

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF EMERGENCY and PROPOSED RULEMAKING**

Z.C. Case No. 06-06

(Text Amendments – Charter Schools)

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 the authority set forth in section 6 (c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505 (2001(c)) hereby gives notice of the adoption, on an emergency basis, of amendments to §§ 199.1 400.10, 400.11, 401.3, 401.8, 403.1 of the Zoning Regulations (DCMR. Title 11) The amendments will modify the definition of “School, public” to include schools chartered by the District of Columbia Board of Education or the District of Columbia Public Charter School Board. In addition, the rules would amend existing area requirements that apply to all public schools in Residence Districts. These rules are contained in Part A and B of this notice.

This action is being taken on an emergency basis because the Zoning Administrator has recently received several Charter School building permit applications, but is unable to process them because the Zoning Regulations do not currently recognize Charter Schools as a distinct use classification. Nor are Charter Schools included in the current definition of “Schools, public”, which only pertains to buildings “operated and maintained by the District of Columbia Board of Education”. Immediate action is required to remove this ambiguity so as to permit these new Charter Schools to be constructed by the start of the next school year.

However, the immediate proliferation of Charter Schools in residence districts has the potential for adverse impacts unless the current area requirements for public schools are made more restrictive. The emergency action therefore includes amendments to the area provisions that govern public schools in residence zones.

This emergency rule was adopted on February 13, 2006, and became effective on that date.

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

In addition to Part A and B of this notice, the Commission also gives notice of its intent to take final rulemaking action to adopt the following amendments to §§ 201.1(k), 206, 501.1(i), 601.1(u), 771.10, 901.1(v), and 2101.1 of the Zoning Regulations in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register* or thirty days following referral of this amendment to the National Capital Planning Commission, whichever occurs last. These amendments would allow collocation of school uses with other uses and sharing of recreational facilities, permit schools in residential zones not meeting the proposed requirements to be allowed as special exceptions, allow public schools in SP, CR, and W Zone Districts, and create standards for preschools, and are contained Parts C through H of this Notice. The Commission will hear public testimony concerning all of these amendments at a public hearing to be held at

the date, time and place indicated in the Notice of Public Hearing is published elsewhere in this edition of the *Register*. All written comments received before the close of the hearing record will be considered.

Title 11 (DCMR) is amended as follows (additions to the text are underlined, deletions are ~~struck through~~):

A. Chapter 1, THE ZONING REGULATIONS, § 199.1, is amended as follows:

School, public - A building or use within a building operated ~~and maintained or chartered~~ by the District of Columbia Board of Education or the District of Columbia Public Charter School Board for educational purposes and other such community uses as deemed necessary and desirable.

B. Chapter 4, RESIDENCE DISTRICTS: HEIGHT, AREA, AND DENSITY REGULATIONS, is amended as follows:

1. By amending §§ 400.10 and 400.11 to read as follows:

400.10 In an R-1, R-2, R-3, and R-4 District, a public school building or structure may be erected to a height not exceeding sixty feet (60 ft).

400.11 In an ~~R-3, R-4~~, R-5-A, R-5-B, and R-5-C District, a public school building or structure may be erected to a height not exceeding ninety feet (90 ft).

2. By amending the table in § 401.3 to read as follows:

ZONE DISTRICT AND STRUCTURE	MINIMUM LOT AREA (square feet)	MINIMUM WIDTH OF LOT (feet)
<u>R-1-A</u> <u>Public School</u>	<u>15,000</u>	<u>120</u>
R-1-A All <u>other</u> structures	7,500	75
<u>R-1-B</u> <u>Public School</u>	<u>15,000</u>	<u>120</u>
R-1-B All <u>other</u> structures	5,000	50
<u>R-2</u> <u>Public School</u>	<u>9,000</u>	<u>120</u>

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R-2 One-family semi-detached dwelling	3,000	30
R-2 All other structures	4,000	40
<u>R-3</u> <u>Public School</u>	<u>9,000</u>	<u>120</u>
R-3 Row dwelling	2,000	20
R-3 One-family semi-detached dwelling	3,000	30
R-3 All other structures	4,000	40
<u>R-4</u> <u>Public School</u>	<u>9,000</u>	<u>120</u>
R-4 Row dwelling and flat	1,800	18
R-4 One-family semi-detached dwelling	3,000	30
R-4 Conversion to apartment house	900/apartment or bachelor apartment	None prescribed
R-4 All other structures	4,000	40
<u>R-5-A</u> <u>Public School</u>	<u>9,000</u>	<u>120</u>
R-5-A All other structures	As prescribed by the Board pursuant to § 3104	As prescribed by the Board pursuant to § 3104

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R-5-B, R-5-C, R-5-D, R-5-E Public School	9,000	120
R-5-B, R-5-C, R-5-D, R-5-E All other structures	None prescribed	None prescribed

3. By adding a new § 401.8 to read as follows:

401.8 For public schools minimum lot area may include adjacent parcels under the same ownership that are separated only by a public alley.

4. By amending § 403.1 to read as follows:

403.1 A public school building may occupy the lot upon which it is located in excess of the permitted percentage of lot occupancy prescribed in §403.2; provided, that the portion of the building excluding closed courts exceeding the lot coverage shall not exceed twenty feet (20 ft.) in height or two (2) stories; and provided further, that direct pedestrian access not less than ten feet (10 ft) in width from at least two (2) public rights-of-way shall be provided to each roof area used for these purposes. The roof area shall be used only for open space, recreation areas, or other athletic and field equipment areas in lieu of similarly used space normally located at ground level. In the R-2, R-3, and R-4 zones, the total lot occupancy should not exceed 70 percent.

C. Chapter 2, R-1 RESIDENCE DISTRICT USE REGULATIONS, is amended as follows,

1. By amending § 201.1(k) to read as follows:

(k) Public school, subject to the provisions of chapter 21 of this title; public schools may collocate with other permitted schools or uses provided all applicable requirements of this title are met. Public schools may share common on-site recreation space including gymnasiums, playgrounds, and fields, and these shared recreational spaces may count toward the minimum lot area provided that the school is adjacent to the shared recreation space; on-site office use must be ancillary and necessary to the operation of the particular school.

2. By amending §206 to read as follows:

206 PUBLIC AND PRIVATE SCHOOLS AND STAFF RESIDENCES (R-1)

206.1 Use as a public school that does not meet the requirements of chapter 4 of this title or as a private school, but not including a trade school, and residences for teachers and staff of a private school, shall be permitted as a special exception in an R-1 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

206.2 The school shall be located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions.

206.3 Ample parking space, but not less than that required in chapter 21 of this title, shall be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile.

D. Chapter 5, SPECIAL PURPOSE DISTRICTS, is amended by adding a new §501.1(i) to read as follows:

(i) Public School, subject to the provisions of chapter 21 of this title.

E. Chapter 6, MIXED USE (COMMERCIAL RESIDENTIAL) DISTRICTS, is amended by adding a new §601.1(u) to read as follows:

(u) Public School, subject to the provisions of chapter 21 of this title.

F. Chapter 7, COMMERCIAL DISTRICTS, is amended by adding a new § 771.10 to read as follows:

771.10 In a C-1 District, the maximum floor area ratio requirements may be increased for specific public school buildings or structures, but shall not exceed the floor area ratio 1.8.

G. Chapter 9, WATERFRONT DISTRICTS, is amended by adding a new § 901.1(v) to read as follows:

(v) Public School, subject to the provisions of chapter 21 of this title.

H. Chapter 21, OFF STREET PARKING REQUIREMENTS, is amended by adding the following to the chart found in § 2101.1:

SCHOOLS	
<u>Pre-elementary schools and pre-kindergarten schools or facilities:</u>	<u>2 for each 3 teachers and other employees</u>

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 4th Street, N.W., Suite 200, 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.