

## DEPARTMENT OF HUMAN SERVICES

NOTICE OF FINAL RULEMAKING

The Director of the Department of Human Services, pursuant to authority set forth in Mayor's Reorganization Plan No. 3 of 1986, section 2 of the Day Care Policy Act of 1979 Amendment Act of 1988, effective July 29, 1988 (D.C. Law 7-136; D.C. Official Code §§ 4-409(a)(1)-(2) and 4-410(a)), section 2 of the Day Care Policy Amendment Act of 1995, effective April 7, 1995 (D.C. Law 11-2; D.C. Official Code §§ 4-409(a)(3) and 4-410(a-1)), section 503 of the Omnibus Budget Support Act of 1995, effective September 26, 1995 (D.C. Law 11-52; D.C. Official Code §§ 4-409(h) and 4-410(b)), section 2(d) of the Day Care Policy Amendment Act of 1998, effective April 13, 1999 (D.C. Law 12-216; D.C. Official Code § 4-404.01), and Mayor's Order 98-11, dated February 9, 1998, hereby gives notice of the adoption of the following amendments to section 308 of Chapter 3 of Title 29 of the *District of Columbia Municipal Regulations* (DCMR) entitled "Rates Paid by the District of Columbia Government to Child Development Centers, Child Development Homes and Relative and In-home Caregivers for Child Care Services."

These final rules establish the District of Columbia's (District's) child care subsidy rates for child care services provided by child development centers, child development homes, and relative and in-home caregivers participating in the subsidized child care program, and are based on findings of the University of the District of Columbia Market Rate and Capacity Utilization Survey of Child Care Providers completed in 2004.

These final rules amend the final rulemaking that was published in the February 17, 2006, edition of the *D.C. Register* to reflect public comments regarding the proposed reimbursement rates, including some technical adjustments to the proposed rates as well as definitional clarifications.

Title 29 DCMR, Chapter 3, section 308 is amended by deleting section 308 in its entirety and substituting the following new section 308 in its place:

**308 RATES PAID BY THE DISTRICT OF COLUMBIA GOVERNMENT TO CHILD DEVELOPMENT CENTERS, CHILD DEVELOPMENT HOMES AND RELATIVE AND IN-HOME CAREGIVERS FOR CHILD CARE SERVICES**

308.1 The District of Columbia government shall pay the following rates per day for child care services, less the parent fee as required by the parent sliding fee scale to child development centers and child development homes that meet their respective requirements of the Tiered Rate Reimbursement System, which is entitled "*Going for the Gold!*" when appropriate and funds are available.

- (a) The payment rates for child development centers and child development homes (including satellite homes) for traditional, extended day, and nontraditional hours of care at the Bronze Tier shall be as follows:

**Child Development Center Bronze Rates**

Age Group	Full Time Traditional	Part Time Traditional	Extended Day Full Time	Extended Day Part Time	Nontraditional Full Time	Nontraditional Part Time
Infant	\$40.70	\$24.42	\$44.77	\$28.49	\$50.86	\$30.53
Toddler	\$39.83	\$23.99	\$43.81	\$27.88	\$49.79	\$29.87
Pre-school	\$29.21	\$17.53	\$32.13	\$20.45	\$36.51	\$21.91
Pre-school Before and After	\$29.21	\$17.53				
School-Age Before and After	\$19.85	\$12.25	\$21.84	\$13.10	\$24.59	\$14.75
School-Age Before or After	\$19.85	\$9.19				

**Child Development Home Bronze Rates**

Age Group	Full Time Traditional	Part Time Traditional	Extended Day Full Time	Extended Day Part Time	Nontraditional Full Time	Nontraditional Part-Time
Infant	\$28.49	\$17.09	\$31.34	\$19.94	\$35.61	\$21.37
Toddler	\$27.14	\$16.28	\$29.85	\$19.00	\$33.93	\$20.34
Pre-school	\$22.03	\$13.22	\$24.23	\$15.42	\$27.53	\$16.52
Pre-school Before and After	\$22.03	\$13.22				
School-Age Before and After	\$20.00	\$12.00	\$22.00	\$13.20	\$23.66	\$14.19
School-Age Before	\$20.00	\$9.00				

or After						
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(b) The payment rates for child development centers and child development homes (including satellite homes) for traditional, extended day and nontraditional hours of care at the Silver Tier shall be as follows:

**Child Development Center Silver Rates**

Age Group	Full Time Traditional	Part Time Traditional	Extended Day Full Time	Extended Day Part Time	Nontraditional Full Time	Nontraditional Part-Time
Infant	\$47.25	\$28.35	\$51.98	\$33.08	\$59.06	\$35.44
Toddler	\$46.23	\$27.74	\$50.85	\$32.36	\$56.69	\$34.01
Pre-school	\$35.60	\$21.36	\$39.16	\$24.92	\$44.50	\$26.70
Pre-school Before and After	\$35.60	\$21.36				
School-Age Before and After	\$25.43	\$15.26	\$27.97	\$16.79	\$30.92	\$18.55
School-Age Before or After	\$25.43	\$11.45				

**Child Development Homes Silver Rates**

Age Group	Full Time Traditional	Part Time Traditional	Extended Day Full Time	Extended Day Part Time	Nontraditional Full Time	Nontraditional Part-Time
Infant	\$31.07	\$18.64	\$34.18	\$21.75	\$38.84	\$23.30
Toddler	\$29.23	\$17.54	\$32.50	\$20.46	\$36.54	\$21.92
Pre-school	\$24.53	\$14.72	\$26.98	\$17.17	\$30.66	\$18.40
Pre-school Before and After	\$24.53	\$14.72				

School-Age Before and After	\$22.90	\$13.74	\$25.19	\$15.11	\$27.08	\$16.25
School Age Before or After	\$22.90	\$10.31				

(c) The payment rates for child development centers and child development homes (including satellite homes) for traditional, extended day and nontraditional hours of care at the Gold Tier shall be as follows:

**Child Development Center Gold Rates**

Age Group	Full Time Traditional	Part Time Traditional	Extended Day Full Time	Extended Day Part Time	Nontraditional Full Time	Nontraditional Part-Time
Infant	\$54.41	\$32.65	\$59.85	\$38.09	\$68.01	\$40.81
Toddler	\$50.87	\$30.52	\$55.96	\$35.61	\$63.59	\$38.15
Pre-school	\$42.00	\$25.20	\$46.20	\$29.40	\$52.50	\$31.50
Pre-school Before and After	\$42.00	\$25.20				
School-Age Before and After	\$32.00	\$19.20	\$35.20	\$21.12	\$38.91	\$23.35
School-Age Before or After	\$32.00	\$14.40				

**Child Development Home Gold Rates**

Age Group	Full Time Traditional	Part Time Traditional	Extended Day Full Time	Extended Day Part Time	Nontraditional Full Time	Nontraditional Part-Time
Infant	\$35.00	\$21.00	\$38.50	\$24.50	\$43.75	\$26.25

<b>Toddler</b>	\$34.00	\$20.40	\$37.40	\$22.44	\$41.25	\$24.75
<b>Pre-school</b>	\$28.00	\$16.80	\$30.80	\$19.60	\$35.00	\$21.00
<b>Pre-school Before and After</b>	\$28.00	\$16.80				
<b>School-Age Before and After</b>	\$25.80	\$15.48	\$28.38	\$17.03	\$30.51	\$18.31
<b>School-Age Before or After</b>	\$25.80	\$11.61				

308.2 The District of Columbia government shall pay child development centers in the Level II Provider program the full amount of the above applicable payment rate and shall allow such centers to retain the parent fees collected.

308.3 The District of Columbia government shall pay the following rates per day for child care services to relative and in-home caregivers, when appropriate and funds are available.

(a) The payment rates for relative caregivers for traditional, extended day and nontraditional hours of care shall be as follows:

**Relative Child Care Rates**

<b>Age Group</b>	<b>Full Time Traditional</b>	<b>Part Time Traditional</b>	<b>Extended Day Full Time</b>	<b>Extended Day Part Time</b>	<b>Nontraditional Full Time</b>	<b>Nontraditional Part-Time</b>
<b>Infant</b>	\$16.82	\$10.09	\$18.50	\$11.77	\$21.03	\$12.62
<b>Toddler</b>	\$14.33	\$8.60	\$15.43	\$10.03	\$17.91	\$10.75
<b>Pre-school Before and After</b>	\$14.33	\$8.60				
<b>School-age Before</b>	\$13.92	\$8.35	\$15.31	\$9.74	\$17.40	\$10.44

<b>and After</b>						
<b>School- Age Before or After</b>	\$13.92	\$4.18				

- (b) The payment rates for in-home caregivers for traditional, extended day and nontraditional hours of care shall be as follows:

**In-Home Child Care Rates**

Age Group	Full Time Traditional	Part Time Traditional	Extended Day Full Time	Extended Day Part Time	Nontraditional Full Time	Nontraditional Part-Time
Infant	\$9.86	\$5.92	\$10.85	\$6.90	\$12.33	\$7.40
Toddler	\$8.70	\$5.22	\$9.57	\$6.09	\$10.88	\$6.53
Pre-School	\$8.70	\$5.22	\$9.57	\$6.09	\$10.88	\$6.53
Pre-school Before and After	\$8.70	\$5.22				
School-age Before and After	\$7.54	\$4.52	\$8.29	\$5.28	\$9.43	\$5.66
School-Age Before or After	\$7.54	\$4.14				

308.4 Child care programs that are authorized to manage Family Child Care satellite systems or networks shall receive a daily administrative fee of \$2.53 per day for the management of the family child care homes under their systems or networks.

308.5 The District shall pay the regular rate to providers on holidays when providers may be closed.

308.6 For the purpose of this section, the following terms shall have the meanings ascribed:

(a) Age groups for children are defined as follows:

- (1) Infant – a child up to twelve (12) months of age;
- (2) Toddler – a child twelve (12) months or older, but less than thirty-six (36) months of age;
- (3) Preschool – a child thirty-six (36) months of age or older, but less than five (5) years of age on or before December 31 of that year; and

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- (4) School-age – a child five (5) years of age on or before December 31 of that year through the age of twelve (12) or through the age of eighteen (18) if the child has a disability.
- (b) Holidays include:
- Labor Day
  - Columbus Day
  - November 11 – Veteran's Day
  - Thanksgiving Day
  - December 25 – Christmas Day
  - January 1
  - Martin Luther King, Jr. Day
  - President's Day
  - Emancipation Day
  - Memorial Day
  - July 4 - Independence Day
- (c) The District shall also consider as a holiday January 20<sup>th</sup> during years when there is a presidential inauguration.
- (d) The Level II Providers are those child care center providers authorized to conduct initial eligibility determinations and re-determinations for families seeking child care subsidy under specified eligibility categories.
- (e) Types of child care services and hours are as follows:
- (1) Full time traditional – six (6) to eleven (11) hours between 7:00 a.m. and 6:00 p.m., Monday through Friday;
  - (2) Part time traditional - less than six (6) hours of care between 7:00 a.m. and 6:00 p.m., Monday through Friday;
  - (3) Extended day full time – six (6) to fourteen (14) hours where at least one hour of care is in the morning before 7:00 a.m. or in the afternoon after 6:00 p.m. and the majority of hours are between 7:00 a.m. and 6:00 p.m., Monday through Friday. If more than fourteen hours of service are provided, an additional service will be authorized;
  - (4) Extended day part time - less than six (6) hours where at least one hour of care is in the morning before 7:00 a.m. or in the afternoon after 6:00 p.m. and the majority of hours are between 7:00 a.m. and 6:00 p.m., Monday through Friday;

- (5) Nontraditional full time – six (6) to eleven (11) hours between 6:00 p.m. and 7:00 a.m., Monday through Friday; or six (6) to eleven (11) hours on Saturday or Sunday, regardless of the time of day. If more than eleven (11) hours of service are provided, an additional service will be authorized;
- (6) Nontraditional part-time - less than six (6) hours between 6:00 p.m. and 7:00 a.m., Monday through Friday; or less than six (6) hours on Saturday or Sunday, regardless of the time of day;
- (7) Preschool traditional full time- six (6) eleven (11) hours between 7:00 a.m., Monday through Friday, for three (3) and four (4) year-olds who are not in the public or private pre-Kindergarten programs;
- (8) Preschool traditional part-time – less than (6) hours of care between 7:00 a.m. and 6:00 p.m., Monday through Friday, for three (3) and four (4) year-olds who are not in the public or private pre-Kindergarten programs;
- (9) Preschool before and after traditional full time – service for the three (3) and four (4) year-olds in public or private pre-Kindergarten programs, Monday through Friday, during school holidays;
- (10) Preschool before and after traditional part time – before and after service for the three (3) and four year-olds in public or private pre-Kindergarten programs, Monday through Friday;
- (11) School age before and/or after traditional full time – six (6) to eleven (11) hours between 7:00 a.m. and 6:00 p.m., Monday through Friday, for school age children when the child is not in school during school holidays;
- (12) School age before and after traditional part time – before and after school-age children, Monday through Friday; and
- (13) School age before or after traditional part time – before or after school services for school-age children, Monday through Friday.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA  
1333 H STREET, N.W., SUITE 200, WEST TOWER  
WASHINGTON, DC 20005

NOTICE OF FINAL RULEMAKING

ET00-2, IN THE MATTER OF POTOMAC ELECTRIC POWER COMPANY'S  
PUBLIC SPACE OCCUPANCY SURCHARGE ELECTRICITY TARIFF, P.S.C.-  
D.C. No. 1

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 2-505 of the District of Columbia Code,<sup>1</sup> of its final rulemaking action taken in the above-captioned proceeding. On March 28, 2006, the Commission released Order No. 13910, approving Potomac Electric Power Company's ("PEPCO") updated Public Space Occupancy Surcharge ("PSOS") Rider.<sup>2</sup>

2. Pursuant to D.C. Code Section 10-1141.6,<sup>3</sup> PEPCO filed with the Commission an updated PSOS Rider on January 26, 2006.<sup>4</sup> In the filing, PEPCO shows the process to be used to recover from its customers the D.C. Public rights-of-way fees paid by PEPCO to the District of Columbia Government. PEPCO proposes to amend the following tariff pages:

**ELECTRICITY TARIFF, P.S.C.-D.C. No. 1**  
**27th Revised Page No. R-1**  
**27th Revised Page No. R-2**  
**20th Revised Page No. R-2.1**  
**7th Revised Page No. R-33**

3. In addition, PEPCO indicates that the revised PSOS Rider supports calculations for a decrease in the surcharge rate by 3.1 percent.<sup>5</sup> PEPCO also states that

<sup>1</sup> D.C. CODE § 2-505 (2001).

<sup>2</sup> *ET00-2, In The Matter Of Potomac Electric Power Company's Public Space Occupancy Surcharge Electricity Tariff, P.S.C.-D.C. No. 1, ("ET00-2")* Order No. 13910, rel. March 28, 2006.

<sup>3</sup> D.C. CODE § 10-1141.06 (2001) (stating that "Each public utility company regulated by the Public Service Commission shall recover from its utility customers all lease payments which it pays to the District of Columbia pursuant to this title through a surcharge mechanism applied to each unit of sale and the surcharge amount shall be separately stated on each customer's monthly billing statement.").

<sup>4</sup> *ET00-2, Compliance Filing of Potomac Electric Power Company, ("Compliance Filing")*, filed January 26, 2006.

<sup>5</sup> *Id.* at 2.

its revised PSOS Rider will become effective with meter readings on or after March 1, 2006.<sup>6</sup>

4. A Notice of Proposed Rulemaking was published in the *D.C. Register* on February 17, 2006.<sup>7</sup> No comments were filed in response to the filing. Subsequently, the Commission approved PEPCO's PSOS Rider by Order No. 13910. PEPCO'S Public Space Occupancy Surcharge Rider will become effective upon the date of publication of the Notice of Final Rulemaking in the *D.C. Register*.

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<sup>6</sup> *Id.* at 1.

<sup>7</sup> 53 *D.C. Reg.* 1200-1201 (2006).

## DISTRICT DEPARTMENT OF TRANSPORTATION

## NOTICE OF FINAL RULEMAKING

The Director of the District Department of Transportation, pursuant to the authority of sections 3(b), 5(3)(D)(iii) and 6 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.02(b), 50-921.04(3)(D)(iii) and 50-921.05), and Mayor's Order 2006-22 (February 27, 2006), hereby gives notice of the adoption of the following amendment to chapter 26 of the Vehicle and Traffic Regulations (18 DCMR). The amendment increases the fine for failure to deposit payment in a parking meter from fifteen dollars (\$15.00) to twenty-five dollars (\$25.00) so it will be consistent with the fine imposed for parking at an expired meter. Since these infractions are essentially the same violation – using a metered parking space without payment - imposing the same fine is appropriate.

Notice of Proposed Rulemaking was published in the *D.C. Register* on January 27, 2006, at 53 DCR 572. No comments were received with regard to this rule and no changes have been made since publication as a Notice of Proposed Rulemaking. This final rule will be effective upon publication of this notice in the *D.C. Register*.

The following section in 18 DCMR is amended as follows:

18 DCMR section 2601.1, regarding the failure to deposit payment in a parking meter, is amended as follows:

**INFRACTION (DCMR Citation)**

Meter

Failure to deposit payment [§ 2404 C] \$25.00

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

and

**Z.C. Order No. 05-12**

**Z.C. Case No. 05-12**

**(Text Amendment – Hostelling International)**

**February 13, 2006**

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, 2001); 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 § 492 of the District of Columbia Home Rule Act, hereby gives notice of the adoption of the following amendments to Chapter 1, § 199 (Definitions) and Chapter 17 (Downtown Development District).

A Notice of Proposed Rulemaking was published on the *D.C. Register* on December 9, 2005, at 52 DCR 10718.

The Commission took final action to adopt the amendments at a public meeting held on February 13, 2006.

The final rulemaking is effective upon publication in the *D.C. Register*.

**Set Down Proceeding**

The Commission initiated this rulemaking in response to a petition from Hostelling International USA ("HI-USA" or "Petitioner"), which requested amendments to the Downtown Development District and to the existing definition of "inn." The Petitioner also proposed a new definition of "hostel" in § 199, as well as regulatory amendments regarding zones where a hostel use would be allowed. The petition stemmed from the desire of the existing International Hostel located at 1009 11<sup>th</sup> Street, N.W. to expand to the Floor Area Ratio ("FAR") of 9.5 that is available to DD/C-3-C properties located in the Housing Priority Area, without also having to "provide on-site or account for off-site in a combined lot development no less than 2.0 FAR of residential use." 11 DCMR § 1706.

The Commission considered setting the text amendments down for public hearing at its meeting of April 11, 2005. At that time, Commissioners expressed concerns that the proposed text went

beyond what was necessary to address the needs of this particular hostel and instead set down a modified text drafted by the Office of Attorney General, as described in the following section.

### **Description of Text Amendment**

The advertised text added a new § 1706.20 to the Zoning Regulations. The new § 1706.20 allows the existing International Hostel at 1009 11<sup>th</sup> Street, N.W. to be enlarged or rebuilt to the maximum 9.5 FAR permitted for DD/C-3-C properties mapped within the Housing Priority Area and exempts the hostel from the residential use requirement for those same properties. 11 DCMR § 1706.5 (a) and (b).

The advertised text also amended the definition of “inn” to indicate that the limitation on central dining that is included within the definition does not preclude the provision of self-service kitchens and associated dining areas.

### **Relationship to the Comprehensive Plan**

The text amendments adopted herein are not inconsistent with a number of policies in the *Comprehensive Plan for the National Capital*, as summarized below.

One of the 10 Major Themes set forth in Section 101 of the Comprehensive Plan is § 101.1 (c) “Developing a living downtown.”

The hostel contributes to pedestrian and evening activity and the goal of an 18-hour active downtown. Visitors arrive at and leave the hostel at all hours of the day and into the evening hours. Many of the guests are part of educational and cross-cultural groups, with the aim of fostering cross-cultural understanding and enriching the lives of participants. The facility provides an opportunity for travelers on a budget, thereby meeting an important need for moderate price accommodation in a setting of very high hotel rates. The capital cities of all major world countries host Hostelling International hostels.

The international hostel is a unique facility, bringing many international as well as American travelers to the District and bringing diversity to downtown. This role is especially suitable and desirable given the international role of Washington as the Nation’s Capital.

The Downtown Element of the Plan identifies the following specific objectives for hotel (inclusive of inn and hostel) land uses in the heart of the city:

*904.1 The Downtown hotel land use objective is to obtain a substantial increase in the number of hotels and hotel rooms in Downtown.*

*904.2 The policies established in support of the Downtown hotel land use objective are as follows:*

*(a) Encourage and give priority to clustering of hotels and convention center related uses around the new Convention Center at Mount Vernon Square;*

- (b) *Facilitate development of hotels elsewhere in Downtown, with emphasis on the Gallery Place area, along Pennsylvania Avenue, N.W., along and near Massachusetts Avenue, N.W., in the hotel-residential incentive zone, Thomas Circle, the area north of the Convention Center, and Downtown East;*
- (c) *Create mechanisms to ensure that hotel sites are available to meet the targets for hotels and undertake special programs as necessary to achieve hotel development;*
- (d) *Encourage the retention and development of a full range of hotels in the Downtown area, especially moderately priced hotels.*

### **Public Hearing**

The Commission held a public hearing on this case on October 27, 2005. Commission members present were Chairman Carol J. Mitten, Vice Chairman Anthony J. Hood, and Commissioners Kevin L. Hildebrand and John G. Parsons.

In written submissions and in testimony at the public hearing, the Petitioner presented facts and rationale for the text amendments as summarized below.

The Existing Hostel. The International Youth Hostel in Washington is located at 1009 11<sup>th</sup> Street, N.W. (Square 342, Lot 810). It is a facility of Hostelling International USA, which is the U.S.A. Association of the Youth Hostel Federation and a non-profit, 501(c)(3) organization. It is mapped DD/C-3-C and included in Housing Priority Area B, 11 DCMR § 1706.8 (b). The building fronts on the east side of 11<sup>th</sup> Street, slightly to the north of K Street, N.W. It was established in this older brick building in 1987 with a Certificate of Occupancy for a rooming house and has operated continuously at that location for the past 17 years. The area of Lot 810 is 5,043 square feet. The building has approximately 28,000 square feet of gross floor area, a density of approximately 5.55 FAR, a height of 85 feet and eight (8) stories, and sixty percent (60%) lot occupancy.

At present the hostel has 250 beds, but demand could support 400 beds. Approximately 25 percent of guests are educational/ and cross-cultural groups, and 75 percent are international and domestic backpackers. The hostel currently hosts 55,000 overnight stays per year, with each individual spending approximately \$75 per day, including the hostel fee. There is currently only one kitchen, whereas a new hostel would likely have two or three self-serve kitchens. There is also meeting space for special events, educational programming, and activities of group guests. However, the existing space for this purpose is relatively small, and a new facility would have larger spaces for educational and program activities.

Need for a Larger Hostel. In written submissions and in testimony at the public hearing, the Petitioner set forth the following rationale, in summary, for the text amendments and the need for a larger hostel on the subject site:

First, the current hostel is inadequate in a number of ways:

- It cannot meet overnight demand in peak seasons, especially for group visitors, who often need significant blocks of rooms. Even individual visitors must book long in advance for the summer season.
- The facility needs more meeting rooms and different kinds of recreational common spaces to promote the interactions among guests, which is a key part of the hostelling experience. Such spaces include a TV/movie room, game room, and lounge.
- Self-service kitchens and associated eating areas are an essential part of keeping the hostel as a low-price accommodation for travelers and also serve as an important place where travelers from different backgrounds interact and learn from each other.
- The hostel needs a greater variety of sleeping rooms by size and type, including one and two-person rooms and rooms with four, six, and twelve beds to serve different categories of travelers.
- Accordingly, the need for a larger hostel is not simply an increase in rooms from 250 to 350 or 400 to meet demand, but also a substantial increase in floor area for accessory spaces as described above.

Ideal Location. Second, the existing location is ideal, and rebuilding at higher density on-site is greatly preferable to selling the property and relocating elsewhere. It is in the heart of downtown, which allows hostellers to experience the District and many national monuments, historic sites, and other tourist destinations on foot. The present location is cheaper and far more interesting for the traveler than an uptown or suburban location. The inexpensive price of \$21 to \$30 per night is also highly beneficial.

Economic Benefits. In addition to adding evening activity and diversity to the ambiance of a "living downtown," the hostel contributes significant spending and economic multipliers. Hostel guests spend an average of \$85 per day while in D.C., including the cost of the hostel stay. Average length of stay of guests at the hostel is three nights. Average total spending, exclusive of the hostel bed, of all guests, annually (at 55,000 overnights) is \$3.13 million. This figure would rise to \$4.85 million if a larger hostel were built.

Existing Zoning Constraints. The two key zoning constraints that preclude redevelopment are as follows.

First, a hostel is encompassed within the definition of "inn" in the Zoning Regulations, and one aspect of the definition is that, ". . . central dining, other than breakfast for guests, is not allowed." (§ 199) This prohibition would rule out the use of two or more self-service kitchens and associated dining areas as needed for a hostel. The text amendment that resolves this problem is the addition of a sentence at the end of the definition of "inn" stating, "[f]or the purposes of this definition, the limitation on central dining does not prohibit an Inn from allowing guests to prepare their meals at centrally located cooking facilities and to eat such meals in a central dining area."

Second, the residential and mixed-use development provisions of the DD Overlay (§ 1706) allow a maximum of 6.0 FAR of non-residential use for DD/C-3-C properties mapped within the Housing Priority Area and require a minimum of 3.5 FAR of residential use for such properties, as well. Although not currently subject to these provisions because it was constructed prior to the effective date of the Overlay, any significant renovation would likely trigger these incentives and requirement. *See* 11 DCMR § 1700.5. As a non-residential use, a new hostel would be limited to a density of 6.0 FAR, which is only slightly larger than the 5.55 FAR of the existing hostel. Also, on this small site of 5,043 square feet, providing the required 3.5 FAR of residential use would completely rule out any opportunity to build a larger hostel. The use of a combined lot to account for the residential requirement is not feasible. The proposed text amendment would allow hostel use to the full 9.5 FAR density of the DD/C-3-C that applies to properties located in Housing Priority Areas and would waive the residential requirement, but only in the case of rebuilding or enlarging the existing hostel on the site and only for a hostel use.

By report dated October 13, 2005 and by testimony at public hearing, the Office of Planning (“OP”) recommended approval of the text amendments. OP noted the favorable effect of the hostel in contributing to the Comprehensive Plan’s goals for a mixture of uses in downtown, including a concentration of hotels and inns of various types. OP also referenced the unique international and cross-cultural benefits for travelers who stay at the hostel. Finally, OP recommended that the new § 1706.20 refer to the existing hostel “on the land area currently comprising Lot 810 in Square 342.” This will enable the hostel to be part of a larger development plan in the southern part of the square if such land assembly and plan is effectuated.

No other government agencies submitted reports or testified at the public hearing.

Advisory Neighborhood Commission 2F did not submit a report or testify at the public hearing.

No individuals or organizations from the general public testified.

At the conclusion of the public hearing, the Zoning Commission took Proposed Action to approve the text amendments by a vote of 4-0-1.

### **Proposed Rulemaking**

A Notice of Proposed Rulemaking was published in the *D.C. Register* on December 9, 2005, at 52 DCR 10718, for a 30-day notice and comment period. No comments were received.

The proposed rulemaking was referred to the National Capital Planning Commission (“NCPC”) in accordance with the provisions of § 492 of the District of Columbia Home Rule Act. NCPC reviewed this proposal at its meeting of January 5, 2005, and by report dated January 11, 2006, found that the text amendments would not be adverse to the federal interest.

**Final Rulemaking**

The Commission took final action to adopt the rulemaking at its regularly scheduled public meeting on February 13, 2006. No changes were made to the text as published in the Notice of Proposed Rulemaking.

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

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 Zoning Act, and not inconsistent with the *Comprehensive Plan for the National Capital*.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following amendments to the definition of "Inn" in Chapter 1 and to Chapter 17 (Downtown Development District) of the Zoning Regulations, Title 11 DCMR.

Added wording to existing provisions are underlined. No text is deleted in this Order.

A. Chapter 1, (THE ZONING REGULATIONS), is amended as follows:

1. Subsection 199.1, (DEFINITIONS), is amended by adding new language to the definition of "Inn" as follows:

**Inn** – a building or part of a building in which habitable rooms or suites are reserved primarily for transient guests who rent the rooms or suites on a daily basis. Guestrooms or suites may include kitchens, but central dining, other than breakfast for guests, is not allowed. The term "inn" may be interpreted to include an establishment known as a bed and breakfast, hostel, or tourist home, but shall not be interpreted to include a hotel, motel, private club, rooming house, boarding house, tenement house or apartment house. For the purposes of this definition, the limitation on central dining does not prohibit an inn from allowing guests to prepare their meals at centrally located cooking facilities and to eat such meals in a central dining area.

B. Chapter 17, (DOWNTOWN DEVELOPMENT DISTRICT), is amended as follows:

1. Add a new § 1706.20 as follows:

1706.20        The hostel existing as of April 7, 2006, on the land area currently comprising Lot 810 in Square 342 may be expanded or rebuilt to the maximum permitted density of 9.5 FAR, and the housing requirement specified in § 1706.5 (b) shall not apply to such expansion or rebuilding for so long as the hostel use continues.

Vote of the Zoning Commission taken at the public hearing on October 27, 2005, to **APPROVE** the proposed rulemaking: **4-0-1** (Carol J. Mitten, Anthony J. Hood, Kevin L. Hildebrand and John G. Parsons to approve; Gregory N. Jeffries not voting, not having participated).

This order was **ADOPTED** by the Zoning Commission at its public meeting on February 13, 2006, by a vote of **3-0-2** (Carol J. Mitten, Anthony J. Hood, and John G. Parsons to adopt; Gregory N. Jeffries not voting, not having participated; Kevin L. Hildebrand not present, 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 \_\_\_\_\_.