

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Zoning Commission**



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

**AND**

**Z.C. ORDER NO. 10-04**

**Z.C. Case No. 10-04**

**(Text Amendment – 11 DCMR)**

**(Amendment to the ANC Notification Requirements Under Chapters 30 and 31 of the  
Zoning Regulations)  
September 27, 2010**

The Zoning Commission for the District of Columbia (the “Commission”), pursuant to its authority under §§ 1 and 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799; D.C. Official Code §§ 6-641.01 and 641.07), hereby gives notice of adoption of the following text amendments to the Zoning Commission Rules of Practice and Procedure, and the Board of Zoning Adjustment Rules of Practice and Procedure, Chapters 30 and 31, DCMR Title 11. A Notice of Proposed Rulemaking was published in the *D.C. Register* (“DCR”) on July 16, 2010 at 57 DCR 6199. The amendments shall become effective upon the publication of this notice in the *D.C. Register*.

**Description of Amendments**

The amendment authorizes the use of electronic mail (“email”) for providing required notices concerning zoning applications to affected Advisory Neighborhood Commissions (“ANC”), the commissioner representing an affected single member district, and the Office of Advisory Neighborhood Commissions. The Office of Zoning will continue to provide such notices by first-class mail until a recipient agrees in writing to receive email notifications. The Council of the District of Columbia recently enacted legislation authorizing the use of email in these instances, but only required a written agreement for the affected ANC.

**Procedures Leading to Adoption of Amendments**

On March 3, 2010, the Office of Zoning filed a memorandum that served as a petition requesting amendments to the Zoning Regulations. A supplemental memorandum was filed on March 9, 2010, to correct certain code references in the original submission. The Office of Planning (“OP”) provided its report on March 12, 2010, and the case was set down for hearing on March 22, 2010. Thereafter, the Commission informally approved revisions to the proposed text to clarify the intent of the Office of Zoning.

In response to notice given pursuant to § 13 of the Comprehensive Advisory Neighborhood Commissions Reform Act of 2000, effective June 27, 2000 (D.C. Law 13-135, D.C. Official

Code § 1-309.10), ANC 6B filed a report with the Commission stating that at a regularly-scheduled, properly-noticed meeting with a quorum present, held on May 11, 2010, it voted unanimously to support the text amendment. (Exhibit No. 7.) As indicated by its adoption of these amendments, the Commission found this advice persuasive.

A public hearing was scheduled for and held on May 27, 2010, after which the Commission authorized the publication of a notice of proposed rulemaking in the *DC Register*. The Commission did not refer amendments to the National Capital Planning Commission (“NCPC”) for review because it is not required to do so for amendments to its own procedural rules, or to changes to the Board of Zoning Adjustment’s procedural rules.

The Notice of Proposed Rulemaking was published in the *D.C. Register* on July 16, 2010, 57 DCR 6199, for a 30-day notice and comment period. No comments were received.

At a properly noticed September 27, 2010 public meeting, the Commission took final action to adopt the text amendments as follows:

Amend Chapter 30, ZONING COMMISSION PROCEDURES RULES OF PRACTICE AND PROCEDURE, by adding a new § 3007 to read as follows:

**3007                   NOTICES TO ADVISORY NEIGHBORHOOD COMMISSIONS**

3007.1           Any notice required by D.C. Official Code § 1-309.10(c)(4) to be provided to affected Advisory Neighborhood Commissions, the Commissioner representing the affected single member district, and the Office of Advisory Neighborhood Commissions (“notice recipients”) may be provided by electronic or first-class mail; provided, that the notice shall be by first-class mail unless a notice recipient agrees in writing to receive future notifications through electronic mail.

3007.2           A notice of application shall constitute the notice required by D.C. Official Code § 1309.10(b) and starts the time period for the affected Commission to review the application and submit its written report pursuant to D.C. Official Code § 1-309.10(d).

Amend Chapter 31, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, § 3115 ADVISORY NEIGHBORHOOD COMMISSIONS, as follows: by adding the phrase, “: REPORTS AND NOTICE” to its title so that it reads “ADVISORY NEIGHBORHOOD COMMISSIONS: REPORTS AND NOTICE”; (b) by inserting the phrase “prepared in response to a notice of application provided pursuant to § 3115.5” into the introductory text of § 3115.1; and (c) by adding new §§ 3115.4 and 3115.5 to read as follows:

**3115            ADVISORY NEIGHBORHOOD COMMISSIONS: REPORTS AND NOTICE**

3115.1            The written report of the ANC prepared in response to a notice of application provided pursuant to § 3115.5 shall be submitted to the Board at least seven (7) days in advance of the hearing and shall contain the following information:

- (a)            An identification of the appeal or application;
- (b)            When the public meeting of the ANC to consider the appeal or application was held;
- (c)            Whether proper notice of that meeting was given by the ANC;
- (d)            The number of members of the ANC that constitute a quorum and the number of members present at the meeting;
- (e)            The issues and concerns of the ANC about the appeal or application as related to the standards of the Zoning Regulations against which the appeal or application must be judged;
- (f)            The recommendation, if any, of the ANC as to the disposition of the appeal or application;
- (g)            The vote on the motion to adopt the report to the Board;
- (h)            The name of the person authorized by the ANC to present the report; and
- (i)            The signature of the ANC chairperson or vice-chairperson.

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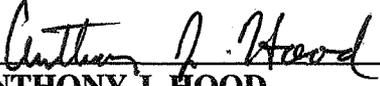
3115.4            Any notice required by D.C. Official Code § 1-309.10(c)(4) to be provided to affected Advisory Neighborhood Commissions, the Commissioner representing the affected single member district, and the Office of Advisory Neighborhood Commissions (“notice recipients”) may be provided by electronic or first-class mail; provided, that the notice shall be by first-class mail unless a notice recipient agrees in writing to receive future notifications through electronic mail.

3115.5 A notice of an application shall constitute the notice required by D.C. Official Code § 1-309.10(b) and starts the time period for the affected Commission to review the application and submit its written report pursuant to D.C. Official Code §1-309.10(d).

On May 27, 2010, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** this Petition at the end of its public hearing by a vote of **4-0-1** (Anthony J. Hood, Konrad W. Schlater, Peter G. May, and Michael G. Turnbull to approve; third Mayoral appointee position vacant, not voting).

On September 27, 2010, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission **ADOPTED** this Order by a vote of **4-0-1** (Anthony J. Hood, Konrad W. Schlater, and Michael G. Turnbull to approve; Peter G. May to approve by absentee ballot; Greg M. Selfridge, not having 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 October 15, 2010.

  
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ANTHONY J. HOOD  
CHAIRMAN  
ZONINGS COMMISSION

  
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JAMISON L. WEINBAUM  
DIRECTOR  
OFFICE OF ZONING

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF FINAL RULEMAKING  
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(Text Amendment to the ANC Notification Requirements Under Chapters 30 and 31 of the  
Zoning Regulations)  
September 27, 2010**

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of Zoning



Z.C. CASE NO.: 10-04

As Secretary to the Commission, I hereby certify that on OCT 14 2010 copies of this Z.C. Order No 10-04 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. *D.C. Register*
2. All ANCs (see attached list)
3. All Councilmembers (see attached list)
4. Gottlieb Simon  
ANC  
1350 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004
5. DDOT (Karina Ricks)
6. Melinda Bolling, Acting General Counsel  
DCRA  
1100 4<sup>th</sup> Street, S.W.  
Washington, DC 20024
7. Office of the Attorney General (Alan Bergstein)

ATTESTED BY:

Sharon S. Schellin  
Secretary to the Zoning Commission  
Office of Zoning