Government of the District of Columbia
OFFICE OF ZONING

MEMORANDUM

TO: Arnold R. Finlayson, Administrator
Office of Documents and Administrative Issuance

FROM: Alberto P. Bastida, AICP
Secretary to the Zoning Commission

DATE: May 17, 2002

SUBJECT: Publication for the Office of Zoning

Please publish the following in the D.C. Register on May 24, 2002:

1. Z.C. Notice of Proposed Rulemaking (Z.C. Case No. 02-01); and
2. Z.C. Notice of Emergency Rulemaking and order No. 950-A (Z.C. Case No. 01-32TA).

Received By

5/17/02
Date

Attachments

441 4th Street, N.W., Suite 210-S, Washington, D.C. 20001
Tel: (202) 727-6311 • Fax: (202) 727-6072
E-Mail: zoning.info@dcoz.dcgov.org • Web Site: http://dcoz.dcgov.org

ZONING COMMISSION
District of Columbia
Case 02-01
Exhibit 8

ZONING COMMISSION
District of Columbia
CASE NO.02-01
EXHIBIT NO.8

OFFICE OF DOCUMENTS AND ADMIN. ISSUANCES
2002 MAY 16 AM 10:56
Transmitted in RS error to OPAS

RULEMAKING TRANSMITTAL FORM

TYPE OF RULEMAKING ACTION: [ ] EMERGENCY RULES [ ] FINAL RULES [x] PROPOSED RULES [ ] COMBINED

DATE AND TIME RECEIVED
Office of Documents use only

AGENCY: OFFICE OF ZONING

AGENCY REPRESENTATIVE: MR. ALBERTO P. BASTIDA

ADDRESS: 441 4th Street, N.W., Suite 210 South TELEPHONE: (202) 727-0330

TITLE AND DESCRIPTION OF RULES: Amendment to Title 11, DCMR (Zoning), Chapter 31, to amend § 3112.2, relating to the time for filing appeals with Board of Zoning Adjustment from the decisions of administrative officials in the administration and enforcement of the Zoning Regulations.

If this rulemaking action will amend or repeal existing rules, give a complete citation TO the rules being amended or repealed: 11 DCMR § 3112.2.

FINAL RULES ONLY: Give the D.C. REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules: DCR _____ DATE: _____

COMPLETE CITATION to the statute, regulation, or other legal authority which specifically authorizes the issuance of the substance of these rules: Sections 1 and 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799; D.C. Code, 2001 Ed. §§ 6-641.01 and 6-641.07(c)).

LEGAL CERTIFICATION: I certify that I have reviewed the attached rulemaking and, in my opinion, the substance of the text of the rules is legally sufficient.
DATE: MAY 15, 2002 SIGNED: _____ PHONE: (202) 442-9777

	FINAL	✓	CONDITIONAL	NAME: ROBERT R. RIGSBY TITLE: CORPORATION COUNSEL

PROMULGATOR: Name and title of the person legally authorized to adopt and promulgate these rules (or the name of the board or other body authorized to adopt rules by vote)
Zoning Commission for the District Of Columbia Title:

COMPLETE CITATION to the statute, regulation, order, or other legal authority that specifically authorizes the issuance of the substance of these rules: Sections 1 and 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799; D.C. Code, 2001 Ed. §§ 6-641.01 and 6-641.07(c)).

SIGNATURE OF THE PERSON AUTHORIZED TO ADOPT RULES OR ATTEST TO THE ADOPTION OF RULES

DATE OF APPROVAL OF VOTE:

APPROVAL OF ATTEST: _____
TITLE: Secretary to the Zoning Commission PHONE: (202) 727-0330

Office of Documents use only: THIS NOTICE PUBLISHED AT: VOL: DCR: DATE:

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING
Z.C. Case No. 02-01
(Text Amendment – 11 DCMR)
(Filing Deadline for Appeals to the Board of Zoning Adjustment)

The Zoning Commission for the District of Columbia, pursuant to its authority under §§ 1 and 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Code, 2001 Ed. §§ 6-641.01 and 6-641.07(c) (formerly codified at D.C. Code §§ 5-413 and 5-424(c) (1994 Repl.))), hereby gives notice of its intent to amend § 3112 of the Zoning Regulations, Title 11 DCMR, pertaining to appeals to the Board of Zoning Adjustment from the decisions of the Zoning Administrator and other administrative officers in the administration and enforcement of the Zoning Regulations.

The proposed rulemaking would require that all such appeals be filed within sixty (60) days of the date the person filing the appeal had notice or knew of the decision complained of, or reasonably should have had notice or known of the decision complained of, whichever is earlier.

Final rulemaking shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The following rulemaking action is proposed. Added text is shown bolded and underlined.

Chapter 31, Board of Zoning Adjustment Rules of Practice and Procedure, § 3112.2, pertaining to pre-hearing procedures for appeals, is amended to read as follows:

3112.2 Any person aggrieved by an order, requirement, decision, determination, or refusal made by an administrative officer or body, including the Mayor of the District of Columbia, in the administration or enforcement of the Zoning Regulations may file a timely appeal with the Board **as follows:**

(a) An appeal shall be filed within sixty (60) days from the date the person appealing the administrative decision had notice or knowledge of the decision complained of, or reasonably should have had notice or known of the decision complained of, whichever is earlier.

(b) If the decision complained of involves the erection, construction, reconstruction, conversion, or alteration of a structure or part thereof, no appeal shall be filed later than ten (10) days after the date

on which the structure or part thereof in question is under roof. For purposes of this paragraph, the phrase "under roof" means the stage of completion of a structure or part thereof when the main roof of the structure or part thereof, and the roofs of any structures on the main roof, are in place.

(c) The Board may extend the sixty (60) day deadline for the filing of an appeal only if the appellant demonstrates that:

(1) There are exceptional circumstances that are outside of the appellant's control and that could not have been reasonably anticipated that substantially impaired the appellant's ability to file an appeal to the Board; and

(2) The extension of time will not prejudice the parties to the appeal, as identified in § 3199.1.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Alberto P. Bastida, Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Suite 210-S, Washington, D.C. 20001.

Copies of this proposed rulemaking may be obtained at cost by writing to the above address.