

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF PUBLIC HEARING**

**TIME AND PLACE:**            **Thursday, November 8, 2007, 6:30 p.m. (1<sup>ST</sup> Case)**  
**Office of Zoning Hearing Room**  
**441 4<sup>th</sup> Street, N.W., Suite 220-South**  
**Washington, D.C. 20001**

**FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:**

**Case No. 07-24 - Text Amendment – DCMR Title 11 - Text Amendment to Eliminate the Certificate of Occupancy Requirement for CBRFs Housing Six or Less Persons with Disabilities**

**THIS CASE IS OF INTEREST ALL ANCS**

On September 6, 2007, the Office of Zoning received a petition from the District of Columbia Office of Planning (“OP a text amendment to the zoning regulations to eliminate the requirement that a certificate of occupancy (“C of O”) be obtained for community based residential facilities (“CBRF”) intended to house six or fewer unrelated persons with disabilities.

At present, the Zoning Regulations require C of Os for all uses except one-family dwellings. A “one-family dwelling” is defined as “a dwelling used exclusively as a residence for one (1) family”, 11 DCMR 199.1. A family is defined to include six or fewer unrelated persons. *Id.* Thus, six unrelated persons (whether disabled or not) constitute a “family” and may occupy a dwelling without first obtaining a C of O. However, if such individuals require one or more persons to live with them to provide “treatment, rehabilitation, assistance, or supervision in their daily living”, their dwelling would meet the definition of a community based residential facility and a C of O must be obtained. Thus, whether or not six unrelated persons must obtain a C of O for a dwelling depends solely upon whether the group needs an additional resident to provide the assistance needed for them to live in a non-institutional setting.

At its September 10, 2007 meeting, the Zoning Commission adopted the rule on an emergency basis<sup>1</sup> and set it down for a hearing at a later date. The Commission also waived § 3013.1 of its rules of procedure, which would have required a twenty-day waiting period before publication.

The proposed text amendment is as shown below.

Title 11 of the District of Columbia Municipal Regulations, ZONING, Chapter 32, ADMINISTRATION AND ENFORCEMENT, § 3203.1, is amended to read as follows (new language is shown in bolded text, deleted language is shown in strikethrough):

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<sup>1</sup> A Notice of Proposed and Emergency Rulemaking appears elsewhere in this volume of the *D.C. Register*

3203.1 Except as provided in §§ 3203.7, 3203.8, 3203.9, **or the second sentence of this subsection**, no person shall use any structure, land, or part of any structure or land for any purpose ~~other than a one-family dwelling~~ until a certificate of occupancy has been issued to that person stating that the use complies with the provisions of this title and the D.C. Construction Code, Title 12 DCMR. **The requirements of this subsection shall not apply to:**

- (a) **A one-family dwelling; or**
- (b) **A community based residential facility to be occupied by six or fewer persons with a handicap plus resident supervisors, as permitted by right in residence and commercial districts pursuant 11 DCMR §§ 201.1 (o) and 330.5 (i).**

Proposed amendments to the Zoning Regulations and Map of the District of Columbia are authorized pursuant to the Zoning Act of June 20, 1938, (52 Stat. 797), an amended, D.C. Official Code § 6-641 *et seq.* (2001).

The public hearing on this case will be conducted as a rulemaking in accordance with the provisions of § 3021 of the District of Columbia Municipal Regulations, Title 11, Zoning. Pursuant to that section, the Commission will impose time limits on testimony presented to it at the public hearing.

All individuals, organizations, or associations wishing to testify in this case should file in writing their intention to testify. Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusion in the record.

Information should be forwarded to the Secretary of the Zoning Commission, Office of Zoning, Suite 210-S, 441 4<sup>th</sup> Street, N.W., Washington, D.C. 20001. Please include the number of this particular case and your daytime phone number. **FOR RURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

**CAROL J. MITTEN, ANTHONY J. HOOD, GREGORY JEFFRIES, JOHN G. PARSONS, AND MICHAEL G. TURNBULL, ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY JERRILY R. KRESS, FAIA, DIRECTOR, AND BY SHARON SCHELLING, SECRETARY TO THE ZONING COMMISSION.**