1}{2} : 1$ setback where a setback from a side wall is required
- OP response – Discussed with DCRA; they are in favor of simplifying this regulations to remove this allowance. Not recommended.



Main Proposed Amendments

Section 1504 Setbacks (cont'd)

Additional comments since setdown:

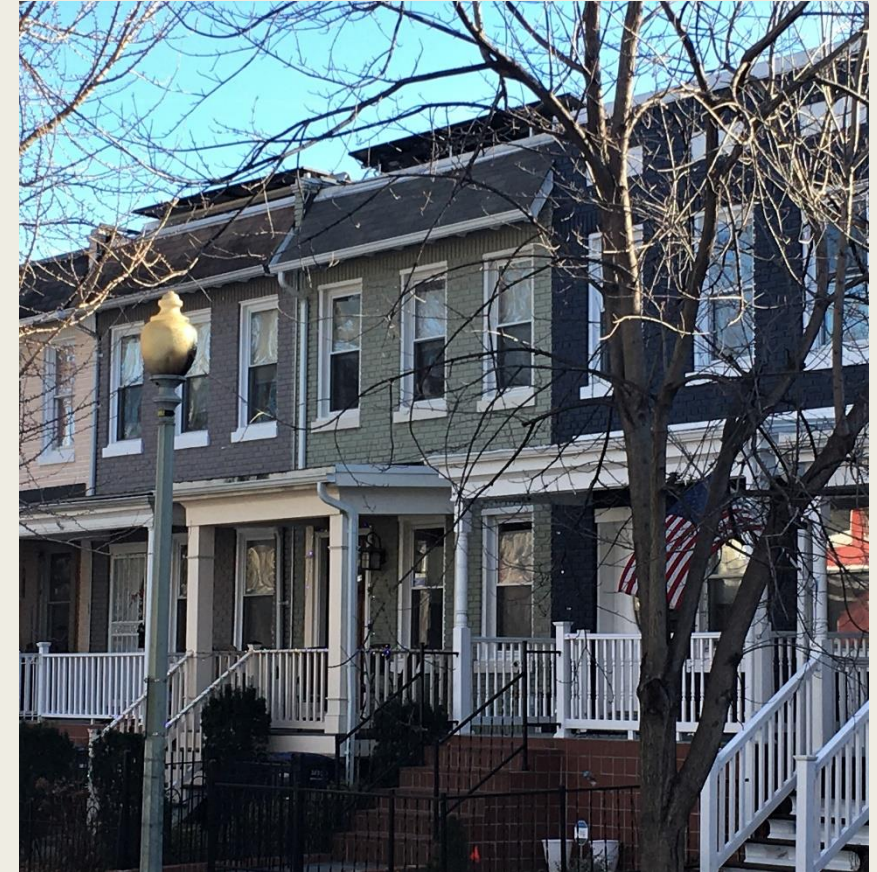
Solar Panels - Original Proposal:

- No setback required for any solar panel less than four feet in height

ZC requested additional discussion and clarification

OP Response - Following further discussions with DCRA and DOEE, the following change is proposed:

- On the roof of a single family dwelling or flat, no setback required for solar panel less than two feet in height above the roof; or one foot above the top of the parapet wall if mounted on the side parapet.
- No setback required for any solar panel less than four feet in height for other building types



Main Proposed Amendments

Section 1505 Enclosed Area

- Remove existing 1/3 of roof area limitation in zones with a # stories limit

Additional comments since setdown:

- ANC 6C – retain the existing cap for size of penthouse – 1/3 of roof area – in zones with a stories limit. Concern about potential size of penthouse mechanical area that could be possible.
- OP Response – intent to remove an essentially redundant regulation. However, note that current provision does provide a cap on both mechanical and habitable space.

Continue to recommend deletion of this provision, with setback and other limits establishing size, but consider amending **1501.1(a)** to remove the reference to “habitable” space:

- (a) *Penthouse ~~habitable~~ space may be permitted on the roof of a single household dwelling, flat, or accessory building in any zone, or on the roof of an apartment house converted pursuant to Subtitle U § 320.2, ...*



Main Proposed Amendments

Section 1506 Special Exception Relief

- Remove duplicative requirements
- Amend Minor Mod process for adding a habitable penthouse to an approved PUD building

Additional comments since setdown:

- None

Main Proposed Amendments

Section 1507 Affordable Housing Requirement

- Reorganize and clarify
- Limit and clarify when a HPTF contribution can be made, rather than providing units on-site
- For non-residential space, remove 1,000 sq.ft. area trigger
- Clarify method of calculating HPTF contribution amount:
 - Provide more direct description of calculation based on practice
 - Add detail regarding how to determine inputs to calculation
 - Change timing of payments to ensure land value at occupancy is used

Additional comments since setdown:

- None



Main Proposed Amendments

Subtitles D through K, Zone Based Provisions

- No proposed changes to permitted penthouse height or stories
- Update section references and references to “penthouse or roof structure”
- Change reference for penthouse on a SFD or flat from “as prohibited” to “as regulated”

Subtitles X through Z – BZA and Zoning Commission Processes

- Update section references and references to “penthouse or roof structure”

Additional comments since setdown:

- None



Conclusion and Questions

A final review of the any approved changes against other concurrent regulation changes (mainly for numbering) will also be needed.