

Government of the District of Columbia
OFFICE OF ZONING

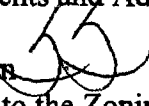
Office Of
Documents And
Administrative
Issuances

2005 NOV 31 PM 3: 57



MEMORANDUM

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

FROM: Sharon S. Schell 
Acting Secretary to the Zoning Commission

DATE: December 1, 2005

SUBJECT: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on December 9, 2005:

1. Z.C. Notice of Emergency Rulemaking (Case No. 05-20);
2. Z.C. Notice of Proposed Rulemaking (Case No. 05-20); and
3. Z.C. Notice of Proposed Rulemaking (Case No. 05-29).

Attachments

~~EXHIBIT NO.~~
~~05-20~~
~~14~~

RULEMAKING TRANSMITTAL FORM

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

DATE AND TIME RECEIVED

Office of Documents use only

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

TELEPHONE:

AGENCY: OFFICE OF ZONING

AGENCY REPRESENTATIVE: SHARON SCHELLIN

TITLE AND DESCRIPTION OF RULES: Asphalt Plants Emergency Text Amendment

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: Title 11 (Zoning) Section 801.7

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: NOVEMBER 29, 2005

SIGNED:

R. J. Spagnoletti

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:

November 21,
2005

APPROVAL
OF ATTEST:

Sharon J. Schellin

Acting Secretary to the Zoning
TITLE: Commission

PHONE: (202) 727-0340

Office of Documents
use only:

THIS NOTICE
PUBLISHED AT:

VOL:

DCR:

DATE:

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF EMERGENCY RULEMAKING
Case No. 05-20
(Text Amendment – Asphalt Plants)
November 21, 2005

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) and the authority set forth in D.C. Official Code §2-505(c) hereby gives notice of the adoption, on an emergency basis, of amendments to Title 11 of the District of Columbia Municipal Regulations (“DCMR”) to permit the asphalt plant, now located at 60 P Street, S.E., Square 705, Lot 802 to relocate as a matter of right within D.C. Village on the part of parcel 253/26 west of Shepherd Parkway, S.W. and east of the Anacostia Freeway, subject to certain conditions.

Emergency rulemaking action is required in order to minimize the period of time during which the District Department of Transportation will have one source of asphalt. The asphalt plant located in Square 705, lot 802 (“the plant”) is one of only two asphalt plants within the District of Columbia. Because delivery of the asphalt from processing plant to site must occur in thirty minutes or less, DDOT is unable to rely on sources located beyond the District. As a result of the District’s recent exercise of its eminent domain authority, the plant must relocate. The District has identified a relocation site within D.C. Village, but the plant’s owner cannot begin the process of planning and financing the relocation until it has some degree of certainty as to its ability to operate at the new location. At present, asphalt plants are prohibited in all zone districts. The current proceeding that is considering the relocation request is not likely to be completed until late January at the earliest. Each day between now and then will be one more day that the District Department of Transportation must rely on a single source of asphalt. With winter fast approaching, the need to maintain the integrity of the District’s roadways becomes critical. A cessation or slowdown of asphalt supply from the one remaining plant would clearly jeopardize public safety. Therefore, the Commission must take emergency action to permit the plant’s relocation process to begin at the earliest possible time, with the understanding the final action to permanently allow the use must still be taken. A notice of proposed rulemaking with respect to the relocation request, together with additional provisions relating to new asphalt plants, is published elsewhere in this edition of the *D.C. Register*.

The emergency rulemaking took effect immediately upon its adoption on November 21, 2005 and will expire 120 days thereafter, i.e. March 21, 2006.

Title 11 (DCMR) is amended as follows:

Chapter 8, INDUSTRIAL DISTRICTS, is amended by adding new § 801.7(m) to read as follows:

- 801.7(m) An asphalt plant located in D.C. Village on the part of parcel 253/26 west of Shepherd Parkway, S.W., and east of the Anacostia Freeway (D.C. Village site”) if the plant was located in Square 705, Lot 802 on

November 21, 2005 and was relocated to the D.C. Village site, provided that the plant:

- (i) Meets the requirements of 802.17 (a) through (h); and
- (ii) Displays no signs visible from the Anacostia Freeway.

RULEMAKING TRANSMITTAL FORM

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

DATE AND TIME RECEIVED

Office of Documents use only

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

TELEPHONE: 442-0340

AGENCY: OFFICE OF ZONING

AGENCY REPRESENTATIVE: SHARON SCHELLIN

TITLE AND DESCRIPTION OF RULES: Asphalt Plants Text Amendment

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 801, 802, 822, and 823

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: NOVEMBER 29, 2005 SIGNED: *A. Byrd* 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 November 21, 2005
 OF VOTE:

APPROVAL OF ATTEST:

Sharon J. Schellin
 Acting Secretary to the Zoning

TITLE: Commission

PHONE: (202) 727-0340

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. 05-20
(Text Amendment – 11 DCMR)
(Asphalt Plants)

The Zoning Commission for the District of Columbia, pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Code 2001 Ed. § 6-641.01 (2001)), hereby gives notice of its intent to amend chapter 8 of the Zoning Regulations (Title 11 DCMR). The proposed amendment would allow asphalt plants as a permitted use within industrial zone districts subject to special exception review. Currently, this use is not permitted in any zone, as all existing plant(s) pre-date the current zone regulations. Further, the proposed text amendment permits the asphalt plant, now located at 60 P Street, S.E., Square 705, Lot 802, to relocate as a matter-of-right within a designated area in D.C. Village. 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

The following rulemaking action is proposed:

Title 11 DCMR is amended as follows:

1. By amending § 801.7 to add a new § 801.7(m) to read as follows:

801.7(m) An asphalt plant located in D.C. Village on the part of parcel 253/26 west of Shepherd Parkway, S.W., and east of the Anacostia Freeway (D.C. Village site”) if the plant was located in Square 705, Lot 802 on November 21, 2005 and was relocated to the D.C. Village site, provided that the plant:

- (i) Meets the requirements of 802.17 (a) through (h); and
- (ii) Displays no signs visible from the Anacostia Freeway.

2. Subsections 802.17 through 802.20 are amended by inserting the phrase “or asphalt” after the word “concrete” wherever it appears.

3. Amending § 823.1(f) by adding the phrase “, other than asphalt” after the phrase “bituminous products refining or manufacture”.

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 Sharon S. Schellin, Acting 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 action may be obtained at cost by writing to the above address.

RULEMAKING TRANSMITTAL FORM

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

DATE AND TIME RECEIVED

Office of Documents use only

AGENCY: OFFICE OF ZONING

AGENCY REPRESENTATIVE: SHARON SCHELLIN

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

TELEPHONE: 442-0340

TITLE AND DESCRIPTION OF RULES: *Flexibility for Private Schools to Enroll Students Displaced by Hurricane Katrina*

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 206.4 and 206.5

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: NOVEMBER 30, 2005

SIGNED:

Robert J. Spagnoletti

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:

November 28,
2005

APPROVAL
OF ATTEST:

Sharon J. Schellin
Acting Secretary to the Zoning
Commission

TITLE:

PHONE: (202) 727-0340

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ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING
Z.C. Case No. 05-29
(Text Amendment – 11 DCMR – Flexibility for Private Schools to Enroll Students
Displaced by Hurricane Katrina)

The Zoning Commission for the District of Columbia, pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Code 2001 Ed. § 6-641.01 (2001)), hereby gives notice of its intent to amend chapter 2 of the Zoning Regulations (Title 11 DCMR). The proposed amendment would temporarily permit private schools in the District of Columbia to enroll students displaced by the effects of Hurricane Katrina without having such students count against enrollment caps imposed by orders of the Board of Zoning Adjustment. The rule would limit the number of students who could be enrolled without counting towards such caps at ten percent of the maximum number permitted or twenty students, whichever is less, and would expire on July 1, 2006. 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*.

The following rulemaking action is proposed:

Title 11 DCMR (Zoning) is proposed to be amended as follows:

Chapter 2, R-1 RESIDENCE DISTRICT USE REGULATIONS, is amended by adding new §§ 206.4 and 206.5 to read as follows:

206.4 Students who were displaced due to the effects of Hurricane Katrina may attend a private school existing as of September 15, 2005, without being counted against the limit on the number of students that may be a condition of an order of the Board of Zoning Adjustment; provided, that the number of students to be accommodated at a school shall not exceed ten percent (10%) of the maximum number permitted or twenty (20) students, whichever is less.

206.5 Subsection 206.4 shall expire on July 1, 2006.

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 Sharon S. Schellin, Office of Zoning, 441 4th Street, N.W., Suite 210-S, Washington, D.C. 20001. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.