

# Updates on Changes to Zoning Regulations and Short-term Rental Regulations

*October 25, 2018*

# Recent and Upcoming Zoning Amendments

## Final rulemakings published and in effect

### » Z.C. Order No. 17-18

- Amendments to Definitions and Rules of Measurement for height and density
- Corrects discrepancy between definitions of basement and cellar and the rules for measuring GFA for partial below-grade stories.
- All measurements set to five (5) feet measured from adjacent finished or nature grade, whichever is lower, to the finished floor of the ground floor.

### » Changes to definitions (subset):

- Basement: That portion of a story partly below grade where the finished floor of the ground floor, the ceiling of which is four (4 ft.) is five (5 ft.) or more above the adjacent natural or finished grade, whichever is the lower in elevation.
- Cellar: That portion of a story partly below grade where the finished floor of the ground floor, the ceiling of which is four (4 ft.) is less than five (5 ft.) above the adjacent natural or finished grade, whichever is the lower in elevation.

# Recent and Upcoming Zoning Amendments

## Final rulemakings published and in effect

### » Z.C. Order No. 17-18 (cont.)

- Grade, Natural: The undisturbed elevation of the ground of a lot prior to human intervention; or where there are existing improvements on a lot, the established elevation of the ground, exclusive of the improvements or adjustments to the grade in the ~~two (2)~~ **five (5)** years prior to applying for a building permit; ~~Natural grade may not include manually constructed berms or other forms of artificial landscaping.~~ **Exceptions to Natural Grade are set forth in the definition of “grade, Exceptions to.”**
- Grade, Exceptions to: The following are exceptions to “Finished Grade” and “Natural Grade” as those terms are defined below:
  - (a) A **window well** that projects no more than **four feet (4 ft.)** from the building face; and
  - (b) An **areaway** that provides direct access to an entrance and, excluding associated stairs or ramps, projects no more than **five feet (5 ft.)** from the building face.
- Window well: A subsurface space adjacent to a building open at the top or protected by a grating or guard that affords access, air, light, or emergency egress to a window.

# Recent and Upcoming Zoning Amendments

## **Final rulemakings published and in effect**

- » Z.C. Order No. 17-18 (cont.)
  
- » Changes to Rules of Measurement for Gross Floor Area
  - Perimeter Wall (304.4) and Grade Plane (304.5) methods now consistent with definitions and based upon 5-foot threshold
  - What is and is not counted in Gross Floor Area relocated to Rules of Measurement
  - New provision added regarding alteration of finished floor elevation of the ground floor

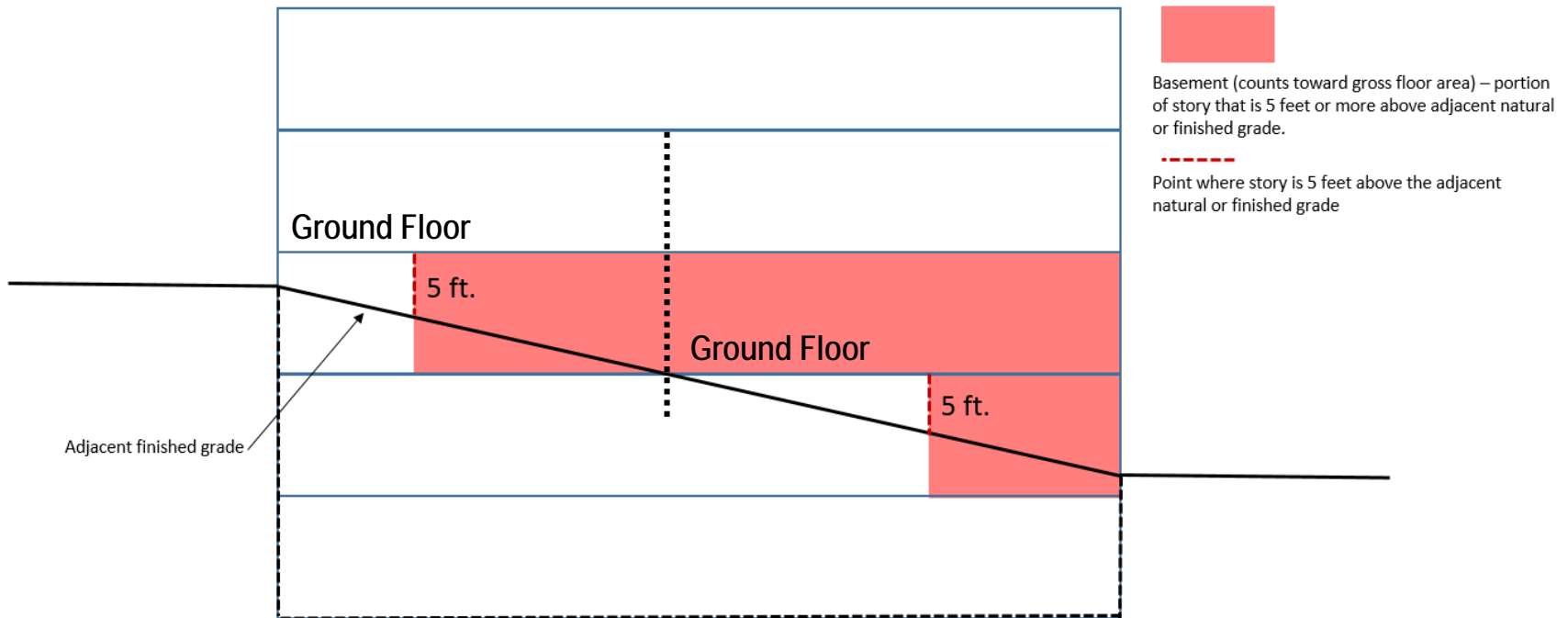
**304.6**      **For a building where the finished floor of the ground floor is removed or altered in elevation in association with a renovation where a raze of the building has not occurred, the higher of previously existing or new finished floor of the ground floor shall be used for calculating the gross floor area pursuant to 11-B DCMR §§ 304.4 and 304.5.**

# Recent and Upcoming Zoning Amendments

## Final rulemakings published and in effect

### » Z.C. Order No. 17-18 (cont.)

- What happens when there are multiple “ground floors?”
  - Floor, Ground: The floor level nearest to and above the adjacent finished grade



# Recent and Upcoming Zoning Amendments

## **Final rulemakings published and in effect**

### » Z.C. Order No. 17-18 (cont.)

- Additional amendments to Definitions (Areaway, Building Area, Finished Grade, etc.)
- Amendments to Rules of Measurement for Building Height to incorporate “adjacent natural grade or finished grade, whichever is the lower elevation.”
- Amendments to Rules of Measurement for Number of Stories

**310.5**      **Where there are multiple elevations for the finished floor of the ground floor, the height used for counting the number of stories shall be determined by the highest elevation of the finished floor.**

**310.6**      **For a building where the finished floor of the ground floor is removed or altered in height in association with a renovation where a raze of the building has not occurred, the higher of the previously existing or new finished floor of the ground floor shall be used for counting the number of stories.**

# Recent and Upcoming Zoning Amendments

## Final rulemakings published and in effect

- » Z.C. Order No. 17-18 (cont.)
  - Vesting under prior Rules of Measurement

**301.15** **Notwithstanding Subtitle A § 301.4, any building permit application including a foundation-to-grade permit application (the Permit Application), shall be processed, and any work authorized by the permit may be carried to completion pursuant to the rules for measuring floor area ratio, height, and stories as existed on August 17, 2018 if the Permit Application was legally filed with, and accepted as complete by the Department of Consumer and Regulatory Affairs on or before that date and not substantially changed after filing.**

# Recent and Upcoming Zoning Amendments

## **Final rulemakings published and in effect**

- » Z.C. Order No. 08-06O
  - Correction to ZR16 to allow large format retail in all PDR zones as a special exception
  
- » Z.C. Order No. 17-12
  - Text and map amendments to SEFC zones
  - Replacement of Combined Lot Development “trading” scheme with more prescriptive approach to where uses will be developed.
  - Various amendments to development standards on specific properties (density, height, lot occupancy, front setback, rear yard)
  
- » Z.C. Order No. 17-20
  - Amendments to use permissions for Daytime Care uses, including child development centers, to allow as a matter of right in NC, WR, and certain MU zones without limitations on persons or staff.
  - Child development centers permitted as a matter of right in RA zones.



# Recent and Upcoming Zoning Amendments

## **Final rulemakings not yet published**

- » Z.C. Order No. 08-06P (goes into effect on October 26, 2018)
  - Various clarifications and corrections
- » Z.C. Order No. 08-06Q (goes into effect on October 26, 2018)
  - Clarification that all GFA devoted to Lodging Use in the D zones is considered non-residential GFA
- » Z.C. Order No. 18-06
  - Text amendment to create a new MU-3B zone and rename existing MU-3 zone to MU-3A.

TABLE G § 402.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Zone	Maximum FAR	
	Total Permitted	Maximum Non-Residential Use
MU-3A	1.0	1.0
	1.2 (IZ)	
MU-3B	2.0	1.5
	2.4 (IZ)	
MU-4	2.5	1.5
	3.0 (IZ)	

TABLE G § 403.1: MAXIMUM PERMITTED HEIGHT/STORIES

Zone	Maximum Height (Feet)	Maximum Stories
MU-3A	40	3
MU-3B	50	4
MU-4	50	N/A

- Transition setback requirements applicable to any lot line directly abutting an R zone district

# Recent and Upcoming Zoning Amendments

## **Final action taken but final rulemaking not yet published**

### » Z.C. Case No. 18-02

- Amendments to use permissions to allow veterinary hospitals and veterinary boarding hospitals as special exception when abutting an existing residential use in a mixed-use building, subject to conditions.
- Applicable to zones within MU-Use Groups C, D, and E
- Emergency action and proposed action taken on April 12, 2018
- **Emergency action expired on August 10, 2018**
- Final action taken on June 25, 2018
- Final rulemaking not yet published

# Recent and Upcoming Zoning Amendments

## Proposed action taken

### » Z.C. Case No. 18-09

- Correct to Rules of Measurement for Building Height: Non-Residential Zones:

307.6     ~~Except as provided in Subtitle B § 307.4, in~~ **In** those zones in which the height of a building is permitted to be ninety feet (90 ft.) or greater, the height of buildings shall be measured from the ~~finished grade level~~ at **BHMP shall be established at the level of the curb, opposite the middle of the front of the building and the building height shall be measured from the** BHMP to the highest point of the roof excluding parapets not exceeding four feet (4 ft.) in height.

- Amendment to make “Art gallery and museum” use permitted as a matter of right in zones within MU-Use Group A

# Recent and Upcoming Zoning Amendments

## Proposed action taken

### » Z.C. Case No. 17-03

- Amendments to vesting provisions in Subtitle A, Section 301
- Section 301.5 - Applicable to building permit applications when Zoning Commission has a [map amendment pending](#)
- Section 301.7 – Applicable to building permit applications authorized by orders of the BZA and the Zoning Commission

301.7 All applications for building permits authorized by orders of the Board of Zoning Adjustment, or authorized by orders of the Zoning Commission in a contested case, may be processed in accordance with the Zoning Regulations and Zoning Map in effect on the date the vote was taken to approve the Board or Commission application, to the extent the proposed building or structure is depicted on any plans approved by the Board or Commission. No BZA or Zoning Commission order shall be deemed to include relief from any zoning regulation unless such relief was expressly requested by the applicant and expressly granted in the order.; ~~provided, that all applications for building permits shall be accompanied by the plans and other information required by Subtitle A § 301.2, which shall be sufficiently complete to permit processing without substantial change or deviation.~~

# Recent and Upcoming Zoning Amendments

## Proposed action taken

### » Z.C. Case No. 17-03 (cont.)

301.5      If an application for a type of building permit enumerated in Subtitle A § 301.6 is filed when the Zoning Commission has pending before it a proceeding to consider an amendment of the zone classification of the site of the proposed construction, the processing of the application and the completion of work pursuant to the permit shall be governed as follows:

- (a)      If one (1) of the building permit applications listed in Subtitle A § 301.6 is filed officially accepted as being complete and under review by the Department of Consumer and Regulatory Affairs on or before the date on which the Zoning Commission makes a decision to hold a hearing on the amendment, the processing of the application and completion of the work shall be governed by the property's existing zone classification pursuant Subtitle A § 301.4. However, if no building permit has been issued prior to the date that the zoning map amendment becomes effective, the building permit application shall be processed in accordance with the adopted zoning map amendment. The building permit application shall:

# Recent and Upcoming Zoning Amendments

## Proposed action taken

### » Z.C. Case No. 17-03 (cont.)

- (1) **Be** be accompanied by any fee that is required, and by the plans and other information required by Subtitle A § 301.2, which shall be sufficiently complete to permit processing without substantial change or deviation, and by any other plans and information that are required to permit complete review of the entire application under any applicable District of Columbia regulations; **and**
- (2) **Be sufficiently complete to permit processing without changing the proposed use or increasing the intensity of the use, and without deviations from the submitted plans, except for plan deviations that:**
  - (A) **Address the requirements of the Construction Codes (12 DCMR), ~~subject to Subtitle A § 304.2~~; or**
  - (B) **Increase the extent to which the proposed structure complies with matter of right standards under the existing zone designation, such as by:**
    - (i) **Reducing lot occupancy, gross floor area, building height, penthouse height, the number of stories or number of units; or**
    - (ii) **Increasing the size of yards or other setbacks from property lines.**

# Recent and Upcoming Zoning Amendments

## Proposed action taken

### » Z.C. Case No. 17-23

- Amendments to definitions for detached, semi-detached, and attached buildings
- Amendments to side yard development standards in R, RF, and RA zones.

### » Changes to definitions

Building, Row Attached: A building that ~~abuts or shares walls on both side lot lines with other buildings on adjoining lots.~~ **has no side yards** ~~The terms “row dwelling” and “row house” shall have the same meaning.~~

Building, Detached: A ~~freestanding building that does not abut any other building and where all sides of the building are surrounded by yards or open areas within the lot~~ **is completely separated from all other buildings and has two (2) side yards.**

Building, Semi-detached: A building that ~~abuts or shares one (1) wall, on a side lot line, with another building on an adjoining lot and where the remaining sides of the building are surrounded by open areas or street lot lines~~ **has only one (1) side yard.**

# Recent and Upcoming Zoning Amendments

## **Proposed action taken**

### » Z.C. Case No. 17-23

- Amendments to definitions for detached, semi-detached, and attached buildings
- Amendments to side yard development standards in R, RF, and RA zones.

### » Changes to side yard development standards

- Relocated to general development standards of each Subtitle with a few exceptions.
- Existing conforming side yards may not be reduced to a nonconforming width or eliminated.
- For buildings with nonconforming side yards, additions/extension can be made provided the existing nonconforming side yard is not reduced or eliminated and the side yard adjacent to the addition/extension meets a specified minimum width.



# Recent and Upcoming Zoning Amendments

## **Pending cases**

### » Z.C. Case No. 12-08B

- Text amendments to Saint Elizabeths (StE) zone to:
  - Impose height limits on buildings within the StE-2 zone.
  - Allow emergency shelter uses as a matter-of-right in the StE-2 zone.
  - Substitute the Medical Care use category for the current Health Care use category as one of the use categories permitted in StE zones

### » Z.C. Case No. 18-18

- Text amendment to create the Northern Howard Road Zone

### » Z.C. 04-33I

- Text amendments to Inclusionary Zoning regulations

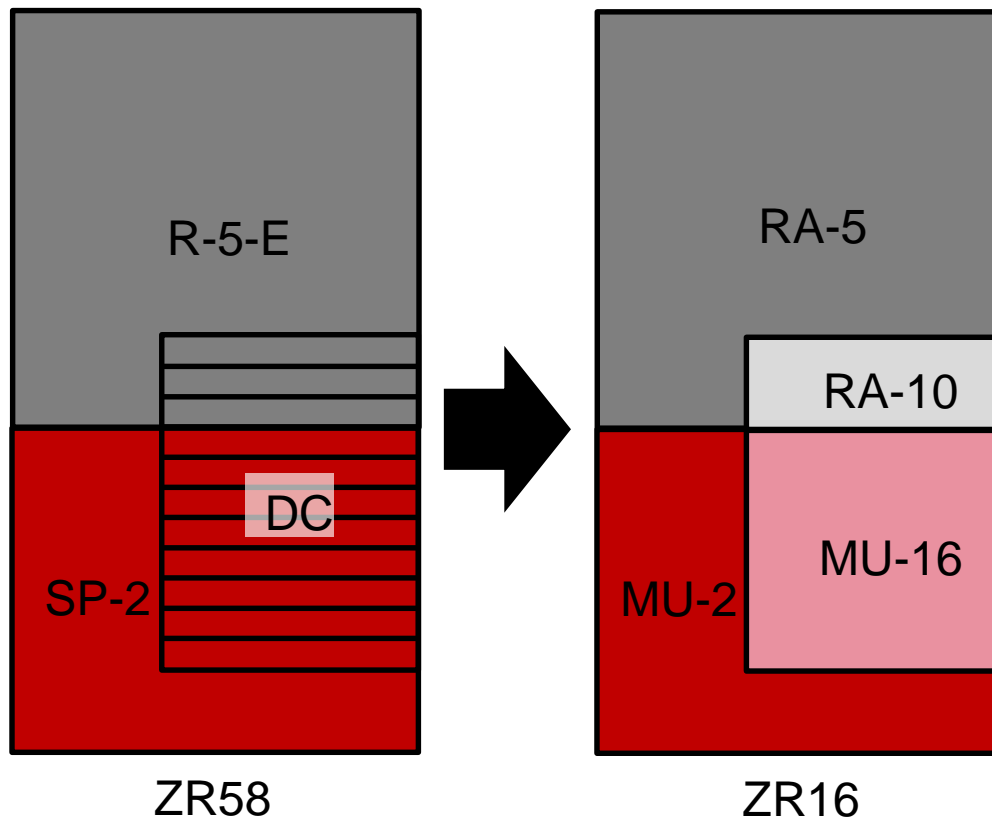
### » Z.C. Case No. 18-16

- Text and map amendment to change certain zone names
- No substantive changes to the Regulations, STILL NO OVERLAYS

# Recent and Upcoming Zoning Amendments

## Pending cases

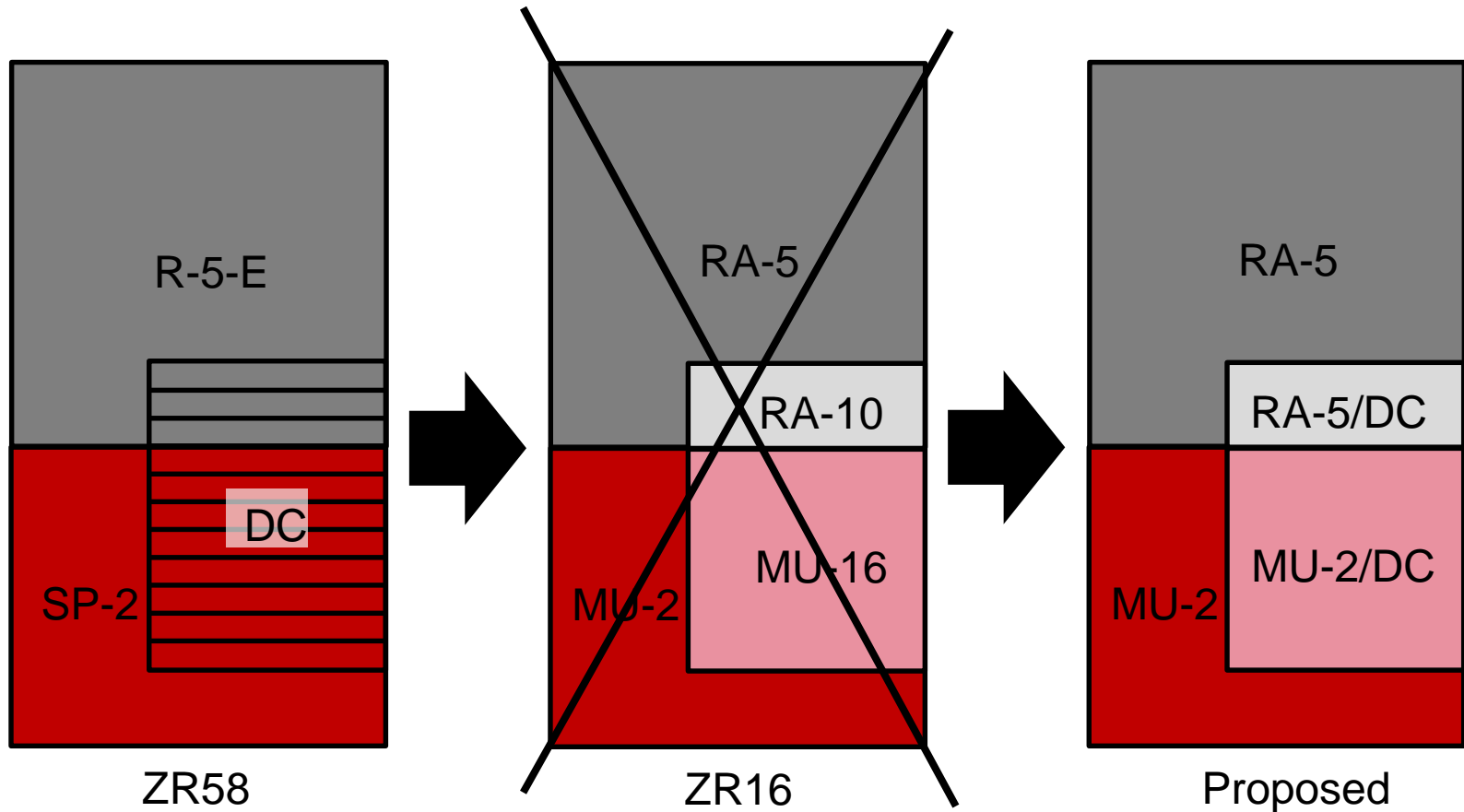
» Z.C. Case No. 18-16



# Recent and Upcoming Zoning Amendments

## Pending cases

» Z.C. Case No. 18-16



# Recent and Upcoming Zoning Amendments

## Pending cases

### » Z.C. Case No. 18-16 (cont.)

- Full chart of name changes included in Notice of Further Public Hearing

Subtitle	ZR58 Name	ZR16 Name	Proposed Name
D – Residential House (R)	R-1-B/TSP	R-7	R-1-B/TS
	R-3/NO	R-12	R-3/NO
E – Residential Flats (RF)	R-4/DC	RF-2	RF-1/DC
F – Residential Apts. (RA)	R-5-B/CAP	RA-7	RA-2/CAP
	R-5-E/DC	RA-10	R-A-5/DC
G – Mixed Use (MU)	SP-2/DC	MU-16	MU-2/DC
	C-2-A/CAP/CHC	MU-26	MU-4/CAP/CHC
	CR/FT	MU-29	MU-10/FT
H – Nbrhd. Comm.	C-2-A/HS-A	NC-15	MU-4/H-A
K – Spec. Purpose	C-2-B/RC	RC-3	MU-5A/RC

# Proposed IZ Amendments (Z.C. 04-33I)

- » Primarily include technical corrections: errors and omissions, clarifications, and reorganization of the regulations.
- » Provisions relating to the zone-specific bonus density and adjustments are moved to the chapters for each zone district.

## **SUBTITLE F - RESIDENTIAL APARTMENT (RA) ZONES**

### **105 INCLUSIONARY ZONING**

- 105.1 The requirements of Subtitle C, Chapter 10 Inclusionary Zoning, shall apply to all zones in the subtitle except the RA-5 or RA-10 zones.
- 105.2 Inclusionary zoning requirements for the RA zones are as specified in Subtitle C, Chapter 10 and the zone-specific development standards of this Subtitle.
- 105.3 Development standards for projects subject to the requirements of Inclusionary Zoning are indicated by “(IZ)”.

# Proposed IZ Amendments (Z.C. 04-33I)

## Example of Bonus Density Chart for RA zones

### 302 DENSITY – FLOOR AREA RATIO (FAR)

302.1 Except as provided in other provisions of this subtitle and in Subtitle C, Chapter 15, the maximum permitted FAR in the RA-1 through RA-5 zone shall be as set forth in the following table:

**TABLE F § 302.1: MAXIMUM PERMITTED FLOOR AREA RATIO**

Zone	Maximum FAR	<u>Maximum FAR with IZ</u>
RA-1	0.9	<u>1.08</u>
RA-2	1.8	<u>2.16</u>
RA-3	3.0	<u>3.6</u>
RA-4	3.5	<u>4.2</u>
RA-5	5.0	<u>n/a</u>
	6.0 for an apartment house or hotel	

# Proposed IZ Amendments (Z.C. 04-33I)

## Example of Provisions with IZ Adjustments

### CHAPTER 4 / RA-6 ZONE

#### **402 DENSITY - FLOOR AREA RATIO (FAR)**

402.1 The maximum permitted FAR in the RA-6 zone shall be 0.9 (1.08 with IZ).

### CHAPTER 5 / RA-7 ZONE

#### **502 DENSITY - FLOOR AREA RATIO (FAR)**

502.1 The maximum permitted FAR in the RA-7 zone shall be 1.8 FAR (**2.16 with IZ**)

#### **504 LOT OCCUPANCY**

504.1 The maximum permitted lot occupancy in the RA-7 zone shall be sixty percent (60%), or seventy five percent (75%) with IZ.

# Proposed IZ Amendments (Z.C. 04-33I)

## Sub. C, Sec. 1001.2 / IZ Applicability

- » Key is “**new gross floor area**” that results in “**ten (10) or more dwelling units**”

1001.2 Except as provided in Subtitle C § 1001.5, the requirements and modifications of this chapter shall apply to developments in zones in which the requirements of this chapter are identified as applicable; provided the development meets one or more of the following criteria:

(a) —...

(b) Is proposing new gross floor area that would result in ten (10) or more dwelling units, including dwelling units located in a cellar or penthouse;

(c) Will have ten (10) or more new dwelling units constructed concurrently or in phases, on **one (1) or more** continuous lots or lots divided by an alley if such lots were under common ownership, control, or affiliations within one (1) year prior to the application for the first building permit;

(d) Consists of residential building, other than a single dwelling unit or flat, that has penthouse habitable space pursuant to Subtitle C § 1500.11; or

(e) Any semi-detached, attached, flat or multiple dwellings development not described in Subtitle C § ~~1001.2(b) through 1001.2(d)~~ **§§ 1001.2(a) through 1001.2(c)** if the owner voluntary [sic] agrees to the requirements of Subtitle C § 1003 and meets all other requirements of this chapter, provided:

...



# Proposed IZ Amendments (Z.C. 04-33I)

## » IZ Applicability when Expanding Existing Buildings

1001.4 ~~If the new gross floor area comprising ten (10) or more units would result in an increase of fifty percent (50%) or more in the floor area of an existing building, IZ requirements and modifications shall apply to both the existing and the increased gross floor area.~~ **For existing buildings that become subject to the requirements of this chapter pursuant to Subtitle C § 1001.2, the requirements of Subtitle C §§ 1003.1 and 1003.2 and the available modifications to applicable development standards shall apply:**

**(a) To both the existing and the new gross floor area if the new gross floor area:**

**(1) Utilizes bonus density provided by Subtitle C § 1002; or**

**(2) Results in an increase of fifty percent (50%) or more in the building's gross floor area; and**

**(b) To only the new gross floor if the new gross floor area:**

**(1) Does not utilize the bonus density provided by Subtitle C § 1002; and**

**(2) Does not result in an increase of fifty percent (50%) or more in the building's gross floor area.**

## **Examples of IZ Applicability when Expanding Existing Buildings**

- » Conversion of non-residential building to residential building, but no additional square footage: IZ does not apply \*
- » Existing building (residential or nonresidential) with an addition that has 50% or more of the original GFA and the addition has 10 or more units: IZ applies for the existing building and the addition
- » Existing building (residential or nonresidential) with an addition that has 50% or more of the original GFA but addition has less than 10 units: IZ does not apply
- » Existing building (residential or nonresidential) with an addition of less than 50% of the original GFA and addition has 10 or more units, IZ applies to the addition only
- » In all cases, when bonus density is used IZ applies to the existing building and the addition
- » When IZ applies to an existing residential building - IZ units may be located solely in the new addition if all existing units occupied at time of permit application (11-C DCMR 1005.6)

# Proposed IZ Amendments (Z.C. 04-33I)

## **Conversion of Non-IZ Affordable Units to IZ Units**

- » Subtitle C, Sec. 1001.6 - Exemptions to IZ was amended to include the following:

1001.6 The IZ requirements of this chapter shall not apply to:

(a) Any development subject to a mandatory affordable housing requirement that exceeds the requirement of this chapter as a result of District law or financial subsidies funded in whole or in part by the Federal or District Government and administered and/or monitored by the Department of Housing and Community Development (DHCD), the District of Columbia Housing Finance Agency (DCHFA), or the District of Columbia Housing (DCHA); provided:

...

(5) **The Exempt Affordable Units shall be sold or rented in accordance with the Inclusionary Zoning Program upon the expiration of the affordable housing requirements of the District Law of financial subsidies as shall be described in the covenant.**

- » Projects that are subject to a Land Development Disposition Agreement (LDDA)

# Proposed IZ Amendments (Z.C. 04-33I)

## **Achievable vs. Utilized Bonus Density**

- » Clarifies that bonus density is the amount actually utilized by the project and not theoretical 20% permitted by Sec. 1002.3.
- » Clarifies the amount of bonus density that is used to calculate the IZ requirements of Sec. 1003.1 and Sec. 1003.2.

Sec. 1003.1 An inclusionary development which does not employ Type I construction, as defined in Chapter 6 of the International Building Code as incorporated into District of Columbia Construction Codes (Title 12 DCMR) to construct a majority of dwelling units and which is located in a zone with a by-right height limit **exclusive of any bonus height** of fifty feet (50 ft.) or less shall set aside the greater of ten percent (10%) of the gross floor area dedicated to residential use including penthouse habitable space as described in Subtitle C § 1001.2(d), or seventy-five percent (75%) of its achievable **the bonus density utilized** to inclusionary units plus an area equal to ten percent (10%) of the penthouse habitable space as described in Subtitle C § 1001.2(d).

Sec. 1003.2 An inclusionary development which employs Type I construction as defined by Chapter 6 of the International Building Code as incorporated into the District of Columbia Construction Codes (Title 12 DCMR) to construct the majority of dwelling units, **or which is located in a zone with a by-right height limit exclusive of any bonus height that is greater than fifty feet (50 ft.)** shall set aside the greater of eight percent (8%) of the gross floor area dedicated to residential use including penthouse habitable space as described in Subtitle C § 1001.2(d), or fifty percent (50%) of its achievable **the bonus density utilized** to inclusionary units plus an area equal to eight percent (8%) of the penthouse habitable space as described in Subtitle C § 1001.2(d).

# Proposed IZ Amendments (Z.C. 04-33I)

## Achievable vs. Utilized Bonus Density

» Based upon greater of 10% residential or 75% bonus density used

Site 1 (60,000 Square feet)							
Actual Project Density	Bonus Density Used	Residential Density	10% Residential Density	75% of Bonus Density Used	% of Residential Density	75% of Full Bonus Density	% of Residential Density
2.50	0.00	150,000	15,000	0			
2.55	0.05	153,000	15,300	2,250	1.47%	22,500	14.71%
2.60	0.10	156,000	15,600	4,500	2.88%	22,500	14.42%
2.65	0.15	159,000	15,900	6,750	4.25%	22,500	14.15%
2.70	0.20	162,000	16,200	9,000	5.56%	22,500	13.89%
2.75	0.25	165,000	16,500	11,250	6.82%	22,500	13.64%
2.80	0.30	168,000	16,800	13,500	8.04%	22,500	13.39%
2.85	0.35	171,000	17,100	15,750	9.21%	22,500	13.16%
2.90	0.40	174,000	17,400	18,000	10.34%	22,500	12.93%
2.95	0.45	177,000	17,700	20,250	11.44%	22,500	12.71%
3.00	0.50	180,000	18,000	22,500	12.50%	22,500	12.50%

Bonus GFA: 3,000 sf

Set Aside GFA: 15,300 sf (10.0% of res GFA)

Site 2 (160,000 Square feet)							
Actual Project Density	Bonus Density Used	Residential Density	10% Residential Density	75% of Bonus Density Used	% of Residential Density	75% of Full Bonus Density	% of Residential Density
2.50	0.00	400,000	40,000	0			
2.55	0.05	408,000	40,800	6,000	1.47%	80,000	19.61%
2.60	0.10	416,000	41,600	12,000	2.88%	80,000	19.23%
2.65	0.15	424,000	42,400	18,000	4.25%	80,000	18.87%
2.70	0.20	432,000	43,200	24,000	5.56%	80,000	18.52%
2.75	0.25	440,000	44,000	30,000	6.82%	80,000	18.18%
2.80	0.30	448,000	44,800	36,000	8.04%	80,000	17.86%
2.85	0.35	456,000	45,600	42,000	9.21%	80,000	17.54%
2.90	0.40	464,000	46,400	48,000	10.34%	80,000	17.24%
2.95	0.45	472,000	47,200	54,000	11.44%	80,000	16.95%
3.00	0.50	480,000	48,000	60,000	12.50%	80,000	16.67%

Bonus GFA: 8,000 sf

Set Aside GFA: 40,800 sf (10.0% of res GFA)

# Proposed IZ Amendments (Z.C. 04-33I)

## Achievable vs. Utilized Bonus Density

» Based upon full bonus utilization regardless of actual project density

Site 1 (60,000 Square feet)							
Actual Project Density	Bonus Density Used	Residential Density	10% Residential Density	75% of Bonus Density Used	% of Residential Density	75% of Full Bonus Density	% of Residential Density
2.50	0.00	150,000	15,000	0			
2.55	0.05	153,000	15,300	2,250	1.47%	22,500	14.71%
2.60	0.10	156,000	15,600	4,500	2.88%	22,500	14.42%
2.65	0.15	159,000	15,900	6,750	4.25%	22,500	14.15%
2.70	0.20	162,000	16,200	9,000	5.56%	22,500	13.89%
2.75	0.25	165,000	16,500	11,250	6.82%	22,500	13.64%
2.80	0.30	168,000	16,800	13,500	8.04%	22,500	13.39%
2.85	0.35	171,000	17,100	15,750	9.21%	22,500	13.16%
2.90	0.40	174,000	17,400	18,000	10.34%	22,500	12.93%
2.95	0.45	177,000	17,700	20,250	11.44%	22,500	12.71%
3.00	0.50	180,000	18,000	22,500	12.50%	22,500	12.50%

Bonus GFA:  
3,000 sf

Set Aside GFA:  
22,500 sf  
(14.7% of res GFA)

Site 2 (160,000 Square feet)							
Actual Project Density	Bonus Density Used	Residential Density	10% Residential Density	75% of Bonus Density Used	% of Residential Density	75% of Full Bonus Density	% of Residential Density
2.50	0.00	400,000	40,000	0			
2.55	0.05	408,000	40,800	6,000	1.47%	80,000	19.61%
2.60	0.10	416,000	41,600	12,000	2.88%	80,000	19.23%
2.65	0.15	424,000	42,400	18,000	4.25%	80,000	18.87%
2.70	0.20	432,000	43,200	24,000	5.56%	80,000	18.52%
2.75	0.25	440,000	44,000	30,000	6.82%	80,000	18.18%
2.80	0.30	448,000	44,800	36,000	8.04%	80,000	17.86%
2.85	0.35	456,000	45,600	42,000	9.21%	80,000	17.54%
2.90	0.40	464,000	46,400	48,000	10.34%	80,000	17.24%
2.95	0.45	472,000	47,200	54,000	11.44%	80,000	16.95%
3.00	0.50	480,000	48,000	60,000	12.50%	80,000	16.67%

Bonus GFA:  
8,000 sf

Set Aside GFA:  
80,000 sf  
(19.61% of res GFA)



# Proposed IZ Amendments (Z.C. 04-33I)

## **Conversion from Gross Floor Area to Net Square Feet**

- » Not intended to change the IZ requirement, only to codify DCRA's procedure for Certificate of Inclusionary Zoning Compliance ("CIZC") review and approval

- Sec. 1003.4    **The gross floor area required to be set-aside for Inclusionary Units pursuant to Subtitle C §§ 1003.1 and 1003.2 shall be converted to net square feet based on the ratio of net square footage of residential use to the gross floor area of residential use. For the purpose of this subsection, Net Square Footage means:**
- (a)    For flats and multiple dwellings, the area of a unit that is bounded by the inside surface of the perimeter wall of each unit. Unit area includes all interior walls and column [sic]; and**
  - (b)    For single principle dwelling units, the area of a unit that includes the full thickness of exterior enclosing walls and the full thickness of walls between a unit and adjacent common areas.**

# Proposed IZ Amendments (Z.C. 04-33I)

## Conversion from Gross Floor Area to Net Square Feet

- IZ set aside requirement is greater of 10% of residential GFA or 75% of bonus density used
- Bonus density is 5,000 sf (GFA) - the difference between 2.5 FAR (MOR) and 3.0 FAR (IZ)
- Total residential GFA converts to net square feet (NSF) using efficiency factor of 82%.
- 10% of residential GFA is 2,750 sf = 2,255 sf (NSF)
- 75% of bonus density used is 3,750 sf (GFA) = 3,075 sf (NSF)
- 3,075 sf > 2,255 sf, so IZ requirement has to equal or exceed 3,750 sf (GFA) = 3,075 sf (NSF).
- IZ requirement is 13.6% of the total net residential square footage of 22,550 sf (NSF).\*

### Sample Conversion of Gross IZ Requirements to Net Square Feet

Land Area	10,000			
Zone	MU-4			
	FAR	Gross	Net	Ratio
Matter of Right Floor Area	2.5	25,000		
Total Floor Area	3.0	30,000		
Bonus Density		5,000		
Non-Residential Gross Floor Area		2,500		
Total Residential Area		27,500	22,550	0.82
IZ Requirement				
Percent of Residential Area	10%	2,750	2,255	
Percent of Bonus Density	75%	3,750	3,075	

\* IZ requirement also needs to include the applicable percentage of penthouse habitable space (GFA) devoted to dwelling units, floor area in a cellar devoted to dwelling units, and floor area devoted to residential use located in projections.



# Proposed IZ Amendments (Z.C. 04-33I)

## Two Bedroom IZ Units

- » State with more clarity the requirement for two-bedroom units, on the basis that data on IZ households and units shows that 57% of IZ households are of two or more people, but only 31% of IZ units are of two or more bedrooms.
- » State in the positive that two-bedroom units are required to ensure the proportions of IZ studios and one-bedrooms do not exceed the market rate proportions for those units; and
- » Provide relief for small projects when providing a two-bedroom would require them to set aside more square feet than otherwise required by the IZ program.

Sec. 1005.1 The **first inclusionary unit shall be a two-bedroom, unless the requirements of Subtitle C § 1003 (excluding any set aside requirement satisfied pursuant to Subtitle C § 1006.10(c) is less than 850 net square feet, in which case any unit type may be provided. Subsequent inclusionary units after the first two bedroom unit shall be allocated such that the proportion of studio inclusionary units to all inclusionary units, and the proportion of and one-bedroom inclusionary units to all inclusionary units, shall not exceed the proportion of the comparable market rate units to all market rate units** for each unit type.

Total Units: 120	Market Rate	IZ
Studio	40 (40%)	8 (40%)
One bedroom	40 (40%)	8 (40%)
Two bedroom	20 (20%)	4 (20%)

## **IZ Units in Cellar Space**

- » Proposal to add a new provision that would prohibit an IZ unit within an apartment house from being located in a cellar.
  
- » Office of Planning justification:
  - As a matter of practice, IZ units are not required to be located on top floors with the most valuable units; therefore they should not be located in a cellar with the least valuable units.
  - Cellar area is “free FAR.”
  
- » Industry response:
  - If market rate units are provided at cellar level, IZ units should be permitted at the cellar level.
  - Cellar floor area devoted to dwelling units is subject to IZ.

# Proposed IZ Amendments (Z.C. 04-33I)

## Approval Process

- » Set down of proposed text amendments by Zoning Commission: November 13, 2017
- » Public hearing: September 30, 2018
- » Office of Planning to respond to public hearing comments by mid- to late-November for November 19<sup>th</sup> public meeting
- » Proposed Action / Final Action
- » Currently, the text amendments do not include vesting provision or date certain for when amendments take effect. OP views the changes as technical not substantive amendments, therefore changes take effect once adopted by Zoning Commission under normal framework.

- » Bill 22-92, Short-term Rental Regulation and Affordable Housing Protection Act of 2018
  - Definitions
  - Short-term Rental Licensing
  - Requirements for Short-term Rentals
  - Restrictions on Short-term Rentals
  - Current State of Play
  - What to expect

# Zoning Considerations for Short-Term Rentals

## **Short-Term Rentals – Lodging Use vs Residential Use**

### » Lodging Use (Subtitle B § 200.2(u)):

- (1) A use providing customers with temporary housing for an agreed upon term of less than thirty (30) consecutive days; any use where temporary housing is offered to the public for compensation, and is open to transient rather than permanent guests;
- (2) Examples include, but are not limited to: hotels, motels, inns, hostels, or bed and breakfast establishments; and
- (3) Exceptions: This use category does not include uses which more typically would fall within the emergency shelter or residential use categories;

# Zoning Considerations for Short-Term Rentals

## Short-Term Rentals – Lodging Use vs Residential Use

### » Residential Use (Subtitle B § 200.2(bb)):

(1) A use offering habitation on a continuous basis of at least thirty (30) days. The continuous basis is established by tenancy with a minimum term of one (1) month or property ownership;

(2) This use category also includes residential facilities that provide housing and supervision for persons with disabilities, which may include twenty-four hour (24 hr.) on-site supervision, lodging, and meals for individuals who require supervision within a structured environment, and which may include specialized services such as medical, psychiatric, nursing, behavioral, vocational, social, or recreational services;

(3) Examples include, but are not limited to: single dwelling unit, multiple dwelling units, community residence facilities, retirement homes, rooming units, substance abusers' home, youth residential care home, assisted living facility, floating homes, or other residential uses; and

(4) Exceptions: This use category does not include uses which more typically would fall within the lodging, education, or community-based institutional facility use categories.

# Zoning Considerations for Short-Term Rentals

## » Planned Unit Developments

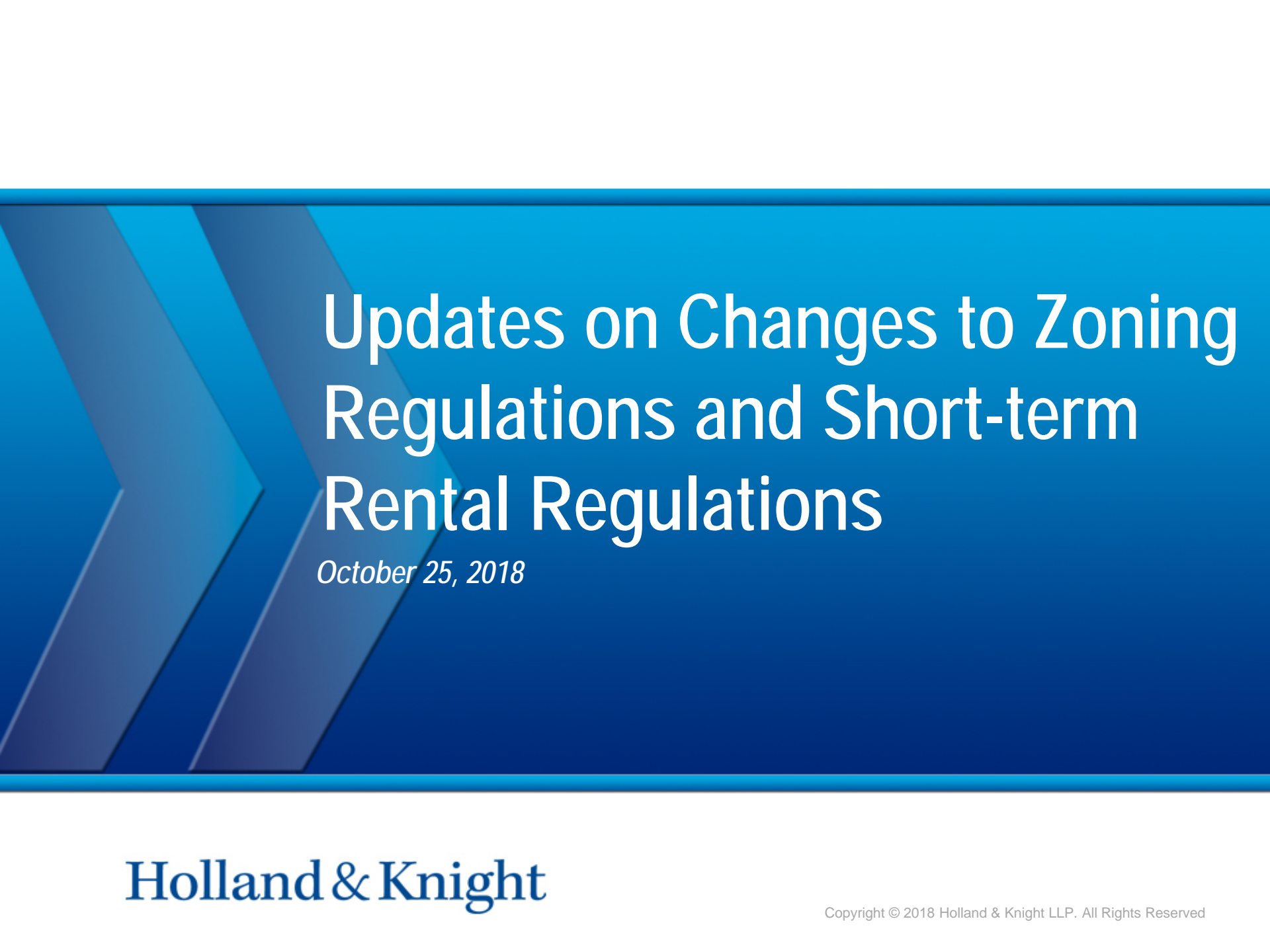
## » Mixed Use Zones

- Residential vs. Non-residential GFA
  - Subtitle B, Section 304
  - Z.C. Order No. 08-06Q
- Temporary uses
- Parking
- Loading

## » Residential Zones

## » Additional Considerations

- Construction Code
- Real property taxes
- Hotel occupancy taxes



# Updates on Changes to Zoning Regulations and Short-term Rental Regulations

*October 25, 2018*



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