

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
Z.C. Case No. 17-20
(Office of Planning –Text Amendments to Subtitles B, H, K, and U
Regarding the Daytime Care Use Category to Address the Need to Establish
and Expand Child Development Centers)
May 14, 2018

The Zoning Commission for the District of Columbia, (Commission) 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 (2012 Rep1.), hereby gives notice of the adoption of amendments to Subtitles B (Definitions, Rules of Measurement, and Use Categories); H (Neighborhood Mixed-Use (NC) Zones); K (Special Purpose Zones); and U (Use Permissions), and of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR).

The text amendments amend 11-B DCMR § 201.2(i), which gives examples of those uses that fall within the “daytime care” use category. The amendment replaces the reference to “child care centers and programs” which is not defined in Subtitle B § 100.2, with “child development centers”, which is. The amendment also makes the Zoning Regulations consistent the Department of Health Child Development Regulations, which also uses the term “child development centers.” As a result, child development centers will be permitted in those instances when all daytime care uses are permitted or, as will be the case for the Residential Apartment (RA) zone, separately regulated when appropriate.

Presently, daytime care uses are permitted as a matter of right or by special exception, and are limited as to the number of individuals that can be cared for, in the Neighborhood Commercial (NC) zone, the Walter Reed (WR) zones 2 through 5, 7, and 8, and those Mixed Use (MU) zones in Use Groups E through G. The amendments make daycare uses a matter of right in all of these zones without any limitation as to the number of persons or staff.

In the RA zones, child development center uses will be the only daytime care use permitted as a matter of right with no limitation on number of persons being cared for, while elderly development center or adult day treatment facility uses will be permitted as a matter of right with a limitation of twenty-five (25) persons including staff. Broadly, the overall goal of the amendments is to increase the District’s supply of child care services to accommodate the growing population of infants and toddlers and to limit the barriers associated with development of child care facilities.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on March 30, 2018, at 65 DCR 003421. In response, the Commission received no comments. The Commission therefore took final action at a public meeting on May 14, 2018 to adopt the amendments as proposed.

The amendments shall become effective upon publication of this notice in the *D.C. Register*.

The following amendments to Title 11 DCMR are adopted:

Paragraph (i) of § 200.2 of § 200, INTRODUCTION, of Chapter 2, USE CATEGORIES, of Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is amended as follows:

200.2 When used in this title, the following use categories shall have the following meanings:

...¹

(i) Daytime Care:

- (1) The non-residential licensed care, supervision, counseling, or training, for a fee, of individuals who are not related by blood, adoption, or marriage to the caregiver, and who are present on the site for less than twenty-four (24) hours per day;
- (2) Examples include, but are not limited to: an adult day treatment facility, child development center, pre-schools, nursery schools, before-and-after school programs, child development homes, an expanded child development home, and elder care centers and programs; and
- (3) Exceptions: This use category does not include uses which more typically fall within the medical care or parks and recreation use categories. This use does not refer to home-based care given by parents, guardians, or relatives of the individuals requiring care and uses which do not require a certificate of occupancy

...

Chapter 11, USE PERMISSIONS FOR NC ZONES, of Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES, is amended as follows:

Subsection 1103.1 of § 1103, MATTER-OF-RIGHT USES (NC-USE GROUPS A, B, AND C), is amended by adding a new paragraph (q) as follows:

1103.1 The following uses in this section shall be permitted as a matter of right:

...

¹ The uses of this and other ellipses indicate that other provisions exist in the subsection being amended and that the omission of the provisions does not signify an intent to repeal.

- (o) Services, financial;
- (p) Transportation infrastructure; and
- (q) Daytime care.

Paragraph (d) of § 1104.1 of § 1104, MATTER-OF-RIGHT USES (NC-USE GROUP A), is deleted.

Paragraph (d) of § 1106.1 of § 1106, MATTER-OF-RIGHT USES (NC-USE GROUP B), is deleted.

Paragraph (d) of § 1108.1 of § 1108, MATTER-OF-RIGHT USES (NC-USE GROUP C), is deleted.

Chapter 9, WALTER REED ZONES — WR-1 THROUGH WR-8, of Subtitle K, SPECIAL PURPOSE ZONES, is amended as follows:

Section § 911, USE PERMISSIONS (WR), is amended as follows:

Paragraph (f) of § 911.2 is amended to read as follows:

911.2 The uses in this section shall be permitted as a matter-of-right in the WR-2, WR-3, WR-4 and WR-5 zones, subject to any applicable conditions:

...

- (f) Daytime care;

...

Paragraph (f) of § 911.4 is amended to read as follows:

911.4 The uses in this section shall be permitted as a matter-of-right in the WR-7 zones, subject to any applicable conditions:

...

- (f) Daytime care;

...

Paragraph (f) of § 911.5 is amended to read as follows:

911.5 The uses in this section shall be permitted as a matter-of-right in the WR-8 zone, subject to any applicable conditions:

...

- (f) Daytime care;

...

Subsection 912.6 of § 912, CONDITIONAL USES (WR), is deleted.

Paragraph (c) of § 913.2 of § 913, SPECIAL EXCEPTION USES (WR), is deleted.

Subtitle U, USE PERMISSIONS, is amended as follows:

Paragraph (m) of § 301.1 of § 301, MATTER-OF-RIGHT USES (RF), of Chapter 3, USE PERMISSIONS RESIDENTIAL FLATS (RF) ZONES, is amended to read as follows:

301.1 The following uses shall be permitted as a matter of right in an RF zone subject to any applicable conditions:

...

- (m) Child/elderly development center located in a building that was built as a place of worship and that has been used continuously as a place of worship since it was built; and

Subsection 401.1, of § 401, MATTER-OF-RIGHT USES (RA), of Chapter 4, USE PERMISSIONS RESIDENTIAL APARTMENT (RA) ZONES is amended by amending paragraph (c) and adding a new paragraph (f) as follows:

401.1 The following uses shall be permitted as a matter of right in an RA zone subject to any applicable conditions:

- (a) Any use permitted in the RF zones under Subtitle U § 301, except corner stores;
- (b) Private clubs with sleeping accommodations;
- (c) Child Development Center;
- (d) Except for the RA-1 and RA-6 zones:
 - (1) Multiple dwellings provided that in an apartment house, accommodations may be provided only to residents who stay at the premises a minimum of one (1) month;
 - (2) Hotel in existence as of May 16, 1980, with a valid certificate of occupancy or a valid application for a building permit; provided, that the gross floor area of the hotel may not be increased and the total area within the hotel devoted to function rooms, exhibit space, and commercial adjuncts may not be increased. An existing hotel may be repaired, renovated, remodeled, or structurally altered; and
 - (3) A continuing care retirement community;

- (e) Recreation building, park, playground, swimming pool, athletic field, ice rink, or other similar athletic facility, public or private, operated on and using local or federal land and approved by a joint federal-local jurisdictional transfer agreement; subject to the following:
 - (1) No part of any use is nearer than seventy feet (70 ft.) to the nearest residential structure;
 - (2) The uses shall not be organized for profit;
 - (3) All parking areas shall be shared by all uses on a lot;
 - (4) Scoreboards shall be installed such that the highest point is no taller than twenty-five feet (25 ft.) above grade; and
 - (5) Any lighting used to illuminate a park, playground, athletic field, trail, or other outdoor space, shall be so arranged that all direct rays of lighting are confined to the boundaries of the lot; and
- (f) Elderly development center or adult day treatment facility provided, that the use shall be limited to no more than twenty-five (25) individuals not including staff.

Chapter 5, USE PERMISSIONS MIXED USE (MU) ZONES, is amended as follows:

Paragraph (f) of § 510.1 of § 510, MATTER-OF-RIGHT USES (MU-USE GROUP D), is amended to read as follows:

510.1 The following uses shall be permitted in MU-Use Group D as a matter-of-right subject to any applicable conditions:

...

- (f) Daytime care uses;

Paragraph (c) of § 511.1 of § 511, SPECIAL EXCEPTION USES (MU-USE GROUP D), is deleted.

Paragraph (c) of § 512.1 of § 512, MATTER-OF-RIGHT USES (MU-USE GROUP E), is deleted.

Paragraph (e) of § 515.1 of § 515, MATTER-OF-RIGHT USES (MU-USE GROUP F), is deleted.

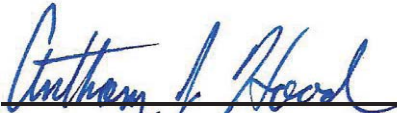
On February 8, 2018, upon the motion of Commissioner Turnbull, as seconded by Vice Chairman Miller, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the petition at the conclusion of the public hearing by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

On May 14, 2018, upon the motion of Commissioner Turnbull, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the petition at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Michael G. Turnbull, and Peter G. May to approve; Peter A. Shapiro, not present, not voting).


In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *DC Register*; that is on June 8, 2018.

BY THE ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

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