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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



MEMORANDUM

To: Office of Documents and Administrative Issuance

From: Sharon S. Schellin^{S3}
Secretary to the Zoning Commission

Date: January 15, 2008

Re: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on January 25, 2008:

1. Z.C. Notice of Final Rulemaking & Order No. 06-48;
2. Z.C. Notice of Final Rulemaking & Order No. 07-04; and
3. Z.C. Notice of Final Rulemaking & Order No. 07-24.

Attachment

ZONING COMMISSION
District of Columbia

CASE NO. 07-04

EXHIBIT NO: 12

Office of Documents and Administrative Issuances

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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: (202) 727-0340

TITLE AND DESCRIPTION OF RULES: Z.C. Case No. 07-04: (Text Amendment – temporary and correctional institutions in the C-M Districts)

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: Title 11 (Zoning) Subparagraph 801.7(k)

FINAL RULES ONLY: Give the D.C. REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules: 54 DCR 5859 DATE: June 15, 2007

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: DECEMBER 11, 2007P SIGNED:

Ala Byrt for

PHONE: (202) 442-9777

FINAL CONDITIONAL NAME: LINDA SINGER 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:

7-30-07

APPROVAL OF ATTEST:

Sharon J. Schellin

Secretary to the Zoning Commission

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 FINAL RULEMAKING
and
Z.C. ORDER NO. 07-04
Z.C. Case No. 07-04
(Text Amendment – Repeal of Section 801.7(k))
July 30, 2007

The Zoning Commission for the District of Columbia (the “Commission”), 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 amendment to the National Capital Planning Commission for a 30-day period of review pursuant to Section 492 of the District Charter; hereby gives notice of the adoption of the following amendment to repeal § 801.7(k) of the Zoning Regulations in its entirety.

A Notice of Proposed Rulemaking was published in the *D.C. Register* (“DCR”) on June 15, 2007, at 54 DCR 5859. The Commission took final action to adopt the amendments at a public meeting on July 30, 2007. This final rulemaking is effective upon publication in the *D.C. Register*.

Existing Regulations

Paragraph 801.7(k) of the Zoning Regulations permits, “[t]emporary detention or correctional institution on leased property for a period not to exceed three (3) years” as a matter-of-right use in the C-M (commercial-light manufacturing) Zone District. This provision was originally adopted by Zoning Commission Order No. 46 in Case No. 71-3 in response to a short-term crisis the District faced in housing its prison population. The provision was never lawfully used and the crisis has long passed.

Description of Text Amendment

The text amendment deletes paragraph 801.7(k) from the Zoning Regulations.

Relationship to the Comprehensive Plan

The amendment is not inconsistent with the Comprehensive Plan.

Set Down Proceeding

The Office of Planning (“OP”) initiated this rulemaking by filing a report with the Zoning Commission. The OP report dated February 2, 2007, requested a text amendment to repeal paragraph 801.7(k) of the Zoning Regulations.

At its February 12, 2007 public meeting, Zoning Commission set the case down for a public hearing.

Public Hearing and Proposed Action

The Commission held a public hearing on May 31, 2007. There was no public testimony. ANC-6B, by a written resolution, supported the deletion of this section. Following the conclusion of the hearing, the Commission took proposed action to repeal paragraph 801.7(k).

The proposed rulemaking was referred to the National Capital Planning Commission (“NCPC”) under the terms of § 492 of the District of Columbia Charter. NCPC by report to the Office of Zoning on July 18, 2007, determined that there is no adverse impact to the Federal interests in the District.

No other comments were received.

Great weight given to ANC issues and concerns

The Commission is required under D.C. Code Ann. § 1-309.10(d)(3)(A) to give great weight to an affected ANC's recommendation. The Commission has carefully considered ANC 6B's recommendation for approval and concurs with its recommendation.

Final Action

The Commission took final action to adopt the rulemaking at its regularly scheduled public meeting on July 30, 2007. No changes were made to the advertised 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 and consistent with the purpose of the Zoning Regulations and the Zoning Act.

The Office of the Attorney General has determined that this rulemaking is legally sufficient.

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

Title 11 (DCMR) is amended by deleting paragraph 801.7(k).

The Zoning Commission voted to **APPROVE** the proposed rulemaking at the close of the public hearing on May 31, 2007 by a vote of **3-0-2** (Anthony J. Hood, John G. Parsons, and Michael G. Turnbull in favor; Carol J. Mitten, Gregory N. Jeffries not present, not voting).

The Zoning Commission at its public meeting on July 30, 2007 voted to **APPROVE** the final rulemaking by a vote of **3-0-2** (Anthony J. Hood, John G. Parsons, and Michael G. Turnbull in favor; Carol J. Mitten, Gregory N. Jeffries not participating, 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 **JAN 25 2008** .

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

and

Z.C. ORDER NO. 07-04

Z.C. Case No. 07-04

(Text Amendment – Repeal of Section 801.7(k))

July 30, 2007

The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.