

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**NOTICE OF FINAL RULEMAKING**  
**Z.C. Case No. 07-08C<sup>1</sup>**  
**(Text Amendment – 11-C DCMR § 718)**  
**(D.C. Housing Authority – Text Amendment to Extend Expiration Dates of**  
**Certificates of Occupancy for Temporary Surface Parking Lot Use for**  
**Specific Squares in the Proximity of Nationals Ballpark)**  
**June 10, 2019**

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under Section 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Rep1.)), hereby gives notice of the adoption of amendments to Subtitle C, General Rules, of Title 11, Zoning Regulations, of the District of Columbia Municipal Regulations (DCMR).

**Description of Amendments**

The text amendment amends § 718 of Subtitle C of the Zoning Regulations to extend for five (5) years the expiration dates for certificates of occupancy for temporary surface parking lots on Lots 44-47 in Square 767, Lots 19-22 in Square 768, and Lot 77 in Square 882 from the current expiration date of April 1, 2018 to April 1, 2023.

**Procedures Leading to Adoption of Amendments**

The District of Columbia Housing Authority (DCHA) submitted a petition to the Office of Zoning on September 14, 2018 requesting the Commission to adopt the proposed text amendment to allow the continued temporary parking lot use for another five (5) years while DCHA finalizes its development project. (Exhibits [Ex.] 1-4.)

The District of Columbia Office of Planning (OP) submitted a setdown report dated November 9, 2018, recommending the Commission setdown the text amendment petition. (Ex. 11.)

At its December 17, 2018 public meeting, the Commission accepted the petition and voted to set down the text.

DCHA submitted a revised petition on November 15, 2018, removing one proposed revision regarding the specific squares covered by the proposed text amendment. (Ex. 12-14.)

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<sup>1</sup> For Office of Zoning tracking purposes only, this Notice of Final Rulemaking shall also be known as Z.C. Order No. 07-08C.

OP submitted a hearing report dated April 5, 2019, recommending the Commission approve the text amendment petition. (Ex. 29.)

ANC 6D submitted a report dated December 11, 2018 in support of the proposed amendment as necessary to ensure the anticipated development project proceeds to completion. (Ex. 21.)

A public hearing was scheduled for and held on April 22, 2019. At the hearing, Stephen Cochran represented OP in recommending approval of the text amendments. The other witnesses were representatives of DCHA. At the close of the hearing, upon the motion of Commissioner Shapiro, as seconded by Vice Chair Miller, the Zoning Commission took **PROPOSED ACTION** to authorize publication of a notice of proposed rulemaking 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).

A Notice of Proposed Rulemaking for this case was published in the *D.C. Register* on May 3, 2019, at 66 DCR 5709. No comments were received.

The National Capital Planning Commission (NCPC), through a delegated action dated May 28, 2019, found that the proposed text amendment was exempt from NCPC review under exception 12 of Chapter 8 of NCPC's submission guidelines because the proposed amendment is consistent with the Height Act, would not cause adverse impacts on federal property or other federal interest, and would apply outside the boundary of the L'Enfant City. (Ex. 34.)

The Commission must give "great weight" to the issues and concerns raised in the written report of the ANC(s) affected by the Commission's action. (§ 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.) and Subtitle Z § 101.8.) To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. The District of Columbia Court of Appeals has interpreted the phrase "issues and concerns" to "encompass only legally relevant issues and concerns." (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).")

This text amendment would affect Squares 767, 768, and 882, which are all in ANC 6D. Square 882 is also directly across 7<sup>th</sup> Street, S.E. from ANC 6B, which is therefore also deemed to be an "affected ANC" pursuant to Subtitle Z § 101.8. DCHA served the petition on both ANC 6D and 6B, and the Office of Zoning provided notice to both ANCs 6D and 6B of their opportunity to participate. ANC 6B did not submit any report to the record, while ANC 6D's written report supported the proposed text amendment. The Commission found ANC 6D's advice to support the text amendment persuasive.

At its public meeting on June 10, 2019, upon the motion of Vice Chair Miller, as seconded by Commissioner Turnbull, the Zoning Commission took **FINAL ACTION** to adopt the amendments as proposed 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).

The following amendments to the text of Title 11 DCMR (Zoning Regulations of 2016) are adopted.


**Section 718, TEMPORARY SURFACE PARKING LOTS FOR BALLPARK, of Chapter 7, VEHICLE PARKING, of Subtitle C, GENERAL RULES, is amended as follows:**


- 718.1 A temporary surface parking lot for the Ballpark shall be permitted on Squares 603, 605, 657, 658, 660, 661, 662, 662E, 664, 664E, 665, 700, 701, 707, 708, 708E, 708S, 744S, and 882; Square 658, Lot 7; Square 767, Lots 44-47; Square 768, Lots 19-22; and Square 769, Lots 18-21 (“the subject squares”), when permitted by the regulations of the relevant land use subtitle, and subject to the provisions of this section.
- 718.2 ...<sup>2</sup>
- 718.3 Any certificate of occupancy issued pursuant to this subsection shall expire no later than April 1, 2018, except that, with respect to Square 767, Lots 44-47; Square 768, Lots 19-22; and Square 882, Lot 77, any certificate of occupancy issued pursuant to this subsection shall expire no later than April 1, 2023.
- 718.4 ...
- 718.7 If and when valid building permits issued pursuant to this section authorize an aggregate of three thousand seven hundred seventy-five (3,775) or more parking spaces, the construction and use of additional temporary spaces on any of the subject squares shall require special exception approval of the Board of Zoning Adjustment pursuant to Subtitle X, and in accordance with Subtitle §§ 718.8 through 718.10 and the following provisions:
- (a) Any certificate of occupancy issued pursuant to this subsection shall expire no later than April 1, 2018, except that, with respect to Square 767, Lots 44-47; Square 768, Lots 19-22; and Square 882, Lot 77, any certificate of occupancy issued pursuant to this subsection shall expire no later than April 1, 2023.
- (b) ...

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<sup>2</sup> The uses of this and other ellipses indicate that other provisions exist in the subsection being amended and that the omission of the provisions does not signify an intent to repeal.

The text amendments shall become effective upon publication of this notice in the *D.C. Register*, that is on June 28, 2019.

  
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**ANTHONY J. HOOD**  
**CHAIRMAN**  
**ZONING COMMISSION**

  
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**SARA A. BARDIN**  
**DIRECTOR**  
**OFFICE OF ZONING**