Government of the District of Columbia
OFFICE OF ZONING

MEMORANDUM

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

FROM: Sharon S Schellin
Acting Secretary to the Zoning Commission

DATE: March 29, 2006

SUBJECT: Publication for the Office of Zoning

Please publish the following in the *D C Register* on April 7, 2006

1 Z C Notice of Public Hearing (Case No 05-26),
2 Z C Notice of Public Hearing (Case No 06-16),
3 Z C Notice of Proposed Rulemaking (Case No 05-21),
4 Z C Notice of Final Rulemaking & Order No 05-12 (Case No 05-12),
5 Z C Order No 05-33 (Case No 05-33); and
6 Z C Order No 03-12B/03-13B (Case No 03-12B/03-13B).

The final rulemaking is also included on the attached diskette

Attachments

441 4th St N W Suite 200-S Washington D C 20001
Telephone (202) 727-6311 E-Mail Address zoning.info@dcoz.dc.gov Web Site www.dcoz.dc.gov

ZONING COMMISSION
District of Columbia
CASE NO.05-21
EXHIBIT NO.21

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: SHARON SCHELLIN

ADDRESS: 441 4th Street, N.W., Suite 210 South TELEPHONE (202) 727-0340

TITLE AND DESCRIPTION OF RULES

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed Title 11 (Zoning) Sections 199, 721, 735, 736, 761, 802, and 3104

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 3 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat 797, 799, D C Official Code § 6-641.01 and 6-641 03)

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 MARCH 28, 2006 SIGNED. Alan Bergstein (by SPAM) PHONE: (202) 442-9777

[ ] FINAL [ ] CONDITIONAL NAME: for 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

COMPLETE CITATION to the statute, regulation, order, or other legal authority that specifically authorizes this person or agency to adopt and promulgate these rules
Sections 1 and 3 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat 797, 799; D.C. Official Code § 6-641.01 and 6-641 03)

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

DATE OF APPROVAL OF VOTE. 2/13/06

APPROVAL OF ATTEST· Sharon T. Schellin
TITLE. Acting Secretary to the Zoning 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
ZC Case No. 05-21
(Text Amendment – 11 DCMR)
(Animal Boarding)

The Zoning Commission for the District of Columbia, pursuant to its authority under §§ 1 and 3 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 798, as amended; D.C. Official Code §§ 6-641.01 and 6-641.03 (2001 ed.)), hereby gives notice of its intent to amend chapters 1, 7 and 8 of the Zoning Regulations (Title 11 DCMR). The proposed amendments would permit animal boarding uses as a special exception in the C-2, C-3, C-4, and M Zone Districts. The amendments would also permit certain existing types of dog boarding facilities to obtain Certificates of Occupancy establishing their matter of right status, but those facilities will need special exception approval to continue using exterior yards. 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:

A. Chapter 1, THE ZONING REGULATIONS, § 199.1, is amended by adding the following new definition:

Animal boarding- Any premises, other than a veterinary hospital, pet shop, or pet grooming establishment, used as a commercial establishment for the overnight boarding and/or recurring daily care of animals for a fee. Any pet grooming establishment that permits ten or more animals on the premises at a time, or that permits the overnight stay of animals, is considered an animal boarding use.

B. Chapter 7, COMMERCIAL DISTRICTS, is amended as follows:

1. By adding new §§ 721.7 through 721.8 to read as follows:

721.7 Notwithstanding § 735, an animal boarding use in existence as of July 11, 2005, under a Certificate of Occupancy for a "Dog Care Center" or "Dog Day Care Center," may be permitted to apply for a new Certificate of Occupancy as an animal boarding use if the use does not abut a Residence Zone, except that the continued use of an external yard shall require the approval of the Board of Zoning Adjustment as a special exception pursuant to § 736.

721.8 Any internal or external expansion of an animal boarding use permitted under § 721.7 shall require the approval of the Board of Zoning Adjustment as a special exception.

2. By adding a new § 735 to read as follows.

735 ANIMAL BOARDING

735.1 An animal boarding use may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section.

735.2 The animal boarding use shall not abut a Residence Zone.

735.3 The animal boarding use shall take place entirely within an enclosed and soundproof building in such a way so as to produce no noise or odor objectionable to nearby properties. The windows and doors of the premises shall be kept closed and no animals shall be permitted in an external yard on the premises.

735.4 The animal boarding use shall place all animal waste in closed waste disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly. Odors shall be controlled by means of an air filtration system (for example, High Efficiency Particulate Air "HEPA" filtration) or an equivalently effective odor control system.

735.5 The Board may impose additional requirements pertaining to the location of buildings or other structures, entrances, exits, buffers, barriers, fencing, soundproofing, odor control, waste storage and removal (including frequency), the species and/or number, and/or breeds of animals, or other requirements, as the Board deems necessary to protect adjacent or nearby property.

736 ANIMAL BOARDING: EXTERNAL YARDS

736.1 External yards or other exterior facilities for the keeping of animals shall not be permitted.

736.2 Notwithstanding § 736.1, an animal boarding use existing on July 11, 2005, under a Certificate of Occupancy for a "Dog Care Center" or "Dog Day Care Center," may continue the use of an external yard for the keeping of dogs if approved by the Board of Zoning Adjustment pursuant to § 3104 and the requirements of this section.

736.3 The yard shall be located and designed to create no condition objectionable to adjacent properties resulting from animal noise, odor, and/or waste.

736.4 The applicant shall demonstrate that the external yard will be fenced off for the safe confinement of the animals.

736.5 The applicant shall demonstrate that the external yard is located entirely on private property.

736.6 The Board shall establish the hours in which animals may be kept in the yard, provided that, no animals shall be permitted in the yard between the 8:00 p.m. and 7:00 a.m.

3. By amending § 761.1 by inserting the phrase "an animal boarding use shall be prohibited and" after the language "Any use permitted in a C-4 District under § 751 shall be permitted in the C-5 (PAD) District as a matter of right, except that".

C. Chapter 8, INDUSTRIAL DISTRICTS, is amended by adding new §§ 802.21 through 802.24 to read as follows:

802.21 An animal boarding use may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section.

802.22 The animal boarding use shall be located and designed to create no condition objectionable to adjacent properties resulting from animal noise, odor or waste.

802.23 The animal boarding use shall not abut a Residence Zone.

802.24 External yards or other exterior facilities for the keeping of animals shall not be permitted.

D Chapter 31, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, is amended by adding to the table of special exceptions in §3104.1, in the proper alphabetical order, the following new entry:

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
Animal Boarding	Any C-2, C-3, C-4 or M District	§§ 721.7, 721.8, 735, 736, and 802.21

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 Schellin, Acting Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.