

DISTRICT OF COLUMBIA  
DEPARTMENT OF MOTOR VEHICLESNOTICE OF FINAL RULEMAKING

The Director of the Department of Motor Vehicles, pursuant to the authority set forth in Section 1825 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code § 50-904); §§ 6, 7, and 10a of the District of Columbia Traffic Act of 1925 ("Act"), effective March 3, 1925 (43 Stat. 1121; D.C. Official Code §§ 50-2201.03, 1401.01, and 2201.05a); § 2 of Title IV of the District of Columbia Revenue Act of 1937, approved September 8, 1950 (64 Stat. 792; D.C. Official Code § 50-1501.02); § 107 of the Traffic Adjudication Act of 1978, effective September 12, 1978 (D.C. Law 2-104; D.C. Official Code § 50-2301.07); and Mayor's Order 03-58, effective April 21, 2003, hereby gives notice that final rulemaking was taken to amend Chapters 1, 3, 4, 5, 30 and 99 of Title 18 of the District of Columbia Municipal Regulations (DCMR) (Vehicles and Traffic). This amendment allows the Director discretion to extend the validity of any special identification card, renumbers the section addressing the periods of suspension and revocation to correct a codification error, clarifies the benefit of participating in the ignition interlock program, eliminates outdated conditions for reinstatement of a revoked license or driving privileges, accepts a waiver from a state certified drug and/or alcohol counseling program exempting an individual that does not need to complete a state-certified program, authorizes the rescission of a suspension or revocation proceeding commenced under the Director's discretionary authority if a respondent has been approved to participate in a court-approved deferral program, extends the reinstatement of driving privileges to an out-of-state driver who successfully completes a court approved diversion program, allows a trustee in bankruptcy to obtain a duplicate certificate of title, codifies an existing law allowing certain out-of-state, company-owned motor vehicles to be registered by DC residents, creates a new procedure for dealers to use title reassignment forms, and changes the maximum amount of time a violation detected by an automated traffic enforcement device may be mailed to the vehicle owner and the relevant information transmitted to the Director. No public comments were received and no changes have been made to the text of the proposed rules, as published in the D.C. Register on December 22, 2006, at 53 DCR 10125. These final rules will be effective upon publication of this notice in the *D.C. Register*.

Title 18, DCMR, is amended as follows:

Chapter 1, ISSUANCE OF DRIVER'S LICENSE, Section 112, SPECIAL IDENTIFICATION CARDS, is amended as follows:

Subsection 112.7 is amended by striking the phrase "expire every" and inserting the phrase "be valid for" in its place.

A new subsection 112.14 is added to read as follows:

112.14 The Director is further authorized to extend the validity of any special identification card without additional fee for such additional period or periods as the Director, in his or her discretion, may determine; Provided, that such additional period(s) shall not exceed five (5) years in the aggregate.

Chapter 3, CANCELLATION, SUSPENSION, OR REVOCATION OF LICENSES, Section 306, PERIOD OF SUSPENSION OR REVOCATION, is amended to read as follows:

- 306.1 The suspension period of any resident's or non-resident's driver's license or privilege to operate a motor vehicle in the District shall be from two (2) to ninety (90) days, at the discretion of the Director, based upon the seriousness of the case; except that the period of a license suspension due to point accumulation pursuant to § 303.3 shall be ninety (90) days.
- 306.2 ~~The period of suspension for a person whose license or privilege has been suspended and fines and penalties imposed for failure to appear at a hearing for the administrative adjudication of a traffic infraction or for failure to pay a civil fine and any penalties or attend traffic school pursuant to the District of Columbia Traffic Adjudication Act of 1978, DC Official Code § 50-2301.01 et seq.), (the "Act") shall terminate only upon the payment of such fines and penalties, or the successful completion of traffic school, or both.~~
- 306.3 At the end of a period of suspension a license surrendered to the Director shall be returned to the licensee, subject to the payment of a reinstatement fee of ninety-eight dollars (\$98).
- 306.4 The minimum revocation period following a first offense of any resident's or non-resident's driver's license or privilege to operate a motor vehicle in the District for which revocation is made mandatory by law or under the ~~discretionary authority of the Department shall be for six (6) months.~~
- 306.5 The period of revocation shall be one (1) year following a second offense, and two (2) years following a third or subsequent offense(s), except as provided in §§ 306.6 & 306.7.
- 306.6 A person convicted of a second offense pursuant to sections 10(b)(1) and (b)(2) of the Act (D.C. Official Code §§ 50-2201.05(b)(1) and (b)(2)) within a 15-year period shall have their license revoked for two (2) years, unless the person is enrolled in the ignition interlock program established in § 311 of this Title.
- 306.7 A person convicted of a third or subsequent offense pursuant to sections 10(b)(1) and (b)(2) of the Act (D.C. Official Code §§ 50-2201.05(b)(1) and (b)(2)) within a 15-year period shall have their license revoked for three (3) years, unless the person is enrolled in the ignition interlock program established in § 311 of this Title.

- 306.8 Each person whose license has been revoked shall be eligible to apply for restoration of privileges at the expiration of the period for which the privileges have been revoked.
- 306.9 The Director shall not issue a new license to a resident or restore the operating privilege of any nonresident whose license has been revoked unless and until he or she is satisfied, after investigation of the driving ability of that person, that it will be safe to grant the privilege of driving a motor vehicle.
- 306.10 An applicant for reinstatement or a new driver's license after a suspension or revocation pursuant to §§ 301 or 302 for an alcohol-related offense may be required to pass a breathalyzer test, at the discretion of the Director.
- 306.11 An applicant for a new driver's license after a revocation pursuant to §§ 301 or 302 for an alcohol or drug related violation must present written proof from a state certified drug and/or alcohol counseling program certifying:
- (a) The applicant has successfully completed a state-certified drug and/or alcohol-counseling program after the date of revocation; or
  - (b) The applicant applied to participate in a state certified drug and/or alcohol-counseling program after the date of revocation, but that the application was denied because the program determined that such counseling was unnecessary.
- 306.12 Any person whose driving privileges were revoked or suspended pursuant to § 13 of the District of Columbia Traffic Act of 1925, effective March 3, 1925 (43 Stat. 1125; D.C. Official Code § 50-1403.01), and who was approved for a diversion program by the Superior Court of the District of Columbia, may apply to the Director for rescission of the revocation or suspension action.
- 306.13 If a revocation or suspension was rescinded pursuant to § 306.12, and the driver does not successfully complete the diversion program, he or she will be subject to a mandatory revocation upon a court conviction for the same underlying offense, pursuant to § 301 of this title.
- 306.14 If a driver's license is suspended or revoked pursuant to § 302 of this title and is subsequently revoked again based upon a court conviction for the same underlying offense, the Director may allow the suspension and revocation periods to run concurrently or may credit time already spent in suspension or revocation status towards the duration of the revocation based on a court conviction.

Chapter 4, MOTOR VEHICLE TITLE AND REGISTRATION, is amended as follows:

Section 401, APPLICATION FOR A CERTIFICATE OF TITLE, is amended by adding a new subsection 401.18 to read as follows:

- 401.18 If the application is submitted by a purchaser of a vehicle sold by a trustee in bankruptcy, the application shall be accompanied by a duly authenticated bill of sale from the trustee in bankruptcy and a certificate of title signed by the current owner or assigned by the trustee in bankruptcy in accordance with § 406.11.

Section 406.1, DUPLICATE CERTIFICATES OF TITLES, is amended as follows:

406.1 The Director is authorized to issue a duplicate certificate of title if:

- (a) A certificate is lost, stolen, destroyed, or illegally detained from the owner;
- (b) The face or back of a certificate has been altered, erased, or mutilated by a person other than the Director;
- (c) A certificate cannot be officially executed; or
- (d) A vehicle is subject to a bankruptcy proceeding and the trustee in bankruptcy requires a duplicate certificate to sell the asset; provided the prerequisites of §§ 406.9 through 406.11 are met.

Three new subsections 406.9 through 406.11 are added to read as follows:

406.9 In order to apply for a duplicate certificate of title, a trustee in bankruptcy must provide a court order identifying the owner of the vehicle as the subject of a bankruptcy proceeding and naming the trustee in bankruptcy.

406.10 The Director shall not issue a duplicate certificate of title to a trustee in bankruptcy if there are any recorded liens on the vehicle.

406.11 In order to assign a duplicate certificate of title, the trustee in bankruptcy shall sign the back of the certificate adding the word "Trustee" after the signature, and provide the purchaser with a copy of the court order described in § 406.9.

Section 412, REFUSAL OF REGISTRATION, subsection 412.1, paragraph (m) is amended by adding after the phrase "District of Columbia", the phrase ", unless the owner is an out-of-state company and the vehicle to be used by a District resident".

## DISTRICT OF COLUMBIA REGISTER

Chapter 5, MOTOR VEHICLE DEALERS, is amended by adding a new section 509 to read as follows:

- 509 TITLE REASSIGNMENT FORMS
- 509.1 A new or used car dealer, which is registered under this chapter and in good standing, may request the Director to provide it with title reassignment forms.
- 509.2 Any title reassignment forms issued shall be serially numbered and of a quantity to be determined by the Director. The Director may provide a dealer with additional reassignment sheets at the Director's discretion.
- 509.3 A dealer may not use title reassignment forms issued to another dealer.
- 509.4 The dealer shall complete the first reassignment space of each title reassignment form.
- 
- 509.5 Except as provided in § 509.5, a dealer may not issue a title reassignment form unless all the reassignment spaces on the back of the certificate of title or certificate of origin and any accompanying reassignment sheets are filled in.
- 509.6 A dealer shall use a title reassignment form if the certificate of title or certificate of origin were issued in another jurisdiction that does not permit an out-of-state dealer to reassign the title.
- 509.7 A dealer may not complete a reassignment space on the back of the certificate of title or certificate of origin when a title reassignment form is attached.
- 509.8 The dealer shall verify the vehicle's identification number, year, make, model, the state in which the vehicle was last titled, and the title number and record that information on the title reassignment form.
- 
- 509.9 The dealer shall verify and completely fill the reassignment block with the buyer's name and address, the seller's name, the date of reassignment, the selling price, the odometer reading, and any applicable lien information.
- 509.10 The dealer shall provide the buyer with the original title reassignment form.
- 509.11 The dealer shall retain a copy of the title reassignment form for no less than two (2) years at the dealer's principal place of business.
- 509.12 Within twenty-four (24) hours after the reassignment of ownership, the dealer shall transmit electronically a digital certificate of ownership, including the following information:

- (a) The buyer's name, address, and driver's license, learner's permit, or identification card number;
  - (b) The state where the buyer's license, permit or identification card was issued;
  - (c) The vehicle's identification number; odometer reading; and purchase price; and
  - (d) The date of sale or reassignment.
- 509.13 If a buyer fails to take possession of the vehicle or if an error is made during the reassignment process, the dealer shall write VOID across the applicable reassignment space, include a notarized letter stating the correction, and use the next available reassignment space. The notarized letter shall be part of the original reassignment form.
- 
- 509.14 If a title reassignment form is either lost or stolen, the dealer must provide a copy of the full police report or six-digit report number to the Director within 5 business days of the theft or loss.
- 509.15 The Director may issue no more than two replacement title reassignment forms to the same dealer within a six-month period.
- 509.16 If a title reassignment form is damaged, the dealer shall return all parts of the reassignment form to the Director within 5 business days.
- 509.17 The dealer shall provide to the Director the dealer copy of the reassignment form upon the verbal or written request by the Director.

~~Chapter 30, ADJUDICATION AND ENFORCEMENT, section 3003, ISSUANCE OF MOVING AND NON-MOVING VIOLATIONS, subsection 3003.5 is amended by striking the phrase "fifteen (15)" and inserting the phrase "twenty-five (25)" in its place.~~

Chapter 99, DEFINITIONS, Section 9901, DEFINITIONS, is amended by inserting the following new definition in alphabetical order:

Trustee in Bankruptcy or Bankruptcy Trustee – a person authorized by a federal bankruptcy court under An Act to Establish a Uniform Law on the Subject of Bankruptcies, approved November 6, 1978 (Pub. L. 95-598, 11 USC 704) to take legal title to the property of the debtor and reduce the property to money for equitable distribution among the creditors.

## DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF FINAL RULEMAKING

The District of Columbia Taxicab Commission ("Commission"), by its Panel on Rates and Rules, pursuant to the authority set forth under sections 8(b)(1)(J) and 9(b) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1)(J), and 50-308(b)), hereby gives notice of its final rulemaking action taken February 8, 2006, to amend § 104.1 of Chapter 1 of Title 31 of the District of Columbia Municipal Regulations ("DCMR"). The notice of proposed rulemaking was published in the *DC Register* on December 2, 2005, at 52 DCR 10585. The final rulemaking will amend the number of Commissioners required to be present to hold meetings concerning matters that do not require a vote from six (6) to a majority of Commissioners in office. A public hearing was held on January 18, 2006, and comments were received by the Commission and taken into consideration. This rule will become effective on the date this notice is published in the DC Register.

Title 31 DCMR, Section 104, QUORUM is amended to read as follows:

**104****QUORUM****104.1**

A majority of the Commissioners in office shall constitute a quorum for the transaction of business at all meetings of the Commission. A meeting may commence for the consideration of matters not requiring a vote when a majority of Commissioners in office are present.

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

**and**

**Z.C. ORDER NO. 05-10**

**Z.C. Case No. 05-10**

**(Text Amendment - 11 DCMR)**

**(Capitol Gateway (CG) Overlay District – Chapter 16)**

**January 8, 2007**

The Zoning Commission for the District of Columbia (the "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); having held a public hearing as required by § 3 of the Act (D.C. Official Code § 6-641.03); and having referred the proposed amendments to the National Capital Planning Commission for a 30-day period of review pursuant to Section 492 of the District of Columbia Charter; hereby gives notice of the adoption of the following amendments to Chapters 16 and 30 of the Zoning Regulations (Title 11 DCMR). The amendments place limits on density transferred through combined deployments, extend the Zoning Commission review and approval process and design guidelines to additional properties within the boundaries of the Capitol Gateway ("CG") Overlay, and establish preferred retail and entertainment use requirements and regulations along First and Half Streets S.E. within the area. In addition, the rules impose, within the Overlay, a 15-foot setback and a 1:1 upper story step-back above a height of 110 feet for buildings fronting South Capitol Street; an upper stories step-back for building fronting Half Street S.E.; and a 1:1 upper story step-back above a height of 110 feet for buildings fronting Potomac Avenue S.E. and S.W. ~~The rules also provide for referral to the National Capital Planning Commission of all applications for the review of buildings and uses on lots that abut South Capitol Street. A technical amendment was made to § 1603 to substitute the date "January 7, 2005" in place of the references to "the effective date of this section."~~

A Notice of Proposed Rulemaking was published in the *D.C. Register* on November 10, 2006, at 53 *DCR* 9234. The Commission took final action to adopt the amendments at a public meeting on January 8, 2007. No substantive changes were made to the text as proposed. This final rulemaking is effective upon publication in the *D.C. Register*.

**Set Down Proceedings**

The Office of Planning ("OP") initiated this rulemaking by filing a report with the Commission. The OP report requested text amendments to the Zoning Regulations to the CG District to establish a Commission review and approval process and design guidelines for certain properties; provide regulations pertaining to existing Combined Lot provisions; establish preferred use

Z.C. NOTICE OF FINAL RULEMAKING AND ORDER No. 05-10  
ZC CASE NO. 05-10  
PAGE 2

(retail and entertainment) requirements and regulations at certain locations; and provide for setbacks and upper story step-backs along specific streets within the area.

At its November 14, 2005 public meeting, OP requested that the Commission set down the case for a public hearing. The Commission requested clarification material from OP, which was received at a November 21, 2005 special public meeting. At its December 5, 2005 special public meeting, the Commission agreed to set down the case for a public hearing.

### Existing Regulations

On October 28, 2002, the Zoning Commission took Final Action to establish the CG Overlay District, covering portions of the Near Southeast and Southwest (Buzzard Point) areas (Z.C. Case No. 96-3/89-1). The map and text amendments became effective upon the publication of a notice of final rulemaking on January 7, 2005.<sup>1</sup> The CG Overlay is mapped to include an area roughly bounded by M Street to the north, the Anacostia River to the south, Fort McNair to the west, and the Southeast Federal Center site to the east. The CG Overlay:

- Establishes a set of objectives or purposes for the area;
- Allows additional density and height to accommodate bonus density for residential development;
- Permits combined lot development for the purposes of allocating residential and commercial uses within the District;
- Permits the transfer of some density within the area, from the CG/W-2 District to the CG/CR District (the CR District allows the transfer of density from one lot to another within a square, § 631.3);
- Requires the provision of ground floor retail and a 15-foot setback along M Street S.E.;
- Requires the provision of publicly accessible open space along the waterfront via a 75-foot building setback; and
- Establishes mandatory Commission review of projects fronting M Street S.E. and within the CG/W-2 District.

The CG Overlay was subsequently amended to regulate the construction and operation of a Major League baseball stadium within a portion of the overlay (Z.C. Order No. 05-08, November 4, 2005).

<sup>1</sup> Pursuant to 11 DCMR § 3202.5, the requirements and incentives of the overlay have actually been in place since the case was first set down.

Z.C. NOTICE OF FINAL RULEMAKING AND ORDER No. 05-10  
ZC CASE NO. 05-10  
PAGE 3

### Description of Text Amendment

The CG Gateway area is currently experiencing significant development interest. To ensure that the overall goals and objectives for the area are maintained and in accordance with more recent planning initiatives, this rulemaking would provide for amendments to a number of specific CG Overlay regulations. The proposed amendments include:

- Additional objective or purpose statements, related to the form and character of South Capitol Street, Half Street S.E., and First Street S.E. (§ 1600.2)
- Amendments to existing combined lot development regulations to regulate the transfer of density from one parcel to another within the CG Overlay. (§ 1602)
- Addition of new regulations for specific streets or geographical areas within the CG Overlay (§§ 1603 through 1609), including:
  - a new provision to prevent access to parking or loading facing the waterfront within the CG/W-2 District;
  - a minimum floor to ceiling height for required retail space along M Street S.E.;
  - a setback requirement of 15 feet, a 1:1 upper story step-back above 110', and a prohibition on new driveways to loading or parking along South Capitol Street;
  - a requirement for and regulation of preferred use retail on First Street S.E.;
  - a requirement for an upper story step-back, new requirements for preferred use retail, and a prohibition on new driveways to loading or parking along Half Street S.E.;
  - a new 1:1 upper story step-back along Potomac Avenue S.E. and S.W.; and
  - a prohibition on new driveways to loading or parking from P Street S.W.
- Mandatory Zoning Commission Review (§ 1610) for any lot that:
  - abuts South Capitol Street;
  - is located within Squares 700 or 701, north of the Ballpark site;
  - is within Squares 601, 656, and 657, adjacent to existing lower density residential development to the north; or
  - is the recipient of density through the combined lot provisions of § 1602.

### Relationship to the Comprehensive Plan

The amendment would not be inconsistent with the Comprehensive Plan Title 10 DCMR. This amendment would particularly further the following major themes as outlined in Chapter 1 of the Comprehensive Plan:

- (a) *Stabilizing and improving the District's neighborhoods*
- (b) *Increasing the quantity and quality of employment opportunities in the District*
- (e) *Respecting and improving the physical character of the District*
- (f) *Preserving and ensuring community input*
- (g) *Preserving the historic character of the District*

Z.C. NOTICE OF FINAL RULEMAKING AND ORDER No. 05-10  
ZC CASE NO. 05-10  
PAGE 4

- (i) *Promoting enhanced public safety*
- (j) *Providing for diversity and overall social responsibilities*

The proposed amendments would also help to ensure that new development within the area furthers Comprehensive Plan goals and objectives within the Environmental Protection, Urban Design, and Ward 6 Chapters. For protecting the quality of the land areas, The Environmental Protection Element (Chapter 4) of the Comprehensive Plan recommends that new development, "*Ensure public access to waterfront areas and protect and enhance their aesthetic and recreational qualities.*" (§ 405.2(f)) For waterfront design areas, The Urban Design Element (Chapter 7) of the Comprehensive Plan, "*Require(s) that site planning in these areas establish, and be sensitive to, the close interrelationship between buildings, parks and open spaces, and the rivers.*" (§ 706.2(d)) Chapter 17, the Ward 6 Plan, includes objectives to "*encourage a range of commercial services and facilities for Ward 6 residents through appropriate development of commercial areas when needed and to upgrade commercial areas such as ... South Capitol from the Capitol to Buzzard's Point.*" (§ 1701.1(a)); "*Minimize conflicts between vehicular and pedestrian traffic.*" (§ 1714.1(c)); and "*encourage a high quality of architecture consistent with the styles and characteristics of buildings in Ward 6.*" (§ 1721.1(c)).

### **Public Hearing**

The Commission held a public hearing on this case on January 30, 2006.

At the public hearing, OP described the intent of the proposed text amendment, to better respond to the rapidly changing nature of the area and provide greater opportunity for input from the community. The Anacostia Waterfront Corporation ("AWC") testified in favor of the proposal, ~~but noted a need to further study proposed amendments related to the South Capitol Street setback; the step backs along Half Street S.E.; and the amount and nature of preferred use retail space.~~

Advisory Neighborhood Commission ("ANC") 6D testified in opposition to the proposal, following a vote by the ANC to reject a motion to support the proposal at its January 9, 2006 meeting. The ANC indicated a willingness to provide specific proposals for text amendments to address their concerns.

Representatives of area landowners noted concerns related to the proposed Combined Lot provisions, particularly in relation to the transfer of density from the Ballpark site to other development sites within the CG Overlay area. During this discussion, the Chairman recused herself from involvement in this case.

The Commission decided to leave the record open for the receipt of additional information and analysis for a period of 60 days. The Commission, at its April 20, 2006 public meeting, subsequently extended the deadline for receipt of additional information for a period of 30 days.

**DISTRICT OF COLUMBIA REGISTER**

Z.C. NOTICE OF FINAL RULEMAKING AND ORDER No. 05-10  
ZC CASE NO. 05-10  
PAGE 5

**Proposed Action**

The Zoning Commission took proposed action at a properly noticed special public meeting held on May 25, 2006. Prior to taking Proposed Action, the Commission noted the receipt of additional information from AWC and OP, a staff report from the National Capital Planning Commission ("NCPC"), and from representatives of certain landowners in the area. OP submissions dated April 10, 2006 and May 19, 2006 proposed additional changes to the text amendment, specifically to:

- eliminate the requirement within the CG/CR District for the provision of publicly accessible open space adjacent to the main entrances of buildings, in the amount of 10% of the total lot area requirement, where preferred use retail is required to be located – along portions of First Street, Half Street, and M Street S.E.;
- permit an additional 1.0 FAR of density to be transferred through the Combined Lot provisions, with Commission approval, to or within Squares 700 or 701; and
- provide for Commission special exception relief to the previously proposed Half Street S.E. step-back, to require a setback of 12 feet above a height of 80 feet.

The Commission also reopened the record for receipt of a supplemental report from the OP dated May 25, 2006, noting clarifications to the proposed Combined Lot provisions.

The Notice of Proposed Rulemaking was published in the *D.C. Register* on November 10, 2006 at 53 DCR 9234, for a 30-day notice and comment period.

The proposed rulemaking was referred to NCPC under the terms of § 492 of the District of Columbia Charter. By report dated June 29, 2006, NCPC recommended approval of the proposed text amendment and requested that the Commission further consider an expansion of the CG Overlay to include all of South Capitol Street, north of M Street to Virginia Avenue.

No other comments were received.

The Office of the Attorney General has determined that this rulemaking meets its standards of legal sufficiency.

**Final Action**

At its properly noticed January 8, 2007 public meeting, the Commission took final action to approve the proposed text amendments.

In response to NCPC's comment, the Commission will look to OP for guidance as to whether to expand the Overlay in the manner suggested.

Z.C. NOTICE OF FINAL RULEMAKING AND ORDER No. 05-10  
ZC CASE NO. 05-10  
PAGE 6

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, consistent with the purpose of the Zoning Regulations and the Zoning Act.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following amendments to Chapters 16 and 30 of the Zoning Regulations, Title 11 DCMR:

A. Chapter 16, CAPITOL GATEWAY OVERLAY DISTRICT, is amended as follows:

1. Section 1600, PREAMBLE, § 1600.2 is amended to add the following new purposes:

- (g) Provide for the establishment of South Capitol Street as a monumental civic boulevard;
- (h) Provide for the development of Half Street S.E. as an active pedestrian-oriented street with active ground floor uses and appropriate setbacks from the street facade to ensure adequate light and air, and a pedestrian scale; and
- (i) Provide for the development of First Street S.E. as an active pedestrian-oriented street with active ground floor uses, connecting M Street, the Metro Station, and existing residential neighborhoods to the Ballpark site and the Anacostia Waterfront.

2. Subsection 1602.1 is amended to read as follows:

~~1602.1 Two (2) or more lots within the Overlay District may be combined for the purpose of allocating residential and nonresidential uses regardless of the normal limitation on floor area by uses on each lot; provided, that the aggregate residential and nonresidential floor area shall not exceed the matter-of-right maximum height or density of the underlying zone district(s), except when bonus density is being constructed, subject to the following:~~

- (a) Within the CG/CR District, the residential and nonresidential floor area on each individual parcel shall not exceed a maximum floor area ratio of 8.0 on parcels for which a height of 110 feet is permitted or 8.5 on parcels for which a height of 130 feet is permitted by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452; D.C. Official Code §§ 6-601.01 to 6-601.09) as amended (the "Height Act"), including any bonus density;

Z.C. NOTICE OF FINAL RULEMAKING AND ORDER No. 05-10

ZC CASE NO. 05-10

PAGE 7

- (b) Within the CG/CR District, the amount of commercial density transferred from one parcel to another may not exceed the lesser of a density of 3.0 FAR or the amount of residential density being transferred;
- (c) Maximum permitted height shall be that permitted for any site receiving combined lot density within the CG/CR District, but only to the extent necessary to accommodate any additional density received from another parcel;
- (d) The combined lot provisions may not be used to transfer density to or from any property within the CG/C-3-C, CG/W-1, CG/W-2, or CG/W-3 Districts; and
- (e) In addition to the amount of density that may be transferred in accordance with § 1602.1(a), the Zoning Commission may, at its discretion, grant an additional transfer of density of 1.0 FAR maximum to or within Squares 700, 701, and 702, subject to the applicant addressing to the satisfaction of the Zoning Commission the objectives and guidelines of §§ 1601 and 1604-1607, as applicable.

3. Section 1603 is amended to read as follows:

1603 BUILDINGS, STRUCTURES, AND USES IN THE CG/W-2 DISTRICT

- 1603.1 The following provisions apply to new buildings, structures, or uses within the G/W-2 District.
- 1603.2 No private driveway to any parking or loading berth areas in or adjacent to a building or structure constructed after January 7, 2005 shall directly face the waterfront.
- 1603.3 All buildings or structures constructed after January 7, 2005 on a lot that faces or abuts the Anacostia River shall be set back by no less than seventy-five (75) feet from the bulkhead, unless the Zoning Commission finds that such setback creates an undue economic hardship for the owner of the lot and in no case less than fifty (50) feet from the bulkhead.
- 1603.4 In the CG/W-2 District, the Zoning Commission, at its discretion, may grant bonus density for residential development in a building or a combined lot development, using a guideline of 1.0 FAR in excess of the normally-allowed maximum of 4.0 FAR and an additional ten (10) feet in

Z.C. NOTICE OF FINAL RULEMAKING AND ORDER No. 05-10  
ZC CASE NO. 05-10  
PAGE 8

excess of the normally-allowed maximum height of sixty (60) feet; provided that:

- (a) The building or combined lot development shall include at least 2.0 FAR of residential development;
- (b) The Zoning Commission, at its discretion, may allow construction of such bonus density on the property zoned CG/W-2 or may allow only for the bonus density to be transferred off-site to a lot or lots zoned CG/CR; and
- (c) The provisions of §§ 1709.6 through 1709.12 and § 1709.14 shall govern the procedures for transferring bonus density off-site if permitted by the Zoning Commission.

1603.5 The Zoning Commission, at its discretion, may also provide for additional on-site or off-site bonus density to be earned for setbacks required under this section, based on the land area of the setback and the proposed features for public open space uses; provided, that 2.0 FAR based on the land area of the open space setback shall be used as a general guideline.

4. Section 1604 is amended to read as follows:

1604 BUILDINGS AND STRUCTURES ON M STREET, S.E.

- 1604.1 The following provisions apply to new buildings, structures, or uses with frontage on M Street S.E. within the CG Overlay.
- 1604.2 No driveway may be constructed or used from M Street to required parking spaces or loading berths in or adjacent to a new building.
- 1604.3 The streetwall of each new building shall be set back for its entire height and frontage along M Street not less than fifteen (15) feet measured from the face of the adjacent curb along M Street, S.E.
- 1604.4 Each new building shall devote not less than thirty-five percent (35%) of the gross floor area of the ground floor to retail, service, entertainment, or arts uses ("preferred uses") as permitted in §§ 701.1 through 701.5 and §§ 721.1 through 721.6 of this Title; provided, that the following uses shall not be permitted: automobile, laundry, drive-through accessory to any use, gasoline service stations, and office uses (other than those accessory to the administration, maintenance, or leasing of the building). Such preferred uses shall occupy 100% of the building's street frontage along M Street,

Z.C. NOTICE OF FINAL RULEMAKING AND ORDER No. 05-10  
ZC CASE NO. 05-10  
PAGE 9

except for space devoted to building entrances or required to be devoted to fire control.

1604.5 For good cause shown, the Commission may authorize interim occupancy of the preferred use space required by § 1604.4 by non-preferred uses for up to a five (5) year period; provided, that the ground floor space is suitably designed for future occupancy by the preferred uses.

1604.6 Not less than fifty percent (50%) of the surface area of the streetwall of any new building along M Street shall be devoted to display windows having clear or low-emissivity glass except for decorative accent, and to entrances to commercial uses of the building.

1604.7 The minimum floor-to-ceiling clear height for portions of the ground floor level devoted to preferred uses shall be fourteen (14) feet.

1604.8 A building that qualifies as a Capitol South Receiving Zone site under § 1709.18 and for which a building permit has been applied for prior to August 31, 2001, shall not be subject to the requirements of this section.

1604.9 Where preferred use retail space is required under this section and provided, the requirement of 11 DCMR § 633 to provide public space at ground level shall not apply.

5. The existing text of §§ 1605 and 1606 is redesignated as §§ 1611 and 1612.

6. New §§ 1605 through 1610 are added to read as follows:

1605 BUILDINGS, STRUCTURES, AND USES ON SOUTH CAPITOL STREET

1605.1 The following provisions apply to new buildings, structures, or uses with frontage on South Capitol Street within the CG Overlay.

1605.2 Each new building or structure located on South Capitol Street shall be set back for its entire height and frontage not less than fifteen (15) feet, provided that a minimum of sixty percent (60%) of the streetwall shall be constructed on the setback line.

1605.3 Any portion of a building or structure that exceeds 110 feet in height shall provide an additional one-to-one (1:1) step-back from the building line along South Capitol Street.

## Z.C. NOTICE OF FINAL RULEMAKING AND ORDER No. 05-10

ZC CASE NO. 05-10

PAGE 10

- 1605.4 No private driveway may be constructed or used from South Capitol Street to any parking or loading berth areas in or adjacent to a building or structure constructed after February 16, 2007.
- 1606 BUILDINGS, STRUCTURES, AND USES ON FIRST STREET S.E, SOUTH OF M STREET S.E.
- 1606.1 The following provisions apply to new buildings, structures, or uses with frontage on First Street S.E. south of M Street S.E., within the CG Overlay.
- 1606.2 Each new building shall devote not less than seventy-five percent (75%) of the gross floor area of the ground floor to retail, service, entertainment, or arts uses ("preferred uses") as permitted in §§ 701.1 through 701.5 and §§ 721.1 through 721.6 of this Title; provided, that the following uses shall not be permitted: automobile, laundry, drive-through accessory to any use, gasoline service stations, and office uses (other than those accessory to the administration, maintenance, or leasing of the building).
- 1606.3 Preferred uses shall occupy 100% of the building's street frontage along First Street S.E., except for space devoted to building entrances or required to be devoted to fire control.
- 1606.4 The minimum floor-to-ceiling clear height for portions of the ground floor level devoted to preferred uses shall be fourteen (14) feet.
- 1606.5 For good cause shown, the Zoning Commission may authorize interim occupancy of the preferred use space required by § 1606.2 by non-preferred uses for up to a five (5) year period; provided, that the ground floor space is suitably designed for future occupancy by the preferred uses.
- 1606.6 Where preferred use retail space is required under this section and provided, the requirement of 11 DCMR § 633 to provide public space at ground level shall not apply.
- 1607 BUILDINGS, STRUCTURES, AND USES ON HALF STREET S.E., SOUTH OF M STREET S.E.
- 1607.1 The following provisions apply to new buildings, structures, or uses with frontage on Half S.E. south of M Street S.E., within the CG Overlay.
- 1607.2 Any portion of a building or structure that exceeds sixty-five (65) feet in height shall provide a minimum step-back of twenty (20) feet in depth

## Z.C. NOTICE OF FINAL RULEMAKING AND ORDER No. 05-10

ZC CASE NO. 05-10

PAGE 11

from the building line along Half Street S.E. Pursuant to § 3104, the Zoning Commission may grant relief from this requirement, to a maximum of fifteen (15) feet in height and eight (8) feet in depth, for the provision of reasonable development footprints.

1607.3 Each new building shall devote not less than seventy-five percent (75%) of the gross floor area of the ground floor to retail, service, entertainment, or arts uses ("preferred uses") as permitted in §§ 701.1 through 701.5 and §§ 721.1 through 721.6 of this Title; provided, that the following uses shall not be permitted: automobile, laundry, drive-through accessory to any use, gasoline service stations, and office uses (other than those accessory to the administration, maintenance, or leasing of the building).

1607.4 Preferred uses shall occupy 100% of the building's street frontage along Half Street S.E., except for space devoted to building entrances or required to be devoted to fire control.

1607.5 The minimum floor-to-ceiling clear height for portions of the ground floor level devoted to preferred uses shall be fourteen (14) feet.

1607.6 For good cause shown, the Zoning Commission may authorize interim occupancy of the preferred use space required by § 1607.2 by non-preferred uses for up to a five (5) year period; provided, that the ground floor space is suitably designed for future occupancy by the preferred uses.

1607.7 No private driveway may be constructed or used from Half Street S.E. to any parking or loading berth areas in or adjacent to a building or structure constructed after February 16, 2007.

1607.8 Where preferred use retail space is required under this section and provided, the provisions of DCMR 11 § 633 shall not apply.

1608 STEP-BACK FOR CERTAIN BUILDINGS AND STRUCTURES ON POTOMAC AVENUE

1608.1 The following provisions apply to new buildings, structures, or uses with frontage on Potomac Avenue within the CG Overlay.

1608.2 Any portion of a building or structure that exceeds 110 feet in height shall provide an additional one-to-one (1:1) step-back from the building line along Potomac Avenue.

Z.C. NOTICE OF FINAL RULEMAKING AND ORDER No. 05-10  
ZC CASE NO. 05-10  
PAGE 12

1609 PRIVATE DRIVEWAYS ON P STREET S.W.

1609.1 No private driveway may be constructed or used from P Street S.W. to any parking or loading berth areas in or adjacent to a building or structure subject to the provisions of this chapter that is constructed after February 16, 2007.

1610 ZONING COMMISSION REVIEW OF BUILDINGS, STRUCTURES, AND USES

1610.1 The following provisions apply to properties located:

- 
- (a) Within the CG/W-2 District;
  - (b) On a lot that abuts M Street S.E.;
  - (c) On a lot located within Squares 700 or 701, north of the Ballpark site;
  - (d) On a lot that abuts South Capitol Street;
  - (e) On a lot within Squares 601, 656, or 657; or
  - (f) Any lot that is the recipient of density through the combined lot provisions of § 1602.

1610.2 With respect to those properties described in § 1610.1, all proposed uses, buildings, and structures, or any proposed exterior renovation to any existing buildings or structures that would result in an alteration of the exterior design, shall be subject to review and approval by the Zoning Commission in accordance with the following provisions.

1610.3 In addition to proving that the proposed use, building, or structure meets the standards set forth in § 3104, an applicant requesting approval under this section must prove that the proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will:

- (a) Help achieve the objectives of the CG Overlay District as set forth in § 1600.2;
- (b) Help achieve the desired mix of uses in the CG Overlay District as set forth in §§ 1600.2(a) and (b), with the

Z.C. NOTICE OF FINAL RULEMAKING AND ORDER No. 05-10  
ZC CASE NO. 05-10  
PAGE 13

identified preferred uses specifically being residential, hotel or inn, cultural, entertainment, retail, or service uses;

- (c) Be in context with the surrounding neighborhood and street patterns;
- (d) Minimize conflict between vehicles and pedestrians;
- (e) Minimize unarticulated blank walls adjacent to public spaces through facade articulation; and
- (f) Minimize impact on the environment, as demonstrated through the provision of an evaluation of the proposal against LEED certification standards.

1610.4

With respect to a building or structure to be constructed on a lot within the CG/W-2 District:

- (a) The building or structure shall provide suitably designed public open space along the waterfront;
- (b) A plan shall be included in the application for suitable open space treatment of the setback area for such uses as walkway and bikeway, passive or active recreational use, and including provisions assuring private maintenance of the space, convenient and permanent public access to the space, and suitable connections to adjacent public space along the waterfront; and
- (c) The application shall include a view analysis that assesses openness of waterfront views and vistas, and views and vistas toward the Capitol Dome, other federal monumental buildings, existing neighborhoods, South Capitol Street, and the Frederick Douglass Bridge.

1610.5

With respect to a building or structure which has frontage on Half Street S.E. south of M Street S.E. or Front Street S.E. south of M Street S.E.:

- (a) The building or structure shall provide for safe and active streetscapes through building articulation, landscaping, and the provision of active ground level uses including retail, entertainment, cultural, and pedestrian concourse space;

Z.C. NOTICE OF FINAL RULEMAKING AND ORDER No. 05-10  
ZC CASE NO. 05-10  
PAGE 14

- (b) The building or structure shall provide for safe and convenient movement to and through the site, including to public transit, the Ballpark, and to the Anacostia River; and
- (c) The application shall include a view analysis that assesses openness of views and vistas around, including views toward the Capitol Dome, other federal monumental buildings, the Ballpark, and the waterfront.

1610.6 With respect to a building or structure which has frontage on South Capitol Street S.E.:

- (a) The building or structure shall incorporate massing, materials, and buildings and streetscape landscaping to further the design and development of properties in a manner that is sensitive to the establishment of South Capitol Street as a monumental civic boulevard;
- (b) The building or structure shall incorporate massing, location of access to parking and loading, and location of service areas to recognize the proximate residential neighborhood use and context, as applicable; and
- (c) The application shall include a view analysis that assesses openness of views and vistas around, including views toward the Capitol Dome, other federal monumental buildings, the Ballpark, and the waterfront.

1610.7 The Commission may hear and decide any additional requests for special exception or variance relief needed for the subject property. Such requests shall be advertised, heard, and decided together with the application for Zoning Commission review and approval.

1610.8 At the time of filing an application with the Zoning Commission, the applicant shall pay the filing fee specified in § 3180.1(b)(16), plus such fees as apply to any additional zoning relief requested. The provisions of § 3181 relating to the administration of fees shall apply, except that the applicant may appeal any decision of the Director regarding the fee schedule to the Zoning Commission, which shall decide the appeal as a preliminary matter to hearing the application.

Z.C. NOTICE OF FINAL RULEMAKING AND ORDER No. 05-10  
ZC CASE NO. 05-10  
PAGE 15

1610.9 A building that qualifies as a Capitol South Receiving Zone site under § 1709.18, and for which a building permit has been applied for prior to August 31, 2001, shall not be subject to the requirements of this section.

B. Chapter 30, ZONING COMMISSION PROCEDURES, § 3012.1(a) is amended to read as follows:

(a) The National Capital Planning Commission of all Chapter 18 applications and those applications for approval pursuant to 11 DCMR §§ 1603 1610(a) and (d); and

---

Vote of the Zoning Commission taken at its public meeting on May 25, 2006, to **APPROVE** the proposed rulemaking by a vote of **3-0-2** (Anthony J. Hood, Gregory N. Jeffries, and Michael G. Turnbull to approve; John G. Parsons abstaining; and Carol J. Mitten not present, not voting).

This order was **ADOPTED** by the Zoning Commission at its public meeting on January 8, 2007 by a vote of **4-0-1** (Anthony J. Hood, Gregory N. Jeffries, John G. Parsons, and Michael G. Turnbull to adopt; Carol J. Mitten having not participated, not voting).

In accordance with the provisions of 11 DCMR § 3028.9, this order shall become effective upon publication in *the D.C. Register*; that is, on \_\_\_\_\_.

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

**and**

**Z.C. ORDER NO. 05-10**

**Z.C. Case No. 05-10**

**(Text Amendment - Capitol Gateway Overlay District)**

**January 8, 2007**

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

---