

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

Case No. 05-21

(Text Amendment – Dog Boarding)

July 11, 2005

The Zoning Commission for the District of Columbia, pursuant to the authority set forth in § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799; D.C. Official Code § 6-641-01) and the authority set forth in D.C. Official Code §2-505(c) hereby gives notice of the adoption, on an emergency basis, of amendments to Title 11 of the District of Columbia Municipal Regulations (“DCMR”) to permit certain existing types of dog boarding facilities in the C-2 through C-4 Districts to obtain Certificates of Occupancy that would establish their matter of right status, provided that the use does not abut a residence zone. A facility with an exterior yard will need special exception approval to continue the use of that area. Other existing dog boarding facilities in those same zones will be able to seek special exception approval to allow for the continuation of that use, except that such relief will not be available to uses that abut a residence zone. An eligible facility that applies for special exception approval will be able to obtain a temporary Certificate of Occupancy to permit its operation during the pendency of the special exception proceeding.

The need for emergency action results from a recent Board of Zoning Adjustment decision holding that a dog boarding facility is not a matter of right use in commercial zone districts. The order had the immediate effect of making such facilities susceptible to revocation action by the Department of Consumer and Regulatory Affairs. The Commission believes that to make such dog boarding services immediately unavailable to District residents, particularly during the summer vacation months, would cause public hardship and inconvenience and potentially impact public safety if owners cannot find a place to board their dogs.

The emergency rulemaking took effect immediately upon its adoption on July 11, 2005 and will expire 120 days thereafter, i.e. November 8, 2005.

Title 11 (DCMR) is amended as follows:

- A. Chapter 1, THE ZONING REGULATIONS, § 199.1, is amended by adding the following new definition:

Dog Boarding- Any premises, other than a veterinary hospital, pet shop, or dog grooming establishment use, designated as the overnight boarding and/or recurring daily care of dogs for a fee as a commercial establishment. An establishment used exclusively for dog grooming or the retail sales of pet items shall not be considered a dog boarding establishment.

- B. Chapter 7, COMMERCIAL DISTRICTS, is amended as follows:

1. By adding new §§ 721.7 through 721.9 to read as follows:

- 721.7 Notwithstanding §735, a Dog Boarding Use in existence as of July 11, 2005, under Certificates of Occupancy for “Dog Care Center” or “Dog Day Care Center”, may be permitted to apply for a new Certificate of Occupancy as a Dog Boarding Use if the use does not abut a residence zone district, except that the continued use of an external yard shall require the approval of the Board of Zoning Adjustment as a special exception pursuant to § 736.
- 721.8 Any internal or external expansion of a Dog Boarding Use permitted under § 721.7 shall require the approval of the Board of Zoning Adjustment as a special exception.
- 721.9 A Dog Boarding Use in existence as of July 11, 2005, which does not hold a Certificate of Occupancy for a “Dog Day Center” or a “Dog Day Care Center” and which has applied for special exception approval pursuant to § 735 on or before September 2, 2005 may obtain a temporary Certificate of Occupancy to allow its continued operation during the pendency of the special exception proceeding subject to the following:
- (a) The use may not abut a residence zone district;
 - (b) The temporary Certificate of Occupancy shall expire upon the occurrence of one of the following, whichever is the first to occur:
 - (1) The date upon which a written decision by the Board of Zoning Adjustment denying or dismissing the application becomes final;
 - (2) The date upon which an application is withdrawn; or
 - (3) Forty-five (45) days after a written decision by the Board of Zoning Adjustment granting the application becomes final.

2. By adding a new § 735 to read as follows:

735 DOG BOARDING

- 735.1 A Dog Boarding Use may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section.
- 735.2 The Dog Boarding Use shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor or waste.
- 735.3 The Dog Boarding Use may not abut a residence zone.

735.4 External yards or other such facilities for the keeping of dogs shall not be permitted.

736 DOG BOARDING USES: EXTERNAL YARDS

736.1 A Dog Boarding Use existing on July 11, 2005, which is eligible to obtain a Dog Boarding Certificate of Occupancy pursuant to § 721.7, may continue the use of an external yard for the keeping of dogs if approved by the Board of Zoning Adjustment pursuant to § 3104 and the requirements of this section.

736.2 The yard shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor or waste.

736.3 The applicant shall demonstrate that the external yard will be fenced off for the safe confinement of the dogs.

736.4 The Board shall establish the hours in which dogs may not be kept in the yard, provided that, at the minimum, no dogs shall be permitted in the yard between 8:00 PM and 7:00 AM.

3. By amending § 761.1 by inserting the phrase “a Dog Boarding Use shall be prohibited and” after the language “Any use permitted in a C-4 District under § 751 shall be permitted in the C-5 (PAD) District as a matter of right, except that”.

C. Chapter 8, INDUSTRIAL DISTRICTS, is amended by adding new §§ 802.21 through 802.24 to read as follows:

802.21 A Dog Boarding Use may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section.

802.22 The Dog Boarding Use shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor or waste.

802.23 The Dog Boarding Use may not abut a residence zone.

802.24 External yards or other such facilities for the keeping of dogs shall not be permitted.