

## ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

### NOTICE OF SECOND EMERGENCY AND PROPOSED RULEMAKING

#### Z.C. Case No. 19-04

#### **(Text Amendments – 11 DCMR – Defining Community Solar Facility (CSF), Locating Zones in which a CSF is a Permitted or Special Exception Use, and Establishing Development Standards for a CSF)**

The Zoning Commission for the District of Columbia (Commission) pursuant to the authority set forth in § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 (2018 Repl.)), and the authority set forth in § 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), hereby gives notice of its intent to amend §§ 100.2 and 200.2 of Subtitle B (Definitions, Rules of Measurement, and Use Categories); § 1500.5 of Subtitle C (General Rules); §§ 1103.1, 1105.1, 1107.1, and 1109.1 of Subtitle H (Neighborhood Mixed-Use (NC) Zones); §§ 410.3, 412.1, 612.1, 614.1, 911.1, 913.1, 913.2, and 913.3 of Subtitle K (Special Purpose Zones); and §§ 201.1, 203.1, 600.1, 601.1, 801.1, and 802.1 of Subtitle U (Use Permissions) of Title 11 (Zoning Regulations of 2016), of the District of Columbia Municipal Regulations (DCMR).

On February 7, 2019, the Office of Planning (OP) filed a report with the Office of Zoning that served as a petition proposing text amendments to Subtitles B, C, H, K, and U of Title 11 DCMR (Zoning Regulations of 2016). The proposed amendments would define a Community Renewable Energy Facility (CREF) distinct from the facilities classified in the “Basic Utility” use category and would permit a CREF as a matter-of-right use in all zones except the MU-11 and SEFC-4 zones, with the size of the CREF subject to the yard and height development standards of each zone.

The proposed amendments would apply city-wide and facilitate implementation of community solar installations that provide the benefits of solar energy to residents who can’t install systems on their residences, including renters, homeowners whose rooftops are shaded or need repairs, and residents in multi-family buildings, by allowing members to receive a credit on their electricity bill each month for their share of a solar installation not located on their residence. Community solar installations are a key component of efforts to meet the target of 100% renewable energy by 2032 included in the Clean Energy DC plan to implement the Clean Energy DC Omnibus Act of 2018. As part of these efforts, the District Department of Energy and the Environment (DOEE) launched its Solar for All program to reduce the electric bills of at least 100,000 District low-income households with high energy burdens by at least 50% prior to December 31, 2032. DOEE has issued \$13 million in grants under the Solar for All program for community solar installations which must be completed prior to the end of this fiscal year on September 30, 2019.

Although the Zoning Regulations do not specifically regulate solar arrays as a use, community solar installations have been deemed to fall within the “Basic Utility” use category requiring a special exception to operate. DOEE raised concerns that requiring community solar installations to obtain a special exception adds delay and expense and would adversely impact DOEE and the

District's achievement of the solar and renewable energy targets of the Clean Energy DC plan by potentially jeopardizing the 22 megawatts of planned community solar projects funded by DOEE's Solar for All program.

The Zoning Regulations also do not specifically regulate the location of solar arrays; however, roof-mounted solar systems must comply with the Penthouse regulations found in Subtitle C, Chapter 15 and permanent ground-mounted solar arrays that are greater than four feet in height must comply with the development standards applicable to structures in each zone.

OP requested that the Commission take emergency action to adopt the proposed amendments in order to ensure that all participants in DOEE's Solar for All program were able to complete their solar installations before the funding expired.

At its February 11, 2019 public meeting, the Commission considered whether to propose the amendments at its public meeting and heard the testimony of OP and DOEE about the effect of the text amendments and the need to take emergency action. DOEE testified that the need to obtain special exceptions for community solar installations would imperil the funding available for the Solar for All program for this fiscal year. The Commission concluded that any delay to the community solar installations funded by DOEE's Solar for All program in this fiscal year would result in immediate and significant harm to these installations, which must be completed by September 30, 2019 to fulfill the grant requirements. Such delay would also cause immediate and significant harm to the lower-income households who are the beneficiaries of the reduced energy costs from these community solar installations. This would prove detrimental to the District's goals of increasing the sustainability, resilience, and equitability of the District's built environment and energy systems. For these reasons, the Commission, found that the emergency adoption of these amendments is necessary for the "immediate preservation of the public ... welfare." D.C. Official Code § 2-505(c) (2012 Repl.). The proposed amendments were published as Notice of Emergency and Proposed Rulemaking on February 22, 2019 in the *D.C. Register* (66 DCR 2314-2321).

The National Capital Planning Commission (NCPC) filed a report dated March 7, 2019, stating that NCPC had determined that the proposed amendment would not be inconsistent with the Comprehensive Plan or other federal interest.

In response to the Notice of Proposed Rulemaking, the Commission received six (6) comments in support focused on the importance of the proposed amendments to the District's clean energy efforts. The Mayor stated that the proposed amendments were a critical element in the District's efforts to combat climate change by promoting clean, renewable, District-based energy sources and meet the Clean Energy DC Omnibus Amendment Act of 2018 sustainability goals. (Exhibit [Ex.] 9.) The DOEE Director provided written testimony that noted that without the proposed amendment, CSFs would take longer and be less certain of approval, which would increase the cost of financing these CSFs. (Ex. 17.) The Maryland-D.C.-Delaware-Virginia Solar Energy Industries Association (MDV/SEIA) supported the proposed amendments as necessary to achieve the District's renewable energy goals by efficiently utilizing the District's limited roof space for solar panels and by encouraging more investment in solar installations by removing the uncertainty of requiring Board of Zoning Adjustment (BZA) relief. (Ex. 15.) MDV/SEIA also requested that the Commission expand the eligible solar installations to include those not funded by DOEE's

Solar for All program because the zoning classification of a solar installation should not depend upon its funding source. GRID Alternatives, a non-profit solar installer, emphasized the benefits of CSFs in giving access to solar energy to individuals, many lower-income, who otherwise lacked the property on which to install solar panels. (Ex. 18.) New Columbia Solar, a company that finances, installs, operates, and owns solar installations, noted that CSFs, by sharing solar energy to individuals and entities outside of the property on which the solar energy is generated and that the installation components of CSFs are identical to solar installations that generate energy used exclusively on the site of the solar panels, which do not require BZA approval. (Ex. 20.) Groundswell, a nonprofit solar developer, and one of its community partners, supported the proposed amendment to allow lower-income residents to have access to energy generated locally and at a lower cost. (Ex. 23, 24.)

The Commission also received seven comments in opposition to the Notice of Proposed Rulemaking focused on the proposed change to allow a CSF as a permitted use with no review by the BZA instead of requiring a special exception that allows neighbors to participate in the review of a new CSF. (Ex. 10-14, 16, 22, 25, 27.) The Committee of 100, in both its written and oral testimony, also opposed the broad flexibility granted CSFs without requiring BZA review and called for the Commission to narrow the proposed amendment by imposing additional limitations on the area and height of proposed CSFs without BZA review and requiring public benefits for CSFs. (Ex. 16, 25.)

OP submitted a Hearing Report dated March 22, 2019 that revised the proposed amendment by narrowing the type of facility to a Community Solar Facility (CSF).

At its April 1, 2019 public hearing, upon hearing testimony from OP, DOEE, and the public, the Commission asked OP to refine the proposed text amendment, specifically to consider narrowing the definition of the type of facility and imposing a limited size on matter-of-right uses with larger sizes allowed by special exception.

OP addressed the issues raised by the Commission in a Supplemental Report, dated April 22, 2019, upon consultation with DOEE and the Department of Consumer and Regulatory Affairs (DCRA). OP proposed revisions that would require special exception relief from the BZA for ground-mounted solar arrays that exceed two (2) acres in size in all zones but the MU-11, SEFC-4, and PDR zones, with roof-mounted solar arrays allowed by-right in all zones but the MU-11 and SEFC-4 zones, and ground-mounted solar arrays of any size allowed by-right in the PDR zones.

At its April 29, 2019, public meeting, upon hearing testimony from OP, the Commission asked OP to further refine the proposed text amendment, specifically to consider more stringent buffering and screening requirements and a lower size threshold for requiring BZA special exception approval. The Commission deferred taking emergency action and instead scheduled a continued deliberation prior to the June 11, 2019 expiration of the emergency amendment.

In response to the Commission's request, OP submitted a Second Supplemental Report, dated May 8, 2019, based on consultation with DOEE, proposing revisions to require BZA special exception approval for ground-mounted solar arrays over two (2) acres in panel size and twenty feet (20 ft.) in height, with the BZA authorized to impose buffering and screening conditions deemed

necessary to protect the neighborhood. OP also reported that 55 projects had pending building permit applications based on the emergency and proposed text amendment, of which only four (4) were ground-mounted. OP recommended that the Commission renew the emergency action set to expire on June 11, 2019 to prevent terminating pending permit applications that relied on the emergency rule.

At its May 13, 2019, public meeting, upon hearing testimony from OP, the Commission asked OP to further refine the proposed text amendment, specifically to consider specific buffering and screening requirements adjacent to residential and park uses instead of leaving screening and buffering to the discretion of the BZA and a lower size threshold for requiring BZA special exception approval. The Commission also requested that OP provide specific information about each of the pending building permit applications. The Commission deferred taking emergency action and instead scheduled a continued deliberation for June 10, 2019, prior to the expiration of the emergency amendment.

In response to the Commission's request, OP submitted a Third Supplemental Report dated June 5, 2019, based on further consultation with DOEE, that recommended requiring BZA special exception approval for ground-mounted solar arrays over one-and-a-half (1.5) acres in panel size, over twenty feet (20 ft.) in height, and located less than forty feet (40 ft.) of an adjacent property in a R, RF, or RA-1 zone, with requirements for landscape buffering facing public space, residential uses, and parks and recreation uses. OP's Third Supplemental Report also provided information on all pending building permit applications, clarifying that only three were ground-mounted, and only one of those had a panel size exceeding one-and-a-half (1.5) acres. OP again recommended that the Commission renew the emergency amendment set to expire on June 11, 2019 to prevent pending building permit applications being jeopardized by the delay in adopting the amendments.

At its June 10, 2019 public meeting, the Commission considered OP's proposed revisions and confirmed, among other issues, that the forty foot (40 ft.) setback from adjacent property in the R, RF, and RA-1 zones included intervening streets and alleys. The Commission determined that OP's final proposed amendment addressed the Commission's issues and concerns and voted to take proposed action.

The Commission hereby gives notice of its intent to adopt the following text amendment to the Zoning Regulations in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

At that same June 10, 2019 public meeting, immediately following this proposed action, the Commission took emergency action to adopt the following text amendment to ensure that residents who had filed building permit applications for community solar installations funded by DOEE's Solar for All program in this fiscal year based on the expiring emergency and proposed text amendment would be able to continue towards permit issuance if compliant with the Commission's revised proposed rulemaking. Based on OP's and DOEE's testimony on the record, the Commission determined that if the initial emergency rule expired without being renewed or revised, many of these permit applicants would suffer immediate and significant harm because these solar installations must be completed by September 30, 2019 to fulfill the DOEE grant

requirements as would many of the lower-income households who are the beneficiaries of the reduced energy costs from these community solar installations. This would prove detrimental to the District’s goals of increasing the sustainability, resilience, and equitability of the District’s built environment and energy systems. For these reasons, the Commission, found that the emergency adoption of these amendments is necessary for the “immediate preservation of the public ... welfare.” D.C. Official Code § 2-505(c) (2012 Repl.).

The emergency rule will expire October 8, 2019, which is the one hundred-twentieth (120<sup>th</sup>) day after the adoption of this rule, or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

The following amendments to Title 11 DCMR, ZONING REGULATIONS OF 2016, are proposed (deleted text marked in **~~bold and strikethrough~~**; new text shown in **bold and underline**):

**Subsection 100.2 of § 100, DEFINITIONS, of Chapter 1, DEFINITIONS, of Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is amended as follows:**

100.2 When used in this title, the following terms and phrases shall have the meanings ascribed:

...<sup>1</sup>

Community Centers, Private: A building, park, playground, swimming pool, or athletic field operated by a local community organization or association.

**Community Solar Facility: A solar energy facility that is directly interconnected with the distribution system of the electric company, as defined by D.C. Official Code § 34-207, and that does not exceed five (5) megawatts in capacity, where the monetary value of the electricity generated by the facility is credited to the subscribers, which must number at least two (2). Community solar facilities are characterized by the sharing of electricity output, which is provided to subscribers. Examples include but are not limited to roof-mounted solar arrays, ground-mounted solar arrays, or solar canopies, but would not include basic utility uses.**

Community Service Use: A not-for-profit use established primarily to benefit and serve the population of the community in which it is located.

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<sup>1</sup> 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.

**Paragraph 200.2(f) 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:

(a) Agriculture, Large:

...

(f) Basic Utilities:

(1) The commercial or governmental generation, transmission, distribution, or storage of energy, water, stormwater, cable, or telecommunication-related information;

(2) This use commonly takes the form of infrastructure services which are provided city-wide;

(3) Examples include, but are not limited to: electrical sub-station, telephone exchange, optical transmission node, electronic equipment facility, sewer plant, water treatment plant, methods and facilities for renewable energy generation **other than a community solar facility**, or utility pumping station; and

(4) Exceptions: This use category does not include uses which would typically fall within the antennas or waste-related services use categories;

...

**Subsection 1500.5 of § 1500, PENTHOUSE GENERAL REGULATIONS, of Chapter 15, PENTHOUSES, of Subtitle C, GENERAL RULES, is amended as follows:**

1500.5 For the administration of this section, mechanical equipment shall not include telephone equipment, radio, television, ~~or~~ electronic equipment of a type not necessary to the operation of the building or structure, **or solar canopies on top of a parking garage**. Antenna equipment cabinets and antenna equipment shelters shall be regulated by Subtitle C, Chapter 13.

**Subsection 1103.1 of § 1103, MATTER-OF-RIGHT USES (NC-USE GROUPS A, B, AND C), of Chapter 11, USE PERMISSIONS FOR NC ZONES, of Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES, is amended by adding a new paragraph (r) to read as follows:**

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

- (a) NC zone designated uses;
- ...
- (p) Transportation infrastructure; **and**
- (q) Daytime care; **and**
- (r) **Community solar facility, subject to the following conditions:**
  - (1) **Roof-mounted solar array of any size; or**
  - (2) **Ground-mounted solar array, subject to the following requirements:**
    - (A) **Measures no greater than twenty feet (20 ft.) in height;**
    - (B) **Has an aggregate panel face area of one-and-one half (1.5) acres or less;**
    - (C) **Meets the yard and height development standards of the zone; and**
    - (D) **Where the panels are sited no less than forty feet (40 ft.), including any intervening street or alley, from an adjacent property in the R, RF, or RA-1 zone.**

**Subsection 1105.1 of § 1105, SPECIAL EXCEPTION USES (NC-USE GROUP A), of Chapter 11, USE PERMISSIONS FOR NC ZONES, of Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES, is amended by adding a new paragraph (i) as follows:**

1105.1 In areas other than designated use areas, the uses in this section shall be permitted if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, subject to any applicable provisions of each section:

- (a) Animal care uses, not meeting the conditions of Subtitle H § 1101.4(g), subject to the following;
- ...
- (g) Utilities uses, other than an optical ... or vehicular movement; **and**
- (h) Animal boarding uses not meeting the conditions of Subtitle H § 1101.4(g)(3), subject to the following:
  - (1) The animal boarding use shall take place entirely within an enclosed building;

...

- (9) External yards or other exterior facilities for the keeping of animals shall not be permitted; **and**

**(i) Community solar facility not meeting the requirements of Subtitle H § 1103.1(r), subject to the following conditions:**

- (1) Provision of a landscaped area at least five feet (5 ft.) wide facing public space, residential use, or parks and recreation use, regardless of zone, that:**

- (A) Maintains as many existing native trees as possible;**

- (B) Includes a diverse mix of native trees, shrubs, and plants, and avoids planting a monoculture; and**

- (C) Ensures all trees measure a minimum of six feet (6 ft.) in height at the time of planting; and**

- (2) The Application, including the landscape plan, shall be referred to the District Department of Energy and Environment for review and report.**

**Subsection 1107.1 of § 1107, SPECIAL EXCEPTION USES (NC-USE GROUP B), of Chapter 11, USE PERMISSIONS FOR NC ZONES, of Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES, is amended by adding a new paragraph (k) as follows:**

1107.1 In areas other than designated use areas, the uses in this section shall be permitted if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, subject to any applicable provisions of each section:

- (a) Animal care and boarding uses not meeting ... of Subtitle H § 1105.1(a);

...

- (i) Utilities uses, other than an ... pedestrian or vehicular movement; **and**

- (j) Parking uses: Accessory parking spaces elsewhere than on the same lot or part of the lot on which any principal use subject to the following conditions:

- (1) The total number of parking spaces ... the principal use;

...



- (3) The parking spaces shall be located ... objectionable conditions; **and**

**(k) Community solar facility not meeting the requirements of Subtitle H § 1103.1(r), subject to the following:**

- (1) **Provision of a landscaped area at least five feet (5 ft.) wide facing public space, residential use, or parks and recreation use, regardless of zone, that:**
  - (A) **Maintains as many existing native trees as possible;**
  - (B) **Includes a diverse mix of native trees, shrubs, and plants, and avoids planting a monoculture; and**
  - (C) **Ensures all trees measure a minimum of six feet (6 ft.) in height at the time of planting; and**
- (2) **The Application, including the landscape plan, shall be referred to the District Department of Energy and Environment for review and report.**

**Subsection 1109.1 of § 1109, SPECIAL EXCEPTION USES (NC-USE GROUP C), of Chapter 11, USE PERMISSIONS FOR NC ZONES, of Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES, is amended by adding a new paragraph (h) as follows:**

1109.1 In areas other than designated use areas, the uses in this section shall be permitted if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, subject to any applicable provisions of each section:

- (a) Animal care and boarding uses not meeting ... of Subtitle H § 1105.1(a);  
...
- (f) Parking uses: Accessory parking spaces ... following conditions:
  - (1) A gasoline service station or repair garage, subject to the following conditions:  
...
  - (3) The parking spaces shall be located ... objectionable conditions; **and**
- (g) An automated parking garage ... objectionable conditions; **and**

**(h) Community solar facility not meeting the requirements of Subtitle H § 1103.1(r), subject to the following conditions:**

- (1) Provision of a landscaped area at least five feet (5 ft.) wide facing public space, residential use, or parks and recreation use, regardless of zone, that:**
  - (A) Maintains as many existing native trees as possible;**
  - (B) Includes a diverse mix of native trees, shrubs, and plants, and avoids planting a monoculture; and**
  - (C) Ensures all trees measure a minimum of six feet (6 ft.) in height at the time of planting; and**
- (2) The Application, including the landscape plan, shall be referred to the District Department of Energy and Environment for review and report.**

Subsection 410.3 of § 410, USE PERMISSIONS (HE), of Chapter 4, HILL EAST ZONES – HE-1 THROUGH HE-4, of Subtitle K, SPECIAL PURPOSE ZONES, is amended by adding a new paragraph (o) to read as follows:

410.3 The following uses are permitted in the HE zones:

- (a) Agriculture, residential;
- ...
- (m) Retail; **and**
- (n) Service, general and financial; **and**
- (o) Community solar facility, subject to the following conditions:**
  - (1) Roof-mounted solar array of any size; or**
  - (2) Ground-mounted solar array, subject to the following requirements:**
    - (A) Measures no greater than twenty feet (20 ft.) in height;**
    - (B) Has an aggregate panel face area of one-and-one half (1.5) acres or less;**
    - (C) Meets the yard and height development standards of the zone; and**

**(D) Where the panels are sited no less than forty feet (40 ft.), including any intervening street or alley, from an adjacent property in the R, RF, or RA-1 zone.**

Subsection 412.1 of § 412, USES PERMITTED BY SPECIAL EXCEPTION (HE), of Chapter 4, HILL EAST ZONES – HE-1 THROUGH HE-4, of Subtitle K, SPECIAL PURPOSE ZONES, is amended by adding a new paragraph (j) and renumbering current paragraph (j) to (k) to read as follows:

412.1 The following uses shall be permitted ~~as a special exception~~ if approved by the Board of Zoning Adjustment **as a special exception** under Subtitle X, **Chapter 9**, subject to Subtitle K § 413 and any applicable provisions of this section:

(a) Basic utilities' uses and supporting infrastructure ... the surrounding neighborhood;

...

(i) Parking uses, subject to the following conditions:

(1) Parking in above grade structures, provided:

...

(2) New or expanded at-grade surface parking lots ... a maximum of two (2) times; ~~and~~

(j) **Community solar facility not meeting the requirements of Subtitle K § 410.3(o), subject to the following:**

**(1) Provision of a landscaped area at least five feet (5 ft.) wide facing public space, residential use, or parks and recreation use, regardless of zone, that:**

**(A) Maintains as many existing native trees as possible;**

**(B) Includes a diverse mix of native trees, shrubs, and plants, and avoids planting a monoculture; and**

**(C) Ensures all trees measure a minimum of six feet (6 ft.) in height at the time of planting; and**

**(2) The Application, including the landscape plan, shall be referred to the District Department of Energy and Environment for review and report; and**

- (k) Other principal uses that are not permitted ... in furthering the purposes of the HE zones.

**Subsection 612.1 of § 612, USE PERMISSIONS (StE), of Chapter 6, SAINT ELIZABETHS EAST CAMPUS ZONES – StE-1 THROUGH StE-19, of Subtitle K, SPECIAL PURPOSE ZONES, is amended by adding a new paragraph (y) to read as follows:**

612.1 The following uses categories shall be permitted as a matter of right in all of the StE zones, except as limited in Subtitle K §§ 613 and 614, or if specifically prohibited by Subtitle K § 615:

- (a) Agriculture, large and residential;  
...
- (w) Service, general and financial; **and**
- (x) Transportation infrastructure; **and**
- (y) Community solar facility, subject to the following conditions:**
  - (1) Roof-mounted solar array of any size; or**
  - (2) Ground-mounted solar array, subject to the following requirements:**
    - (A) Measures no greater than twenty feet (20 ft.) in height;**
    - (B) Has an aggregate panel face area of one-and-one half (1.5) acres or less;**
    - (C) Meets the yard and height development standards of the zone; and**
    - (D) Where the panels are sited no less than forty feet (40 ft.), including any intervening street or alley, from an adjacent property in the R, RF, or RA-1 zone.**

**Subsection 614.1 of § 614, USES PERMITTED BY SPECIAL EXCEPTION (StE), of Chapter 6, SAINT ELIZABETHS EAST CAMPUS ZONES – StE-1 THROUGH StE-19, of Subtitle K, SPECIAL PURPOSE ZONES, is amended by adding a new paragraph (c) as follows:**

614.1 The uses in this section shall be permitted in the StE zones ~~as a special exception~~ if approved by the Board of Zoning Adjustment ~~pursuant to the general standards of~~ **as a special exception under** Subtitle X, **Chapter 9, subject to** the

criteria set forth in Subtitle K § 615.2, ~~and subject to~~ and any applicable conditions of each paragraph section as stated below:

- (a) Except as permitted as a matter of right ... the following conditions:
  - (1) There shall be no other property ... any portion of the property;  
...
  - (6) The Board of Zoning Adjustment may approve ... area of the District of Columbia; **and**
- (b) Community-based institutional facilities ... to the following conditions:
  - (1) There shall be no other property containing ... from any portion of the property;  
...
  - (4) The Board of Zoning Adjustment may approve more ... traffic, noise, or operations; **and**
  - (6) The Board of Zoning Adjustment may approve ... the District of Columbia; **and**

**(c) Community solar facility, subject to the following conditions:**

- (1) Roof-mounted solar array of any size; or**
- (2) Ground-mounted solar array, subject to the following requirements:**
  - (A) Measures no greater than twenty feet (20 ft.) in height;**
  - (B) Has an aggregate panel face area of one-and-one half (1.5) acres or less;**
  - (C) Meets the yard and height development standards of the zone; and**
  - (D) Where the panels are sited no less than forty feet (40 ft.), including any intervening street or alley, from an adjacent property in the R, RF, or RA-1 zone.**

**Subsection 911.1 of § 911, USE PERMISSIONS (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-8, of Subtitle K, SPECIAL PURPOSE ZONES, is amended by adding a new paragraph (n) to read as follows:**

911.1 The uses in this section shall be permitted as a matter of right in the WR-1 zone, subject to any applicable conditions.

(a) Agriculture, large and residential;

...

(l) Retail subject to the conditions of Subtitle K § 912.10; ~~and~~

(m) Transportation infrastructure; and

(n) Community solar facility, subject to the following conditions:

(1) Roof-mounted solar array of any size; or

(2) Ground-mounted solar array, subject to the following requirements:

(A) Measures no greater than twenty feet (20 ft.) in height;

(B) Has an aggregate panel face area of one-and-one half (1.5) acres or less;

(C) Meets the yard and height development standards of the zone; and

(D) Where the panels are sited no less than forty feet (40 ft.), including any intervening street or alley, from an adjacent property in the R, RF, or RA-1 zone.

**Subsection 913.1 of § 913, SPECIAL EXCEPTION USES (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-8, of Subtitle K, SPECIAL PURPOSE ZONES, is amended by adding a new paragraph (c) to read as follows:**

913.1 The uses in this section shall be permitted in the WR-1 zone ~~as a special exception~~ if approved by the Board of Zoning Adjustment ~~pursuant to the general standards of~~ as a special exception under Subtitle X, Chapter 9, and subject to the criteria set forth in Subtitle K § 615.2, ~~and subject to~~ and any applicable conditions of each paragraph ~~section as stated~~ below:

...

(a) Community-based institutional facilities ... the following conditions:

...

- (6) The Board of Zoning Adjustment may approve more than one ... because of traffic, noise, or operations; **and**
- (b) Emergency shelter use for five (5) to twenty-five (25) persons ... to the following conditions:
  - (1) There shall be no other property containing ... any portion of the property;
  - ...
  - (6) The Board of Zoning Adjustment may approve a facility ... that area of the District of Columbia; **and**
- (c) Community solar facility not meeting the requirements of Subtitle K § 911.1(n), subject to the following:**
  - (1) Provision of a landscaped area at least five feet (5 ft.) wide facing public space, residential use, or parks and recreation use, regardless of zone, that:**
    - (A) Maintains as many existing native trees as possible;**
    - (B) Includes a diverse mix of native trees, shrubs, and plants, and avoids planting a monoculture; and**
    - (C) Ensures all trees measure a minimum of six feet (6 ft.) in height at the time of planting; and**
  - (2) The Application, including the landscape plan, shall be referred to the District Department of Energy and Environment for review and report.**

**Subsection 913.2 of § 913, SPECIAL EXCEPTION USES (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-8, of Subtitle K, SPECIAL PURPOSE ZONES, is amended by adding a new paragraph (g) to read as follows:**

913.2 The following uses shall be permitted ~~as a special exception in the~~ WR-2, WR-3, WR-4, and WR-5 zones if approved by the Board of Zoning Adjustment **as a special exception** under Subtitle X, Chapter 9, subject to any applicable conditions of each **paragraph belowsection:**

- (a) Animal sales, care, and boarding shall be subject to the following conditions:
- ...

- (e) Emergency shelter use for five (5) to twenty-five (25) persons ... the conditions of Subtitle K § 913.1(b); ~~and~~
- (f) All motor vehicle related uses are prohibited ... following conditions:
  - (1) There shall be no outdoor storage of vehicles; ...
  - (7) The Board of Zoning Adjustment shall find that the use does not impair the overall pedestrian or retail environment of the neighborhood; **and**

**(g) Community solar facility not meeting the requirements of Subtitle K § 911.1(n), subject to the following:**

- (1) Provision of a landscaped area at least five feet (5 ft.) wide facing public space, residential use, or parks and recreation use, regardless of zone, that:**
  - (A) Maintains as many existing native trees as possible;**
  - (B) Includes a diverse mix of native trees, shrubs, and plants, and avoids planting a monoculture;**
  - (C) Ensures all trees measure a minimum of six feet (6 ft.) in height at the time of planting; and**
  - (D) The Application, including the landscape plan, shall be referred to the District Department of Energy and Environment for review and report.**

**Subsection 913.3 of § 913, SPECIAL EXCEPTION USES (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-8, of Subtitle K, SPECIAL PURPOSE ZONES, is amended by adding a new paragraph (c) to read as follows:**

913.3 The following uses shall be permitted ~~as a special exception in the~~ WR-7 and WR-8 zones if approved by the Board of Zoning Adjustment **as a special exception** under Subtitle X, Chapter 9, subject to any applicable conditions of each **paragraph belowsection:**



- (a) Daytime care uses not meeting ... the following conditions:
  - (1) The facility shall be located ... in attendance; and
  - (2) Any off-site play area shall be located ... the center of facility; **and**
- (b) Emergency shelter use for five (5) to twenty-five (25) persons ... the conditions of Subtitle K § 913.1(b); **and**
- (c) Community solar facility not meeting the requirements of Subtitle K § 911.1(n), subject to the following:**
  - (1) Provision of a landscaped area at least five feet (5 ft.) wide facing public space, residential use, or parks and recreation use, regardless of zone, that:**
    - (A) Maintains as many existing native trees as possible;**
    - (B) Includes a diverse mix of native trees, shrubs, and plants, and avoids planting a monoculture; and**
    - (C) Ensures all trees measure a minimum of six feet (6 ft.) in height at the time of planting; and**
  - (2) The Application, including the landscape plan, shall be referred to the District Department of Energy and Environment for review and report.**

**Subsection 201.1 of § 201, MATTER-OF-RIGHT USES – R-USE GROUPS A, B, C, AND D, of Chapter 2, USE PERMISSIONS RESIDENTIAL HOUSE (R) ZONES, of Subtitle U, USE PERMISSIONS, is amended by adding a new paragraph (c) as follows:**

- 201.1 The following uses in this section shall be permitted as a matter of right subject to any applicable conditions:
- (a) A principal dwelling unit shall be permitted as follows:
    - (1) In the R-Use Groups A and D, the principal dwelling unit shall be in a detached building;
    - ...
    - (3) In the R-Use Group C, the principal dwelling unit may be in either a detached, semi-detached, or an attached building; **and**
  - (b) Clerical and religious group residences for no more than fifteen (15) persons; **and**

- (c) **Community solar facility, subject to the following conditions:**
  - (1) **Roof-mounted solar array of any size; or**
  - (2) **Ground-mounted solar array, subject to the following requirements:**
    - (A) **Measures no greater than twenty feet (20 ft.) in height;**
    - (B) **Has an aggregate panel face area of one-and-one half (1.5) acres or less;**
    - (C) **Meets the yard and height development standards of the zone; and**
    - (D) **Where the panels are sited no less than forty feet (40 ft.), including any intervening street or alley, from an adjacent property in the R, RF, or RA-1 zone.**

**Subsection 203.1 of § 203, SPECIAL EXCEPTION USES – R-USE GROUPS A, B, C, AND D, of Chapter 2, USE PERMISSIONS RESIDENTIAL HOUSE (R) ZONES, of Subtitle U, USE PERMISSIONS, is amended by adding a new paragraph (r) as follows:**

- 203.1      The uses in this section shall be permitted as a special exception in R-Use Groups A, B, and C, if approved by the Board of Zoning Adjustment **as a special exception** under Subtitle X, Chapter 9, subject to applicable conditions of each **paragraph below** ~~section:~~
- (a)      Accessory apartment that does not mean the requirements of Subtitle U § 253;
  - ...
  - (p)      Utility uses subject to the following conditions:
    - (1)      An electronic equipment facility shall not be permitted;
    - ...
    - (3)      Any new construction of a freestanding structure ... no advertisement on the structure; ~~and~~
  - (q)      Any use within a District of Columbia former public school building ... conditions of Subtitle U § 252.; **and**

**(r) Community solar facility not meeting the requirements of Subtitle U § 201.1(c), subject to the following:**

- (1) Provision of a landscaped area at least five feet (5 ft.) wide facing public space, residential use, or parks and recreation use, regardless of zone, that:**
  - (A) Maintains as many existing native trees as possible;**
  - (B) Includes a diverse mix of native trees, shrubs, and plants, and avoids planting a monoculture;**
  - (A) Ensures all trees measure a minimum of six feet (6 ft.) in height at the time of planting; and**
- (2) The Application, including the landscape plan, shall be referred to the District Department of Energy and Environment for review and report.**

**Subsection 600.1 of § 600, MATTER-OF-RIGHT USES ON ALLEY LOTS (R, RF, AND RA), of Chapter 6, USE PERMISSIONS FOR ALLEY LOT, of Subtitle U, USE PERMISSIONS, is amended by adding a new paragraph (f) as follows:**

600.1 The following uses shall be permitted as a matter-of- right on an alley lot in the R, RF, and RA zones subject to any applicable conditions:

- (a) Agricultural, both residential and large;  
...
- (d) Parking subject to the following conditions:
  - (1) Occupancy of the building shall be limited to one (1) artist ... on an alley lot;  
...
  - (3) Parking garage on a lot not containing another use shall meet the following conditions:
    - (A) No more than two (2) motor vehicles may be housed on the lot;  
...
    - (C) The building shall open directly onto an alley; ~~and~~

- (e) Residential dwelling, provided that the use shall be limited to one (1) dwelling unit on an alley lot, subject to the following limitations:
  - (1) The alley lot is wholly within an R-3, R-13, or R-17 zone, an RF zone, or an RA zone;
  - ...
  - (5) If the Zoning Administrator or other authorized ... to the Board of Zoning Adjustment; **and**

**(f) Community solar facility, subject to the following conditions:**

- (1) Roof-mounted solar array of any size; or**
- (2) Ground-mounted solar array, subject to the following requirements:**
  - (A) Measures no greater than twenty feet (20 ft.) in height;**
  - (B) Has an aggregate panel face area of one-and-one half (1.5) acres or less;**
  - (C) Meets the yard and height development standards of the zone; and**
  - (D) Where the panels are sited no less than forty feet (40 ft.), including any intervening street or alley, from an adjacent property in the R, RF, or RA-1 zone.**

**Subsection 601.1 of § 601, SPECIAL EXCEPTION USES ON ALLEY LOTS (R, RF, AND RA), of Chapter 6, USE PERMISSIONS FOR ALLEY LOT, of Subtitle U, USE PERMISSIONS, is amended by adding a new paragraph (e) as follows:**

601.1 The following uses shall be permitted on an alley lot in the R, RF, and RA zones, ~~as a special exception~~ if approved by the Board of Zoning Adjustment **as a special exception** under Subtitle X, Chapter 9, subject to **the applicable conditions of each paragraph below** ~~any specific provisions of each section:~~

- (a) No camp or any temporary place of abode ... subject to the following conditions:
  - ...
- (c) Residential use not meeting ... the following conditions:
  - (1) The alley lot is not wholly ... or R-2 zones; and

- ...
- (4) The Board of Zoning Adjustment ... agency comments concerning:
    - (A) Public safety, including ... Metropolitan Police Department;
      - ...
      - (D) Traffic and parking ... District Department of Transportation; **and**
  - (d) Storage of wares or goods on an alley lot ... to the following:
    - (1) No storage use authorized in this section shall ... gross floor area;
      - ...
      - (4) The hours of active operation ... the use is located; **and**
  - (e) Community solar facility not meeting the requirements of Subtitle U § 600.1(f), subject to the following:**
    - (1) Provision of a landscaped area at least five feet (5 ft.) wide facing public space, residential use, or parks and recreation use, regardless of zone, that:**
      - (A) Maintains as many existing native trees as possible;**
      - (B) Includes a diverse mix of native trees, shrubs, and plants, and avoids planting a monoculture; and**
      - (C) Ensures all trees measure a minimum of six feet (6 ft.) in height at the time of planting; and**
    - (2) The Application, including the landscape plan, shall be referred to the District Department of Energy and Environment for review and report.**

**Subsection 801.1 of § 801, MATTER-OF-RIGHT USES (PDR), of Chapter 8, USE PERMISSIONS PRODUCTION, DISTRIBUTION AND REPAIR (PDR) ZONES, of Subtitle U, USE PERMISSIONS, is amended by adding a new paragraph (cc) as follows:**

801.1 The following uses shall be permitted in a PDR zone as a matter of right, subject to any applicable conditions:

- (a) Agricultural uses;

...

- (aa) Waste incineration, including for conversion to energy ... within one hundred feet 100 ft.) of a residential zone; **and**
- (bb) Wholesale or storage establishment, including open storage, except a junk yard; **and**
- (cc) Community solar facility, subject to the following conditions:**
  - (1) Roof-mounted solar array of any size; or**
  - (2) Ground-mounted solar array, provided the panels are sited no less than forty feet (40 ft.), including any intervening street or alley, from an adjacent property in the R, RF, or RA-1 zone.**

**Subsection 802.1 of § 802, SPECIAL EXCEPTION USES (PDR), of Chapter 8, USE PERMISSIONS PRODUCTION, DISTRIBUTION AND REPAIR (PDR) ZONES, of Subtitle U, USE PERMISSIONS, is amended by adding a new paragraph (cc) as follows:**

802.1 The following uses shall be permitted **in a PDR zone as a special exception** if approved by the Board of Zoning Adjustment **as a special exception** under Subtitle X, Chapter 9, subject to the **applicable conditions of each paragraph below provisions of this section:**

- (a) Animal sales, care, and boarding uses not meeting the conditions of matter-of-right of Subtitle U § 801.1(b), subject to the following conditions:
  - ...
- (i) Waste-related service uses not permitted under Subtitle U § 801.1(aa), but not including hazardous waste, subject to the following conditions:
  - (1) Regardless of use, the facility shall comply with the following:
    - ...
  - (10) The applicant shall provide credible evidence to the Board of Zoning Adjustment ... but not be limited to, the following:
    - (A) An indication of the site and description of land uses within one-quarter (1/4) of a mile on the site;
      - ...
    - (F) A certified statement by an architect or engineer ... regulations adopted pursuant to the Solid Waste Facility Permit Act of 1995, effective February 27, 1996 (D.C. Law

11-94, as amended; D.C. Official Code §§ 8-1051 to 8-1063 (2012 Repl.); ~~and~~

- (j) Retail, large format, subject to the following conditions:
  - (1) The development standards and design guidelines contained ... fifty thousand (50,000) gross square feet or greater;  
...
  - (8) This section shall not apply to the following:
    - (A) Large format retail that would occupy a planned unit development approved of as September 5, 2016; or
    - (B) Large format retail that would occupy a project ... meeting the definition of large format retail; ~~and~~

**(k) Community solar facility not meeting the requirements of Subtitle U § 801.1(cc), subject to the following:**

- (1) Provision of a landscaped area at least five feet (5 ft.) wide facing public space, residential use, or parks and recreation use, regardless of zone, that**
  - (A) Maintains as many existing native trees as possible;**
  - (B) Includes a diverse mix of native trees, shrubs, and plants, and avoids planting a monoculture; and**
  - (C) Ensures all trees measure a minimum of six feet (6 ft.) in height at the time of planting; and**
- (2) The Application, including the landscape plan, shall be referred to the District Department of Energy and Environment for review and report.**

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, 441 4<sup>th</sup> Street, N.W., Suite 200-S, Washington, D.C. 20001, or signed electronic submissions may be submitted in PDF format to [zcsubmissions@dc.gov](mailto:zcsubmissions@dc.gov). Ms. Schellin may also be contacted by telephone at (202) 727-6311 or by email: at [Sharon.Schellin@dc.gov](mailto:Sharon.Schellin@dc.gov). Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

