

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

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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 (NCP), pursuant to the terms of § 492 of the District of Columbia Charter. After thirty days had elapsed, no response was received from NCP.

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 _____.