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: August 10, 2005

SUBJECT: Publication for the Office of Zoning

Please publish the following in the *D C Register* on August 19, 2005

1 Z C Notice of Filing (Case No 05-33),
2 Z C Notice of Emergency Rulemaking (Case No 05-21), and
3 Z C Notice of Public Hearing (Case No 05-21)

Attachments

[redacted]
CASE NO. 05-21
EXHIBIT NO. 4

441 4th St N W Suite 210-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.4

RULEMAKING TRANSMITTAL FORM

TYPE OF RULEMAKING ACTION: [X] 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 727-0340

TITLE AND DESCRIPTION OF RULES Case No. 05-21 (Text Amendment – Dog Boarding)

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed Title 11, §§ 199 and 721

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 AUGUST 5, 2005 SIGNED Alan Bergstein for 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 7-11-05

APPROVAL OF ATTEST Sharon S. Schellin

TITLE 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 EMERGENCY RULEMAKING
Case No. 05-21
(Text Amendment – Dog Boarding)
July 11, 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 certain existing types of dog boarding facilities in the C-2 through C-4 Districts to obtain Certificates of Occupancy that would establish their matter of right status, provided that the use does not abut a residence zone. A facility with an exterior yard will need special exception approval to continue the use of that area. Other existing dog boarding facilities in those same zones will be able to seek special exception approval to allow for the continuation of that use, except that such relief will not be available to uses that abut a residence zone. An eligible facility that applies for special exception approval will be able to obtain a temporary Certificate of Occupancy to permit its operation during the pendency of the special exception proceeding.

The need for emergency action results from a recent Board of Zoning Adjustment decision holding that a dog boarding facility is not a matter of right use in commercial zone districts. The order had the immediate effect of making such facilities susceptible to revocation action by the Department of Consumer and Regulatory Affairs. The Commission believes that to make such dog boarding services immediately unavailable to District residents, particularly during the summer vacation months, would cause public hardship and inconvenience and potentially impact public safety if owners cannot find a place to board their dogs

The emergency rulemaking took effect immediately upon its adoption on July 11, 2005 and will expire 120 days thereafter, i e November 8, 2005.

Title 11 (DCMR) is amended as follows:

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

> **Dog Boarding-** Any premises, other than a veterinary hospital, pet shop, or dog grooming establishment use, designated as the overnight boarding and/or recurring daily care of dogs for a fee as a commercial establishment An establishment used exclusively for dog grooming or the retail sales of pet items shall not be considered a dog boarding establishment

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

1 By adding new §§ 721 7 through 721 9 to read as follows.

#4

721 7 Notwithstanding §735, a Dog Boarding Use in existence as of July 11, 2005, under Certificates of Occupancy for "Dog Care Center" or "Dog Day Care Center", may be permitted to apply for a new Certificate of Occupancy as a Dog Boarding Use if the use does not abut a residence zone district, 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 a Dog Boarding Use permitted under § 721 7 shall require the approval of the Board of Zoning Adjustment as a special exception.

721 9 A Dog Boarding Use in existence as of July 11, 2005, which does not hold a Certificate of Occupancy for a "Dog Day Center" or a "Dog Day Care Center" and which has applied for special exception approval pursuant to § 735 on or before September 2, 2005 may obtain a temporary Certificate of Occupancy to allow its continued operation during the pendency of the special exception proceeding subject to the following.

(a) The use may not abut a residence zone district,

(b) The temporary Certificate of Occupancy shall expire upon the occurrence of one of the following, whichever is the first to occur

(1) The date upon which a written decision by the Board of Zoning Adjustment denying or dismissing the application becomes final;

(2) The date upon which an application is withdrawn; or

(3) Forty-five (45) days after a written decision by the Board of Zoning Adjustment granting the application becomes final.

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

735 DOG BOARDING

735 1 A Dog 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 Dog Boarding Use shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor or waste

735 3 The Dog Boarding Use may not abut a residence zone.

735 4 External yards or other such facilities for the keeping of dogs shall not be permitted

736 DOG BOARDING USES: EXTERNAL YARDS

736 1 A Dog Boarding Use existing on July 11, 2005, which is eligible to obtain a Dog Boarding Certificate of Occupancy pursuant to § 721.7, 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 2 The yard shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor or waste.

736 3 The applicant shall demonstrate that the external yard will be fenced off for the safe confinement of the dogs.

736.4 The Board shall establish the hours in which dogs may not be kept in the yard, provided that, at the minimum, no dogs shall be permitted in the yard between 8 00 PM and 7.00 AM.

3 By amending § 761.1 by inserting the phrase "a Dog 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 A Dog 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 Dog Boarding Use shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor or waste

802 23 The Dog Boarding Use may not abut a residence zone

802 24 External yards or other such facilities for the keeping of dogs shall not be permitted.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING

TIME AND PLACE: **Thursday, November 3, 2006, @ 6:30 P.M.**
Office of Zoning Hearing Room
441 4th Street, N.W. Suite 220
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

Case No. 05-21 (Dog Boarding – Text Amendment)

THIS CASE IS OF INTEREST TO ALL ANCs

The Office of Planning is requesting text amendments to Title 11 of the District of Columbia Municipal Regulations, Zoning to permit Dog Boarding Uses as special exceptions in the C-2 through C-4 and Industrial Zone Districts The text amendment also includes somewhat modified versions of provisions adopted by the Zoning Commission on an emergency basis on July 11, 2005[1] Those provisions permit certain existing types of dog boarding facilities in the C-2 through C-4 Districts to obtain Certificates of Occupancy that would establish their matter of right status, provided that the use does not abut a residence zone. A facility with an exterior yard will need special exception approval to continue the use of that area. Other existing dog boarding facilities in those same zones will be able to seek special exception approval to allow for the continuation of that use, except that such relief will not be available to uses that abut a residence zone. An eligible facility that applies for special exception approval will be able to obtain a temporary Certificate of Occupancy to permit its operation during the pendency of the special exception proceeding

This case was set down for hearing on July 11, 2005. The Office of Planning report was received on July 5, 2005 and served as the pre-hearing submittal for the case

Title 11 (DCMR) is amended as follows

A Chapter 1, THE ZONING REGULATIONS, § 199 1, is amended by adding the following new definition:

> **Dog Boarding**- Any premises, other than a veterinary hospital, pet shop, or dog grooming establishment use, designated as the overnight boarding and/or recurring daily care of dogs for a fee as a commercial establishment An establishment used exclusively for dog grooming or the retail sales of pet items shall not be considered a dog boarding establishment

[1] A Notice of Emergency Rulemaking is being published elsewhere in the same edition of the *D C Register*

B Chapter 7, COMMERCIAL DISTRICTS, is amended as follows

1 By addıng new §§ 721 7 through 721.9 to read as follows

721 7 Notwıthstandıng § 735, a Dog Boardıng Use ın exıstence as of July 11, 2005, under Certıficates of Occupancy for "Dog Care Center" or "Dog Day Care Center", may be permitted to apply for a new Certıficate of Occupancy as a Dog Boardıng Use if the use does not abut a resıdence zone dıstrıct, except that the contınued use of an external yard shall requıre the approval of the Board of Zonıng Adjustment as a special exceptıon pursuant to § 736.

721 8 Any ınternal or external expansıon of a Dog Boardıng Use permıtted under § 721 7 shall requıre the approval of the Board of Zonıng Adjustment as a specıal exceptıon

721 9 A Dog Boardıng Use ın exıstence as of July 11, 2005, whıch does not hold a Certıficate of Occupancy for a "Dog Day Center" or a "Dog Day Care Center" and which has applıed for specıal exceptıon approval pursuant to § 735 on or before September 2, 2005 may obtaın a temporary certıficate of occupancy to allow ıts contınued operatıon during the pendency of the specıal exceptıon proceedıng subject to the followıng·

(a) The use may not abut a resıdence zone dıstrıct;

(b) The temporary Certıficate of Occupancy shall expıre upon the occurrence of one of the followıng, whıchever ıs the first to occur

(1) The date upon whıch a wrıtten decısıon by the Board of Zonıng Adjustment denyıng or dısmıssıng the applıcatıon becomes final,

(2) The date upon whıch an applıcatıon ıs wıthdrawn, or

(3) Forty-five (45) days after a wrıtten decısıon by the Board of Zonıng Adjustment grantıng the applıcatıon becomes final

2 By addıng a new § 735 to read as follows

735 DOG BOARDING

735 1 A Dog Boardıng Use may be permıtted as a specıal exceptıon ıf approved by the Board of Zonıng Adjustment under § 3104, subject to the requırements of thıs sectıon

735 2 The Dog Boarding Use shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor or waste

735 3 The Dog Boarding Use may not abut a residence zone.

735 4 External yards or other such facilities for the keeping of dogs shall not be permitted

736 DOG BOARDING USES: EXTERNAL YARDS

736 1 A Dog Boarding Use existing on July 11, 2005, which obtained a Dog Boarding Certificate of Occupancy pursuant to § 721 7, 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

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

736 3 The applicant shall demonstrate that the external yard will be fenced off for the safe confinement of the dogs.

736 4 The Board shall establish the hours in which dogs may not be kept in the yard, provided that, at the minimum, no dogs shall be permitted in the yard between 8 00 PM and 7 00 AM

3 By amending § 761 1 by inserting the phrase "a Dog 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 A Dog 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 Dog Boarding Use shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor or waste

802 23 The Dog Boarding Use may not abut a residence zone

802 24 External yards or other such facilities for the keeping of dogs shall not be permitted

Proposed amendments to the Zoning Regulations and Map of the District of Columbia are authorized pursuant to the Zoning Act of June 20, 1938, (52 Stat 797), as amended, D.C. Official Code § 6-641 01 (2001), *et seq*

The public hearing on this case will be conducted as a rulemaking in accordance with the provisions of Section 3021 of the District of Columbia Municipal Regulations, Title 11, Zoning Pursuant to that section, the Commission will impose time limits on 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.

Information should be forwarded to the Secretary of the Zoning Commission, Office of Zoning, Suite 210, 441 4th Street, N.W , Washington, D.C , 20001 Please include the number of this particular case and your daytime telephone number. **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 SHARON SCHELLIN, ACTING SECRETARY TO THE ZONING COMMISSION.