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: January 26, 2006

SUBJECT: Publication for the Office of Zoning

Please publish the following in the *D.C Register* on February 3, 2006.

1 Z.C Order No 05-14A (Case No 05-14),
2. Z.C. Order No 05-22 (Case No. 05-22), and
3. Z.C. Notice of Final Rulemaking & Order No. 05-29 (Case No. 05-29)

The rulemaking is also provided on the attached diskette

Attachments

ZONING COMMISSION
District of Columbia
CASE NO.05-29
EXHIBIT NO.9

RULEMAKING TRANSMITTAL FORM

TYPE OF RULEMAKING ACTION: [ ] EMERGENCY RULES [X] 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: 727-0430

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If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: Title 11 (Zoning) Section 206

FINAL RULES ONLY. Give the D.C REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules: 52 DCR 10720 DATE. December 9, 2005

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 19, 2006 SIGNED *a By- fr* PHONE: (202) 442-9777

V	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: 1/9/06

APPROVAL OF ATTEST: *Sharon J 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 FINAL RULEMAKING
and
ORDER NO. 05-29
Z.C. Case No. 05-29
(Text Amendments – 11 DCMR)
(Flexibility for Private Schools to Enroll Students Displaced by Hurricane Katrina)
January 9, 2006

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 Official Code § 6-641 01), having held a public hearing as required by § 3 of the Act (D.C. Official Code § 6-641 03), and having referred the proposed amendments to the National Capital Planning Commission for a 30-day period of review pursuant to § 492 of the District of Columbia Charter; hereby gives notice of the adoption of amendments to § 206 of the Zoning Regulations (Residence District Use Regulations) The amendments 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 limits 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 will expire on July 1, 2006

The Commission took final action to adopt the amendments at a public meeting held on January 9, 2006

This final rulemaking is effective upon publication in the *D C Register*

Existing Regulations

Section 206 of the Zoning Regulations authorizes private schools to locate in R-1 zone districts if approved as a special exception by the Board of Zoning Adjustment ("BZA") Many BZA orders granting private school special exceptions include enrollment caps limiting the number of students who may attend the school

Description of Text Amendment

The amendment temporarily permits 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 limits 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 will expire on July 1, 2006

Relationship to the Comprehensive Plan

The amendment is not inconsistent with the Comprehensive Plan A major theme of the Plan is social responsibility 10 DCMR § 101.1(j) The Plan acknowledges that District neighborhoods are part of a larger community, and all neighborhoods should share in the overall social responsibilities of the community 10 DCMR § 111 1 The amendment advances this theme by allowing private schools located in residence districts to educate the victims of Hurricane Katrina on a temporary basis

The Commission also recognizes the Plan's goal of controlling the external negative impact of non-residential uses in residential neighborhoods. 10 DCMR § 1104 1(k) The amendment minimizes any impact by limiting the increase in enrollment to ten percent or twenty students, whichever is less, and by making the enrollment increase temporary

Public Hearing and Proposed Action

The Commission held a public hearing on this case on November 28, 2005

Following the conclusion of the hearing, the Commission took proposed action pursuant to 11 DCMR § 3027 2 to approve the advertised text

A Notice of Proposed Rulemaking was published in the *D C Register* on December 9, 2005 at 52 DCR 10720, for a 30-day notice and comment period. No comments were received.

On December 5, 2005, the proposed rulemaking was referred to the National Capital Planning Commission (NCPC), pursuant to the terms of § 492 of the District of Columbia Charter After thirty days had elapsed, no response was received from NCPC

The Office of the Attorney General has determined that this rulemaking meets its standards of legal sufficiency

Final Action

The Commission took final action to adopt the rulemaking at its regularly scheduled public meeting on January 9, 2006 No changes were made to the advertised prepared text

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, consistent with the purpose of the Zoning Regulations and Zoning Act, and not inconsistent with the Comprehensive Plan for the National Capital

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following amendments to chapter 2 of the Zoning Regulations, Title 11 DCMR

Title 11 DCMR (Zoning) is 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

Vote of the Zoning Commission taken at its public meeting on November 28, 2005, to **APPROVE** the proposed rulemaking: **4-0-1** (Anthony J Hood, Gregory N Jeffries, John G Parsons, Michael G Turnbull to approve, Carol J. Mitten, not having participated, not voting).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on January 9, 2005, by a vote of **4-0-1** (Anthony J Hood, Gregory N Jeffries, John G Parsons, Michael G Turnbull, to adopt, Carol J Mitten, not having participated, not voting)

In accordance with the provisions of 11 DCMR § 3028 9, this Order shall become effective upon publication in the *D C Register*, that is, on _____.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
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and
ORDER NO. 05-29
Z.C. Case No. 05-29
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(Flexibility for Private Schools to Enroll Students Displaced by Hurricane Katrina)
January 9, 2006

The full text of this Zoning Commission order is published in the "Final Rulemaking" section of this edition of the *D C Register*