

Government of the District of Columbia
Office of Zoning



MEMORANDUM

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

FROM: Jerrily R. Kress, FAIA *JK*
Director

DATE: January 26, 2005

SUBJECT: Publication for the Office of Zoning

Please publish the following in the *D C Register* on February 4, 2005.

- 1 Z.C. Order No 02-24A;
- 2 Z.C. Notice of Public Hearing (Z.C Case No. 05-01);
- 3 Z.C. Notice of Public Hearing (Z.C Case No. 04-31);
- 4 Z.C. Notice of Public Hearing (Z.C Case No 04-27) , and
- 5 Z.C. Notice of Proposed Rulemaking (Z.C. Case No 05-01)

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Date

Attachments

OFFICE OF ZONING
District of Columbia
CASE NO. *05-01*
EXHIBIT NO. *1*

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING**

TIME AND PLACE: **Thursday, March 31, 2005, 7:00 P.M.**
 Office of Zoning Hearing Room
 441 4th Street, N.W., Suite 220-South
 Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

**Case No. 05-01 (Text Amendment –Designating Adult Development Centers as a Use
Permitted by Special Exception or as a Matter of Right– 11 DCMR)**

THIS CASE IS OF INTEREST TO ALL ANCs

The Zoning Commission of the District of Columbia imitated this proceeding in order to address an issue that arose during a Board of Zoning Adjustment proceeding. The text amendment under consideration would allow Adult Development Centers under the same circumstances as Child or Elderly Development Centers are permitted. At its regular Public Meeting held January 13, 2005, the Commission voted to setdown this case for public hearing and waived its rule of procedure that requires receipt of an Office of Planning report prior to taking such action. In response to the Commission's inquiry, the Office of Planning indicated that it would serve as the Petitioner at the hearing. The Zoning Commission also authorized the publication of a Notice of Proposed Rulemaking for this proceeding. That Notice appears elsewhere in this edition of the *D.C. Register*.

The proposed text amendment is as follows:

NEW LANGUAGE INDICATED IN BOLD, DELETED LANGUAGE IN STRIKETHROUGH.

Title 11 DCMR (Zoning Regulations) is amended as follows.

- A. Amend Chapter 1, THE ZONING REGULATIONS, § 199, Definitions, to modify the definitional terms "Caregiver" and "Child/Elderly Development Center" to read as follows

Caregiver - an individual who is responsible for the supervision and administration of a child development home or child/adult/elderly development center.

Child/Adult/Elderly development center - a building or part of a building, other than a community based residential facility, child development home or elderly day care home, used for the licensed care, education, counseling, or training of individuals-fifteen (15) years of age or less and/or for care of elderly individuals or individuals with disabilities, totaling six (6) or more persons, who are not related by blood or marriage to

the caregiver and who are present for less than twenty-four (24) hours per day. This definition encompasses facilities generally known as child care centers, pre-schools, nursery schools, before-and-after school programs, day treatment centers, senior care centers, elder care programs, and similar programs and facilities. A child/adult/elderly development center includes the following accessory uses: counseling, education, training, and health and social services for the person or persons with legal charge of individuals ~~parents or principal guardians of children~~ attending the center, including, but not limited, to any parent, spouse, sibling, child or legal guardian of such individuals.

B. Chapter 2, R-1 RESIDENCE DISTRICT USE REGULATIONS, § 205, Child\ Elderly Development Centers (R-1), is amended by:

- 1 Changing the Section's title to "Child/Adult/Elderly Development Centers (R-1)";
- 2 Striking the term "child/elderly" wherever it appears and inserting the term "child/adult/elderly" in its place; and
3. By amending § 205.3 to read as follows:

205.3 The center shall be located and designed to create no objectionable traffic condition and no unsafe condition for picking up and dropping off ~~children or elderly persons~~ attending the center.

C Chapter 3, §§ 330.5 (d) and (e) and 350.4 (g), Chapter 5, § 501.1(g), Chapter 6, § 601.2 (c); Chapter 9, § 901.1 (t); Chapter 21, § 2101.1; and Chapter 31, § 3104.1 are amended by striking the term "child/elderly" wherever it appears and inserting the term "child/adult/elderly" in its place.

This public hearing will be conducted in accordance with the rulemaking case provisions of the Zoning Regulations, 11 DCMR § 3021. The Commission will impose time limits on the testimony presented to it at the public hearing.

All individuals, organizations, or associations wishing to testify in this case should file their intention to testify in writing. Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusion in the record and will be deemed as also responding to the separately published Notice of Proposed Rulemaking.

Information responsive to this notice should be forwarded to the Director, Office of Zoning, Suite 210, 441 4th Street, N.W., Washington, D.C. 20001. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

CAROL J. MITTEN, ANTHONY J. HOOD, GREGORY JEFFRIES, JOHN G. PARSONS, AND KEVIN HILDEBRAND, ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY JERRILY R. KRESS, FAIA, DIRECTOR, AND BY CLIFFORD W. MOY, SECRETARY TO THE ZONING COMMISSION.

RULEMAKING TRANSMITTAL FORM

TYPE OF RULEMAKING ACTION: ☐ EMERGENCY RULES
☐ FINAL RULES ☒ PROPOSED RULES ☐ COMBINED

DATE AND TIME RECEIVED

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AGENCY: OFFICE OF ZONING

AGENCY REPRESENTATIVE: CLIFFORD MOY

ADDRESS 441 4th Street, N.W , Suite 210 South

TELEPHONE

TITLE AND DESCRIPTION OF RULES Case No. 05-01(Text Amendment --Designating Adult Development Centers as a Use Permitted by Special Exception or as a Matter of Right-- 11 DCMR)

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: Title 11 (Zoning) Sections 205, §§ 330 5 (d) and (e), 350 4 (g), § 501 1(g), § 601 2 (c), § 901 1 (t); § 2101.1, § 3104 1

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 Section 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat 797, 799 D C Official Code § 6-641.01)

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. JANUARY 26, 2005

SIGNED

Alan Register fcc

PHONE (202) 442-9777

☒ FINAL ☐ CONDITIONAL NAME: ROBERT J SPAGNOLETTI TITLE ATTORNEY GENERAL

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 this person or agency to adopt and promulgate these rules Section 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799 D C Official Code § 6-641 01)

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

DATE OF
APPROVAL
OF VOTE

01-13-05

APPROVAL
OF ATTEST

Clifford W. Moy
Secretary to the Zoning

TITLE Commission

PHONE (202) 727-6311

Office of Documents
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THIS NOTICE
PUBLISHED AT

VOL

DCR

DATE

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

Case No. 05-01

**(Text Amendment –Designating Adult Development Centers as a Use Permitted by Special
Exception or as a Matter of Right– 11 DCMR)**

The Zoning Commission for the District of Columbia, pursuant to the authority set forth in § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat 797, 799; D.C. Official Code § 6-641 01), hereby gives notice of the intent to adopt amendments to Chapters 1, 2 3, 5, 6 9, 21, and 31 of the Zoning Regulations (11 DCMR). The rule would allow Adult Development Centers under the same circumstances as Child or Elderly Development Centers are permitted. Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D C Register*, subject to the completion of the hearing and review procedures set forth in § 492 of the District Charter. A Notice of Public Hearing concerning the proposed amendments is published elsewhere in this edition of the *D.C. Register*.

NEW LANGUAGE INDICATED IN BOLD; DELETED LANGUAGE IN STRIKETHROUGH.

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- 3 By amending § 205.3 to read as follows

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- C Chapter 3, §§ 330.5 (d) and (e) and 350.4 (g), Chapter 5, § 501.1(g); Chapter 6, § 601.2 (c), Chapter 9, § 901.1 (t), Chapter 21, § 2101.1; and Chapter 31, § 3104.1 are amended by striking the term "child/elderly" wherever it appears and inserting the term "child/adult/elderly" in its place

All persons desiring to comment in writing on the subject matter of this proposed rulemaking should file comments to Clifford Moy, Secretary to the Zoning Commission for the District of Columbia, Office of Zoning, 441 4th Street, N.W., Washington D.C. 20001. Persons wishing to testify in person before the Commission should follow the instructions given in the separately published Notice of Public Hearing. All written Comments received will be made part of the record of that hearing and must be received no later than the date on which the hearing record is closed. A copy of this proposal may be obtained, at cost, by writing to the above address.