

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF EMERGENCY AND PROPOSED RULEMAKINGS****Case No. 06-05****(Text Amendment – Removing the reference to R-4 Districts from Section 410, Special  
Exceptions for Groups of Residential Buildings)****February 13, 2006**

The Zoning Commission for the District of Columbia, pursuant to the authority set forth in section 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 (2001)) and section 6 (c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code §2-505 (c) (2001)) hereby gives notice of the adoption, on an emergency basis, of amendments to § 410 of the Zoning Regulations (11 DCMR) to strike the reference to the R-4 Zone District from subsection 410.12.<sup>1</sup> Section 410 permits an exception to the rule that no more than one principal structure may be built on a single record lot in residence zones, by authorizing the Board of Zoning Adjustment (“BZA”) to deem such multiple structures to be a single building in R-4 and R-5 Districts

This action is being taken on an emergency basis because of 1) the influx of recent, and the anticipation of future, special exception requests under § 410 to allow development projects of multiple units in the R-4 Zone District; and 2) the adverse land use and character implications for the R-4 Zone if multiple units can continue to be deemed a single building in that district. The current rule promotes the transformation of the R-4 District into an apartment house district, contrary to the intent and purposes of the R-4 Zone District prescribed in 11 DCMR § 330. In light of the growing number of requests for relief under § 410 for properties located in the R-4 District, this emergency action is necessary for the immediate preservation of the public welfare by addressing a pressing land use issue that threatens the continued existence of the R-4 Zone District. This emergency rule was adopted on February 13, 2006, and became effective on that date, except that it will not apply to BZA applications filed on or before February 13, 2006.

The Commission also gives notice of its intent to take final rulemaking action to adopt this amendment in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register* or thirty (30) days following referral to the National Capital Planning Commission, whichever occurs last. In addition, the Commission proposes, in the alternative, to repeal § 410 in its entirety. The Commission will hold a public hearing on both alternatives at the date, time, and place indicated in the Notice of Public Hearing published elsewhere in this edition of the *Register*. All comments received before the close of the hearing record will be considered.

The emergency rule will expire on July 13, 2006, which is the 120<sup>th</sup> day after the adoption of the rule, or upon the publication of a Notice of Final Rulemaking in the *Register*, whichever occurs first.

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<sup>1</sup> The version of § 410.12 that appears in the current edition of the Zoning Regulations does not contain this reference, but the prior edition of Title 11 did. A review of all amendments made to § 410.12 between the publications dates of the two editions reflects no amendment to § 410.12. However, the Commission has been advised by the Office of the Attorney General that all of § 410.12 may have been repealed in 1970. For the purposes of this rulemaking only, the Commission will assume that § 410.12 is in effect and that it includes a reference to the R-4 Zone District.

A. The following emergency action is taken and proposed with respect to Title 11 of the District of Columbia Municipal Regulations (ZONING).

Section 410 in Chapter 4 RESIDENCE DISTRICTS: HEIGHT, AREA AND DENSITY REGULATIONS of Title 11 (DCMR) is amended as follows:

1. The heading is amended to read as follows:

410 SPECIAL EXCEPTIONS FOR GROUPS OF RESIDENTIAL BUILDINGS IN  
R-5 DISTRICTS

2. Section 410.12 is amended by striking the phrase "In the R-5-A and R-4 Districts," and inserting the phrase "In an R-5-A District," in its place.

B. The following alternative is also proposed.

Section 410 in Chapter 4 RESIDENCE DISTRICTS: HEIGHT, AREA AND DENSITY REGULATIONS of Title 11 (DCMR) is repealed.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, to Sharon Schellin, Acting Secretary to the Zoning Commission, Office of Zoning, 441 4<sup>th</sup> Street, N.W., Suite 200-S, Washington, D.C. 20001. Comments must be received not later than thirty (30) days after the publication of this notice in the *D.C. Register* or by the close of the record for the hearing on this matter, whichever is later. A copy of this proposal may be obtained, at cost, by writing to the above address.