

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



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

**AND**

**Z.C. ORDER NO. 08-06P**

**Z.C. Case No. 08-06P**

**(Text Amendment – 11 DCMR)**

**(Minor Modification to Z.C. Order 08-06A to Clarify Language, Make Language Consistent Within Existing Text and Between Subtitles and Chapters, and Correct Typographical Errors and Number Citations)**

**September 17, 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 its adoption of amendments to Subtitle C (General Rules), Subtitle J (Production, Distribution, and Repair (PDR) Zones), Subtitle K (Special Purpose Zones), Subtitle U (Use Permissions), Subtitle X (General Procedures) and Subtitle Y (Board of Zoning Adjustment Rules of Practice and Procedure) of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR) to make minor modifications to amendments made by Z.C. Order No. 08-06A (Order). The Order, which took the form of a Notice of Final Rulemaking, adopted comprehensive amendments to the Zoning Regulations that became effective on September 6, 2016.

Generally, the minor modifications clarify language, make language consistent within existing text and between subtitles and chapters, correct spelling and typographical errors, and correct number citations to make references consistent throughout the regulations. The only minor modification of a more substantive nature is the clarification language for Subtitle X § 303.2. The current text of that provision could be read as permitting the aggregation of floor are ratio (FAR) within a PUD site only if multiple zones were included. The new language aligns with the corresponding provision in the Zoning Regulations of 1958, which allowed FAR to be aggregated across a PUD site, but indicated how to compute the FAR if more than was zone was included.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on August 3, 2018, at 65 DCR 008045. In response the Commission received no comments.

The Commission therefore took final action at a public meeting on September 17, 2018 to adopt the amendments as proposed.

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 7, VEHICLE PARKING, of Subtitle C, GENERAL RULES, is amended as follows:**

**Subparagraph (b)(1) of § 710.2 of § 710, LOCATION RESTRICTIONS, is amended as follows:**

710.2 Vehicle parking spaces shall be located:

...<sup>1</sup>

(b) On an open area of the lot, except:

(1) Between a building restriction and a front lot line;

...

**Chapter 4, SPECIAL EXCEPTION, of Subtitle J, PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, is amended as follows:**

**Subsection 400.1 of § 400, GENERAL PROVISIONS, is amended as follows:**

400.1 Exceptions to the development standards of this subtitle shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9.

**Subtitle K, SPECIAL PURPOSE ZONES, is amended as follows:**

**Chapter 3, UNION STATION NORTH ZONE-USN, is amended as follows:**

**Subsection 305.2 of § 305, HEIGHT (USN), is amended as follows:**

305.2 The measurement of building height shall be taken from the elevation of the sidewalk on H Street at the middle of the front of the building, to the highest point of the roof or parapet rather than from grade as would otherwise be required by Subtitle B, Chapter 3.

**Chapter 5, CAPITOL GATEWAY ZONES-CG -1 THROUGH CG-7, is amended as follows:**

**Subsection 505.10 of § 505, DEVELOPMENT STANDARDS (CG-5), is amended as follows:**

505.10 In the case of an alteration affecting the amount of light and ventilation required in an existing building in an R, RF, or RA zone by other municipal law or regulation, no legally required window shall be permitted to open onto a court that does not comply with the dimensions given in Subtitle K § 505.9.

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<sup>1</sup> The use 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

**Paragraph (c) of § 509.1 of § 509, USE REQUIREMENTS FOR DESIGNATED STREETS (CG), is amended as follows:**

509.1 Preferred use requirements shall apply only to the following designated streets:

...

(a) First Street, S.E.

**Paragraph (b) of § 510.1 of § 510, DESIGN REQUIREMENTS FOR DESIGNATED STREETS (CG), is amended as follows:**

510.1 The following design requirements shall apply to the portion of a building or structure with frontage on designated streets as noted:

...

(b) South Capitol Street:

(1) Each new building or structure located on South Capitol Street shall be set back for its entire height and frontage not less than fifteen feet (15 ft.), with the exception of a:

(A) Buildings within Square 651; and

(B) Replacement of an existing row dwelling; or

(C) Vertical addition to an existing row dwelling, not extending out into the South Capitol Street right-of-way and not exceeding fifty percent (50%) of the gross floor area of the original row dwelling;

(2) A minimum of sixty percent (60%) of the street-wall shall be constructed on the setback line, with the exception of:

(A) Buildings within Square 651 where a minimum of sixty percent (60%) of the street-wall shall be constructed to the South Capitol Street property line; and

...

**Paragraph (d) of § 512.3 of § 512, ZONING COMMISSION REVIEW OF BUILDINGS, STRUCTURES, AND USES (CG), is amended as follows:**

512.3 In addition to proving that the proposed use, building, or structure meets the standards set forth in Subtitle X and the relevant provisions of this chapter, an applicant requesting approval under this section shall prove that the proposed

building or structure, including the sitting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will:

...

(b) Help achieve the objectives of the Capitol Gateway defined in Subtitle K § 500.1,

...

**Subtitle U, USE PERMISSIONS, is amended as follows:**

**Chapter 2, USE PERMISSIONS RESIDENTIAL HOUSE (R) ZONES, is amended as follows:**

**Subsection 251.6 of § 251, HOME OCCUPATION USES (R), is amended as follows:**

251.6 A home occupation that is neither permitted nor prohibited in this chapter may be permitted as a special exception by the Board of Zoning Adjustment under Subtitle X, subject to the following conditions:

...

**Chapter 3, USE PERMISSIONS RESIDENTIAL FLATS (RF) ZONES, is amended as follows:**

**Subsection 320.2 of § 320, SPECIAL EXCEPTION USES (RF), is amended as follows:**

320.2 Conversion of an existing residential building existing on the lot prior to May 12, 1958, to an apartment house shall be permitted as a special exception in an RF-1, RF-2, or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the following conditions:

...

**Chapter 7, USE PERMISSIONS MIXED-USE UPTOWN ARTS (ARTS) AND DOWNTOWN (D) ZONES, is amended as follows:**

**Subsection 700.2 of § 700, MATTER-OF-RIGHT USES (ARTS AND D), is amended as follows:**

700.2 In the ARTS-1 and ARTS-2 zones, the arts uses of this chapter shall be permitted as a matter of right in addition to the MU-Use Group E standards of Subtitle U, Chapter 5, subject to the limitations and conditions of this chapter.

**Subtitle X, GENERAL PROCEDURES, is amended as follows:**

**Chapter 1, CAMPUS PLANS, SCHOOL PLANS, AND MEDICAL CAMPUS PLANS, is amended as follows:**

**Subsection 101.1 of § 101, CAMPUS PLANS, is amended as follows:**

101.1 Education use by a college or university shall be permitted as a special exception subject to review and approval by the Zoning Commission under Subtitle X, Chapter 9 after its determination that the use meets the applicable standards and conditions of this chapter.

**Chapter 3, PLANNED UNIT DEVELOPMENTS, GENERAL PROCEDURES, is amended as follows:**

**Subsection 303.2 of § 303, PLANNED UNIT DEVELOPMENT FLEXIBILITY, is amended as follows:**

303.2 The FAR of all buildings shall not exceed the aggregate of the FARs as permitted in the zone or zones included within the PUD boundary, as that may be increased by X § 303.3.

**Paragraph (i) of § 305.5 of § 305, PLANNED UNIT DEVELOPMENT PUBLIC BENEFITS, is amended as follows:**

305.5 Public benefits of the proposed PUD may be exhibited and documented in any of the following or additional categories:

...

- (i) Social services and facilities for the duration of the PUD, including, but not limited to, space dedicated for a day care or elderly care facility. The day care must be available to the general public and open during normal business hours at least five (5) days each week and fifty (50) weeks each calendar year. The space for each child shall be based on the requirement outlined in the Child Development Facilities Regulations;

...

**Chapter 6, DESIGN REVIEW, of Subtitle X, GENERAL PROCEDURES, is amended as follows:**

**Subsections 601.1 and 601.2 of § 601, APPLICABILITY, are amended as follows:**

601.1 Except for Subtitle I, this chapter applies to any instance when the Zoning Regulations require Zoning Commission review of any building, structure, or use other than a campus plan. Such a review shall hereinafter be referred to as a “Non-Voluntary Design Review.”

601.2 As to all zones, this chapter also applies when a property owner voluntarily seeks design review development, which shall hereinafter be referred to as a “Voluntary Design Review.”

**Subsection 604.1 of § 604, DESIGN REVIEW STANDARDS, is amended as follows:**

604.1 The Zoning Commission will evaluate and approve or disapprove a design review application subject to this chapter according to the standards of this section and for Non-Voluntary Design Reviews subject to this chapter according to the standards stated in the provisions that require Zoning Commission review.

**Chapter 10, VARIANCES, of Subtitle X, GENERAL PROCEDURES, is amended as follows:**

**Paragraph (f) of § 1001.3 of § 1001, VARIANCE TYPES, is amended as follows:**

1001.3 Examples of area variances are requests to deviate from:

...

- (f) Preconditions to the establishment of a matter-of-right use including, but not limited to, the minimum land area requirement of Subtitle U § 301.2(c) applicable to the conversion of a building to an apartment house as permitted by Subtitle U § 301.2; provided, that the waiver would not cause the proposed use to meet the definition of a more intense use.

**Section 301, CHANCERY APPLICATION REQUIREMENTS of Chapter 3, APPLICATION REQUIREMENTS, of Subtitle Y, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, is amended as follows:**

**Paragraph (c) of § 301.6 is amended as follows:**

301.6 If the application is for a location in a low- to medium-density residence zone, a written statement by the applicant attesting to:

...

- (c) A copy of each certificate of occupancy referenced in Subtitle Y § 301.6(b).

**Subsection 301.10 is amended as follows:**

301.10 Except as provided in Subtitle Y § 301.13, all statements, information, briefs, reports (including reports and statements of experts and other witnesses), plans, photographs, or other exhibits that the applicant may wish to offer in evidence at the public hearing shall be filed at the time of filing the application.


On June 25, 2018, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission **AUTHORIZED IMMEDIATE PUBLICATION OF THE PROPOSED RULEMAKING** for the petition at by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May (by absentee ballot), and Michael G. Turnbull to approve).


On September 17, 2018, upon the motion of Chairman Hood, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the petition at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Michael G. Turnbull, and Peter G. May to approve; Peter A. Shapiro, not present, not voting).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *DC Register*; that is on October 26, 2018.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

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

  
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ANTHONY J. HOOD  
CHAIRMAN  
ZONING COMMISSION

  
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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*.