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The Honorable Vincent C. Gray

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The Honorable Kwame R. Brown

Executive Director

Marcel C. Acosta

IN REPLY REFER TO:
NCPC File No. Z.C. 11-16

NOV 07 2011

**Zoning Commission of the
District of Columbia
2nd Floor, Suite 210
441 4th Street, NW
Washington, D.C. 20001**

Members of the Commission:

Pursuant to delegations of authority adopted by the Commission on August 6, 1999, I found that the proposed text amendment to allow firearm retail/dealer establishments to locate at District law enforcement and licensing agency offices within the 300-foot buffer restriction around certain protected uses, would not be inconsistent with the Comprehensive Plan for the National Capital, nor adversely affect any other federal interests. A copy of the Delegated Action of the Executive Director is enclosed.

Sincerely,

**Marcel C. Acosta
Executive Director**

Enclosure

cc: Harriet Tregoning, Director, District of Columbia Office of Planning
Anthony Hood, Chairman, Zoning Commission

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**ZONING COMMISSION
District of Columbia**

CASE NO. 11-16
EXHIBIT NO. 1
ZONING COMMISSION
District of Columbia
CASE NO. 11-16
EXHIBIT NO. 14

**TEXT AMENDMENT TO THE ZONING REGULATIONS
OF THE DISTRICT OF COLUMBIA
CHAPTER 7, SECTION 721.3(K),
TO ALLOW FIREARM RETAIL/DEALER ESTABLISHMENTS TO LOCATE AT
DISTRICT LAW ENFORCEMENT/LICENSING AGENCY OFFICES
WITHIN ESTABLISHED 300-FOOT BUFFER RESTRICTION**

Washington, D.C.

Referred by the Zoning Commission of the District of Columbia

Delegated Action of the Executive Director

OCT 27 2011

Pursuant to delegations of authority adopted by the Commission on August 6, 1999 and 40 U.S.C §8724(a) and D.C. Code §2-1006(a), I find that the proposed text amendment to allow firearm retail/dealer establishments to locate at District law enforcement and licensing agency offices within the 300-foot buffer restriction around certain protected uses, would not be inconsistent with the Comprehensive Plan for the National Capital, nor adversely affect any other federal interests.

* * *

The Zoning Commission of the District of Columbia has referred a text amendment to Chapter 7, Commercial Districts, Section 721.3(k) of the District of Columbia Zoning Regulations for review and comment. The proposed amendment will allow firearm retail/dealer establishments to locate within the current established 300-foot buffer restriction around a residence (R) or Special Purpose (SP) District; a church or other place of worship; a public or private school; a public library; or a playground.¹

¹ In February 2009, NCPC reviewed and approved (Consent Calendar) the zoning text amendment to allow firearm retail sales establishments in the C-2-A, C-2-B, C-2-C, C-3-A, C-3-B, C-3-C, C-4, C-5, C-M-1, C-M-2 and M commercial and industrial zoning districts in Washington, D.C (ZC 08-20). As part of the NCPC review, staff contacted several federal agencies including: the District field office of the Federal Bureau of Investigation; the Office of the White House; the Department of Justice; the General Services Administration; the Federal Protective Service; the Secret Service; and the Bureau of Alcohol, Tobacco, Firearms and Explosives. Each agency noted that it had no objection to a finding that the proposed zoning amendment had no adverse effect on the federal interest.

The current zoning will be modified as follows, with all new text shown in bold and underlined:

721.3 In addition to the uses permitted in C-1 Districts by § 701.4, the following retail establishments shall be permitted in a C-2 District as a matter of right:

- (k) Firearms retail sales establishments, provided that no portion of the establishment, **other than an establishment located at a District law enforcement or licensing agency**, shall be located within three hundred feet (300 ft.) of:
 - (i) A residence (R) or Special Purpose (SP) District; or
 - (ii) A church or other place of worship, public or private school, public library, or playground.

The Office of the Deputy Mayor for Planning and Economic Development provided the following justification for the requested text amendment:

“The justification for this proposed amendment is that pursuant to federal law, District residents may purchase a handgun in another jurisdiction, but the handgun must be transferred into the District through a federal firearm licensee (FFL) dealer. The FFL is required to physically receive the firearm from outside the District and then provide it to the licensed owner. Recently the sole FFL engaged in processing the transfer of handguns from out of state into the District ceased operating because he can no longer use his existing location, and the cost of locating a qualified location would exceed the expected revenues from performing the transfer function for out of state handgun purchases. District residents are suddenly unable to purchase and register a handgun for use in self-defense within the home. There is an immediate need to preserve the safety and welfare of District residents by providing access to a District owned or controlled location for the operation of an FFL, so that the District’s residents will have a reliable means to complete out of state handgun purchases and thereby register handguns for use in self-defense within their homes.

The District’s proposed activity to provide a location to assist in the transfer of handguns for a fee would make that location subject to the location restrictions in 11 DCMR § 721.3. Without the amendment to the above regulation, the District’s potential existing locations, which would be available for use by an FFL to perform the transfer of handguns from out of state, will be disqualified. For instance 300 Indiana Avenue, NW, the existing location where residents bring their handguns to the Metropolitan Police Department for registration, does not meet the location restriction in 11 DCMR § 721.3(k). The District’s lack of a private FFL willing to perform this low profit transfer function has caused the District to be the subject of litigation alleging that the District is violating the 2nd Amendment rights of District residents seeking to obtain registrations for firearms that they purchased in another state. See Lane, et al v. Holder, et al, Case No: 1:11-CV-005030 GBL- TRJ (US Dist Ct. E.D. Va.). While the District is strongly opposing the lawsuit, promulgation of this amendment will allow the District to locate an FFL at one of its subordinate agencies to perform this transfer function and promote the safety and welfare of its residents. In addition, the location selected by the District will have to be reviewed and approved by the Alcohol Tobacco and Firearms Administration to assure that it is a suitable and safe location, thereby addressing the concerns that 11 DCMR § 721.3(k) was intended to address.”

NCPC staff has reviewed the proposed text amendment and has determined that the proposal does not run contrary to the Commission's April 2009 action on the original text amendment, and is not inconsistent with the Federal Elements of the Comprehensive Plan, and other applicable federal plans, policies, and interests.

A handwritten signature in black ink, appearing to read 'Marcel', followed by a horizontal line.

Marcel C. Acosta
Executive Director