

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF PLANNING



Office of the Director

**MEMORANDUM**

**TO:** District of Columbia Zoning Commission  
**FROM:** *XSP*  
Harriet Tregoning, Director  
**DATE:** April 3, 2007  
**SUBJECT:** Final Report – Text Amendment to delete § 801.7(k) of the Zoning Regulations relating to Temporary Detention or Correctional Institutions in the C-M District.

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D.C. OFFICE OF PLANNING

RECEIVED

**RECOMMENDATION**

The Office of Planning recommends § 801.7 of the Zoning Regulations be amended by the deletion of subsection (k):

1. Delete Section 801.7:  
~~(k) — Temporary detention or correctional institution on leased property for a period not to exceed three (3) years; and~~

**BACKGROUND**

On April 11, 1972 the Zoning Commission adopted Zoning Commission Order No. 46, in relation to Case No. 71-33, which amended Section 6101.34 to of the Zoning Regulations by adding a new paragraph (k) which later became Subsection 801.7 (k). The amendment added temporary detention and correctional institutions to the list of permitted uses in the C-M (industrial) zones (Attachment 1).

“(k) Temporary detention or correctional institution on leased property for a period not to exceed three (3) years.”

**ANALYSIS**

In the late 1960's and early 1970's, the District of Columbia Department of Corrections was under court order to relieve overcrowding at its facility and it seems that, although not directly stated, this zoning text was one of the many measures or mechanisms that

ZONING COMMISSION  
District of Columbia

CASE NO. 07-04  
EXHIBIT NO. 3  
ZONING COMMISSION  
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CASE NO. 07-04  
EXHIBIT NO. 3

were made available to the government to relieve overcrowding. The original proposed amendment in the public notice (Attachment 2, page 3) was to permit the following use:

*“Detention or correctional institution on leased property”.*

The public notice states that the purpose of the amendment was *“to provide for interim or temporary locations for persons confined by the Court until permanent facilities can be acquired and developed for such purposes”.*

Further, the final report of the Zoning Advisory Council (the official advisory body to the Zoning Commission at the time) (Attachment 3, page 1) states that:

*“The effect of this amendment would be to permit detention or correctional institutions on leased private property in the industrial zones of the city. This would permit the Department of Corrections to lease private property industrial property for the purpose of establishing correction facilities to accommodate overflow population from the established institutions or as a temporary facility while proceed with the process of budget, acquisition, and development of permanent facilities.”*

In other words, these institutions would provide temporary accommodations while other measures were taken to accommodate persons confined by the court.

The use of the term "temporary" in the regulations was added to the original proposal in order to denote that the regulation was enacted to relieve a crisis that was in existence at the time. The Commission intended that these facilities would be "temporary" and so stated it in the regulations.

The text specifically states that institutions should be *“on leased property”* which seem to indicate that the facility would not be a permanent use at any location. Their intent is further emphasized at the end by a specific time period of *“not to exceed three (3) years.”* It seems that the Commission envisioned a temporary use only to accommodate overflow populations when there is not sufficient space to accommodate them at the existing jail. Therefore, these facilities were only intended to address the pressures of overcrowding and enable the Department of Corrections to be in compliance with the court order. It should be noted that since the regulations were adopted thirty-five (35) years ago, the Department of Corrections has not operated any such institution in the District.

The Zoning Regulations do not define detention or correctional institutions. There have been cases in which it has been interpreted to be interchangeable or a subcategory of an adult rehabilitation home, also called a halfway house. However, an adult rehabilitation home is a subcategory of Community Based Residential Facility (CBRF) and is clearly defined in the Zoning Regulations as:

**"A facility providing residential care for one (1) or more individuals sixteen (16) years of age or older who are charged by the United States Attorney with a felony offense, or any individual twenty-one (21) years of age or older, under per-trial detention or sentenced court orders." Section 199.1**

This facility is distinctively different from detention or correctional institutions because the persons that are housed in adult rehabilitation homes are either in a pre-trial situation or are near the end of their sentences and are granted certain privileges to integrate them back into the community. They therefore have minimal supervision and are allowed to leave the facility. In the case of the detention or correctional institution, persons housed would be those convicted, and are serving their terms. They are not allowed to leave the property to have any interaction with the community and are under twenty-four hour supervision. The only reason they would not be at the main DC Jail would be to relieve overcrowding. Therefore, using the terms interchangeably is not correct. Deleting Section 801.7(k) would help to alleviate any misinterpretation that has occurred in the past.

### **COMPREHENSIVE PLAN**

Neither the District of Columbia Comprehensive Plan of 1995 and amended in 1999 nor the Draft Comprehensive Plan, 2006 addresses or identifies any need for temporary detention or correctional facilities.

### **RECOMMENDATION**

Based on the above discussion, including the intent of the regulations and the fact that no facility of this type has existed since the adoption of the regulation thirty-five years ago, the Office of Planning recommends that the Zoning Commission:

Delete Section 801.7(k):

~~(k) Temporary detention or correctional institution on leased property for a period not to exceed three (3) years; and~~

### **ATTACHMENT:**

1. Zoning Commission Order No. 46
2. Zoning Commission, Public Notice, December 23, 1971, page 3.
3. Zoning Advisory Council Final Report

Government of the District of Columbia  
ZONING COMMISSION



Zoning Commission Order No. 46  
April 11, 1972

ORDERED:

That after public notice and hearing as prescribed by law, the following text change established by the Zoning Commission of the District of Columbia, as shown in the Zoning Regulations, is hereby modified and amended:

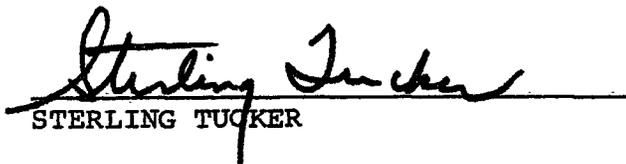
Case No. 71-33

Amendment of Subsection 6101.34 to add a Paragraph (k) to list of permitted uses as follows:

- (k) Temporary detention or correctional institution on leased property for a period not to exceed three (3) years.

  
WALTER E. WASHINGTON

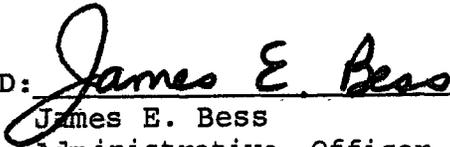
  
GILBERT HAHN, JR.

  
STERLING TUCKER

  
GEORGE M. WHITE

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RICHARD L. STANTON

ATTESTED:

  
James E. Bess  
Administrative Officer

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Zoning Commission

PUBLIC NOTICE

December 23, 1971

Notice is hereby given that a public hearing will be held by the Zoning Commission in Room 500, District Building on Wednesday, March 8, 1972, beginning at 10:00 a.m. for the purpose of considering proposed amendment to the text of the Zoning Regulations for the District of Columbia as provided by the Zoning Act (Public Law No. 684, 75th Congress).

Case No. 71-31

PURPOSE: This amendment is proposed to facilitate in R-4 (row-houses and less restrictive districts) numerous new social programs sponsored by District and Federal agencies in the areas of corrections, drug, alcohol and mental treatment and rehabilitation. The amendment also provides for similar programs sponsored by private philanthropic organizations when approved and controlled by the Board of Zoning Adjustment.

AMENDMENT INSTRUCTIONS:

1. Add new definition (Section 1202) as follows:

"Halfway House or Social Service Center -- A community correctional, rehabilitation, assistance or treatment center for persons in need of such assistance. The facilities may include sleeping and dining quarters, meeting and classrooms, and recreation, counseling, and office space related to the program."

2. Add a new paragraph to permit halfway houses or social service centers under government control as a matter of right in the R-4 and less restricted districts as follows:

"3104.312 - Halfway House or Social Service Center when operated by an agency of the District or Federal Government or by an organization under contract to such agency and supervised by that agency."

3. Add a new paragraph to permit non-government controlled halfway houses or social service centers as conditional uses, requiring Board of Zoning Adjustment approval, in the R-4 and less restricted districts as follows:

"3104.47 - Halfway House or Social Service Center when not operated by an agency of the District or Federal Government or an organization under contract to such agency and supervised by that agency provided:

- (a) Such use is so located that it will not become unduly objectionable to the neighboring properties because of noise or other conditions.
- (b) The size of the facility will not be out of scale and character with the immediate neighborhood and provided further that no structural changes shall be made except those required by other municipal laws or regulations.
- (c) No sign or other indication identifies the nature of the use.
- (d) Such authorization of the Board shall be limited to a reasonable period of time not to exceed three (3) years. The Board may renew such authorization."

Public Notice  
December 23, 1971

Case No. 71-32

PURPOSE: In the interests of the adoption of uniform procedures and to further save the time of the Zoning Commission in holding public hearings on Article 75 applications which have no merit, it is proposed that the following change in the text of the regulations be implemented.

Amend Section 7501.37 to read as follows:

"7501.37 - Following receipt of all reports or the expiration of forty (4) calendar days, the Zoning Commission (shall) may hold a public hearing on the application. Notice for such public hearing for all applications shall be given in the same manner as is required for consideration of proposed amendments to the regulations and maps. Provided, however, that in the case of a new or revised Urban Renewal Plan which has not been approved by the City Council, the Zoning Commission may hold a public hearing concurrently with the hearing held by the City Council provided further that it is separately advertised as a Zoning Commission hearing."

N.B. New wording to be added shown by underlining. Wording to be deleted show in brackets.

Case No. 71-33

PURPOSE: The purpose of this amendment is to provide for interim or temporary locations for persons being confined by the Court until permanent facilities can be acquired and developed for such purposes.

TEXT CHANGE:

Amend Subsection 6101.34 to add Paragraph (k) in the list of permitted uses as follows:

"(k) Detention or correctional institution on leased property."

WALTER E. WASHINGTON, GILBERT HAHN, JR., STERLING TUCKER,  
RICHARD L. STANTON AND GEORGE M. WHITE -- ZONING COMMISSION  
OF THE DISTRICT OF COLUMBIA.

Interested persons or representatives of organizations may be heard at the Public Hearing. Written statements, in lieu of a personal appearance oral presentation may be submitted for inclusion in the record. Information should be directed to the Office of Zoning Commission, Room 11A, District Building, 14th and E Streets, NW. For additional information, telephone 629-4426 quoting the case number.

ZONING ADVISORY COUNCIL  
Final Report

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Case No. 71-33

Application: Text Amendment  
Amend Subsection 6101.34 to add  
Paragraph (k) in the list of  
permitted uses as follows:  
"(k) Detention or correctional  
institution on leased  
property."

This is a proposal to amend the Zoning Regulations in Paragraph 6101.34 to add a new subparagraph "k" permitting the establishment of "detention or correctional institutions on leased property."

The effect of this amendment would be to permit detention or correctional institutions on leased private property in the industrial zones of the city. This would permit the Department of Corrections to lease private industrial property for the purpose of establishing correction facilities to accommodate overflow population from the established institutions or as a temporary facility while they proceed with the process of budget, acquisition, and development of permanent facilities.

RECOMMENDATION:

In our opinion, the Department of Corrections needs the flexibility provided by this amendment. By providing the installations in industrial areas, the impact on residential sections of the city will be minimized. Therefore, we recommend approval of the amendment.

It was suggested at the public hearing that the wording be modified to make it clearer that such installations would be temporary in nature. Such a clarification would be, in our opinion, within the context of the amendment as advertised and the Commission could make such an adjustment without further public hearing. In this regard, we would suggest that the new paragraph might read as follows:

"k. Temporary detention or correctional institution on leased property for a period not to exceed three (3) years."

(s) William F. McIntosh

(s) James Banks

(s) Arthur B. Hatton