

# Government of the District of Columbia

## ZONING COMMISSION



### ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA NOTICE OF EMERGENCY RULEMAKINGS

and

### ZONING COMMISSION ORDER NO. 950-A

Case No. 01-32TA

### (Text Amendment – Special Exception Use for Concrete Plants in the C-M Districts - 11 DCMR 802)

March 11, 2002

The Zoning Commission for the District of Columbia, pursuant to the authority set forth in sections 1 and 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799; D.C. Code 2001 Ed. §§ 6-641.01 and 6-641.07 (formerly codified at D.C. Code §§ 5-413 and 5-424 (1994 Repl.)), and section 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Code 2001 Ed., § 2-505(c) (formerly codified at D.C. Code § 1-1506(c)(1999 Repl.)), hereby gives notice of the re-adoption, on an emergency basis, of amendments to Chapter 8 of the Zoning Regulations (11 DCMR), § 802, Special Exceptions in the C-M District.

This emergency rulemaking is identical to the emergency rulemaking published in the *D.C. Register* at 48 DCR 11731 on December 28, 2001. Re-adoption of the rule on an emergency basis is necessary because the emergency conditions identified in the December 28, 2001, notice continue to exist but the Zoning Commission's consideration of a permanent rule is not yet completed.

The initial emergency rule was adopted in response to: 1) the multitude of C-M District parcels adjacent to residential neighborhoods; 2) the unique land use implications of concrete plants and their potentially adverse impacts on adjacent residential areas caused by exposed outdoor storage of materials, dust, heavy truck stacking, heavy truck traffic, and hours of operation; and 3) the potential adverse impacts of related truck traffic on adjacent road systems and residential parking.

The complexity of the issues presented prevents the Commission from taking final rulemaking action prior to the expiration of the emergency rule on March 20, 2002. The District Charter requires that the Zoning Commission hold public hearing(s) before adopting any change to the Zoning Regulations. After the Commission holds public hearing(s), the Commission will then consider whether to propose and adopt final rules, and will do so prior to the expiration of the second emergency period. The above circumstances justify re-adopting these rules on an emergency basis.

This second emergency rule will expire on July 9, 2002 (the 120<sup>th</sup> day after the adoption of the second rule), or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

Title 11 DCMR (Zoning Regulations) is amended as follows:

Amend Chapter 8, INDUSTRIAL DISTRICTS, as follows:

Amend section 802 to add new subsection 802.17 to read as follows:

- 802.17 A facility that manufactures, processes, mixes, stores, or distributes concrete or the materials used to make concrete shall be permitted provided:
- (a) No portion of the facility, including the land used by the facility, shall be located within two hundred feet (200 ft.) of a residential property line or of any property that is a public park or that is used for retail, office, church, school, or institutional purposes;
  - (b) There shall be no truck access or queuing to the site from residential streets;
  - (c) The facility shall meet the "Standards of External Effects (C-M)" pursuant to § 804, and be in compliance with the District of Columbia Noise Control Act of 1977, effective March 16, 1978 (D.C. Law 2-53, 24 DCR 5293 (December 30, 1977), as amended); 20 DCMR chapters 27-28, and the noise measuring test procedures in 20 DCMR chapter 29;
  - (d) The use shall not have unacceptable adverse impacts on the character of the neighborhood due to noise, traffic, dust, fumes, parking, or other objectionable conditions;
  - (e) The facility shall be enclosed on all sides by a fence or wall at least ten feet (10 ft.) in height. The public view side and any side of the facility facing Residence Districts or nearby or adjacent property used as a public park or for retail, office, church, school, or institutional purposes shall be landscaped and shall have an opaque screen, fence, or wall not less than ten feet (10 ft.) in height;
  - (f) All queuing related to the facility shall occur on-site and no standing or parking by trucks related to the facility shall be allowed off-site.

- (g) Any facility located within five hundred feet (500 ft.) of a Residence District shall not be in operation between 7:00 p.m. and 7:00 a.m. Hours of operation shall include the arrival and departure of trucks and the delivery of concrete; and
- (h) The Board may impose conditions pertaining to design, screening, buffering, lighting, soundproofing, signs, methods and hours of operations, and any matter necessary to protect adjacent and nearby property, particularly with respect to protecting residential property from excessive noise and truck traffic.