

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING

AND

Z.C. ORDER NO. 19-04

Z.C. Case No. 19-04

(Text Amendment to Subtitles B, C, H, K, and U of 11 DCMR – Defining Community Solar Facility, Determining Permitted Locations, and Establishing Development Standards)

July 29, 2019

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 Subtitles B (Definitions, Rules of Measurement, and Use Categories), C (General Rules), H (Neighborhood Mixed-Use (NC) Zones), K (Special Purpose Zones), and U (Use Permissions) of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (the Zoning Regulations, to which all references herein are made unless otherwise specified).

Description of Amendment

The text amendment amends:

- Subtitle B by revising § 100.2 to add a definition of a “Community Solar Facility” and § 200.2 to revise the “Basic Utilities” use category to exclude a Community Solar Facility from that use category;
- Subtitle C by revising § 1500.5 to exclude solar canopies on parking garages from being deemed mechanical equipment under the penthouse regulations;
- Subtitle H by revising §§ 1103.1, 1105.1, 1107.1, and 1109.1 to authorize Community Solar Facilities as matter-of-right and special exception uses under certain circumstances in the various NC zones;
- Subtitle K by revising §§ 410.3, 412.1, 612.1, 614.1, 911.1, 913.1, 913.2, and 913.3 to authorize Community Solar Facilities as matter-of-right and special exception uses under certain circumstances in various Hill East, StEs, and Walter Reed zones; and
- Subtitle U by revising §§ 201.1, 203.1, 600.1, 601.1, 801.1, and 802.1 to authorize Community Solar Facilities as matter-of-right and special exception uses under certain circumstances in the various R, RF, RA, and PDR zones.

The amendment responds to the concerns of the Office of Planning (OP) and the District Department of Energy and Environment (DOEE) that the Zoning Regulations impeded the implementation of community solar installations, which provide the benefits of solar energy systems to residents who can't install such 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 the solar energy produced by a community 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, DOEE launched its "Solar for All" program to reduce the electric bills of at least one hundred thousand (100,000) District low-income households with high energy burdens by at least fifty percent (50%) prior to December 31, 2032. DOEE has issued \$13 million dollars (\$13,000,000) 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 did not specifically regulate solar arrays as a use, community solar installations have been deemed to fall within the "Basic Utilities" 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 twenty-two megawatts (22MW) of planned community solar projects funded by DOEE's "Solar for All" program.

The Zoning Regulations also did 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 (4 ft.) in height must comply with the development standards applicable to structures in each zone.

Procedures Leading to Adoption of the Amendment

On February 7, 2019, OP filed a report with the Office of Zoning that served as a petition proposing an amendment to Subtitles B, C, H, K, and U of the Zoning Regulations that would:

- Define a Community Renewable Energy Facility (CREF) distinct from the facilities classified in the "Basic Utilities" use category;
- Exclude solar canopies over a parking garage from being deemed mechanical equipment under the penthouse regulations; and
- Permit a CREF as a matter-of-right use, subject to the yard and height development standards of each zone, in all zones except the MU-11 and SEFC-4 zones. (Exhibit [Ex.] 1.)

The OP Report requested that the Commission take emergency action, as well as proposed 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 heard the testimony of OP and DOEE about the effect of the text amendment. DOEE testified that emergency action was needed because

the required special exceptions for community solar installations would imperil the funding available for the “Solar for All” program for this fiscal year and would therefore 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.

At its February 11, 2019 public meeting, upon the motion of Chairman Hood, as seconded by Commissioner Shapiro, the Zoning Commission took **EMERGENCY AND PROPOSED ACTION** to authorize a notice of proposed rulemaking to adopt the proposed text amendment by a vote of **4-0-1** (Anthony J. Hood, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve; Robert E. Miller not present, not voting).

Notice of Emergency and Proposed Rulemaking

The proposed amendment was referred to the National Capital Planning Commission (“NCPC”) for the 30-day review period required by § 492 of the District Charter on February 13, 2019 and published as a Notice of Emergency and Proposed Rulemaking in the *D.C. Register* (66 DCR 2314, *et seq.*) on February 22, 2019.

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

OP submitted a Hearing Report dated March 22, 2019), that revised the proposed amendment by narrowing the definition of facilities covered by the amendment from a CREF, which include non-solar facilities, to a “Community Solar Facility” (CSF). (Ex. 8.)

The Commission received six (6) comments in support of the Notice of Emergency and Proposed Rulemaking, that focused on the importance of the proposed amendment to the District’s clean energy efforts:

- The Mayor and Director of DOEE stated that without the proposed amendment, CSFs would take longer and be less certain of approval, which would increase the cost of financing these CSFs and impede 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; (Ex. 9, 17.)
- The Maryland-D.C.-Delaware-Virginia Solar Energy Industries Association (MDV/SEIA) stated that the proposed amendment was 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. MDV/SEIA therefore requested that the Commission expand the amendment to include all solar installations, not only those funded by DOEE’s “Solar for All” program; (Ex. 15.)

- GRID Alternatives and Groundswell, non-profit solar installers and developers, 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; and (Ex. 18, 21, 24.)
- New Columbia Solar, a company that finances, installs, operates, and owns solar installations, noted that CSFs are identical to solar installations whose energy is used exclusively on-site and do not require BZA approval and so should be treated the same. (Ex. 20.)

The Commission also received seven (7) comments in opposition to the Notice of Emergency and Proposed Rulemaking:

- Most opposed allowing any CSF as a permitted use and argued to retain the current special exception requirement to give neighbors a role in the review of a new CSF; and (Ex. 10-14, 16, 22, 25, 27.)
- The Committee of 100 also requested that if the Commission decided to approve by-right CSFs, that it first narrow the proposed amendment to require: (i) CSFs provide public benefits; and (ii) by-right CSFs comply with area and height limitations. (Ex. 16, 25.)

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

OP addressed the issues raised by the Commission at the April 1, 2019 public hearing in a Supplemental Report, dated April 22, 2019, based upon consultation with DOEE and the Department of Consumer and Regulatory Affairs, that proposed to further revise the proposed text amendment including:

- Limiting CSFs by right to:
 - ground-mounted CSFs under two (2) acres in all zones except the MU-11 and SEFC-4 zones;
 - roof-mounted CSFs in all zones other than the MU-11 and SEFC-4 zones; and
 - roof- and ground-mounted CSFs of any size in the PDR zones; and
- Requiring special exception relief from the BZA for ground-mounted CSFs exceeding two (2) acres in size in all zones other than the MU-11, SEFC-4, and PDR zones. (Ex. 28.)

At its April 29, 2019 public meeting, the Commission heard testimony by OP, who it asked to refine further the proposed text amendment 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 decided to schedule a continued deliberation for prior to the June 11, 2019 expiration of the emergency amendment.

In response to the Commission's request at the April 29, 2019th public meeting, OP submitted a Second Supplemental Report, dated May 8, 2019, based on consultation with DDOE, proposing additional revisions including:

- Further limit by-right ground-mounted CSFs to a maximum height of twenty (20) feet and to the setback development standards of the individual zone;
- Clarify that the two (2)-acre limitation for by-right ground-mounted CSFs applies to the total size of the solar arrays, not the size of the lot; and
- Clarify that the BZA, in considering CSF special exception requests, may impose buffering and screening conditions necessary to protect the neighborhood. (Ex. 29.)

OP also reported that fifty-five (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, the Commission heard testimony from OP, who it asked to refine further the proposed text amendment 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 OP to 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 at the May 13, 2019 public meeting, OP submitted a Third (and Final) Supplemental Report, dated June 5, 2019, based on further consultation with DOEE, that recommended further revisions including:

- Further limiting by-right ground-mounted CSFs:
 - to a maximum panel size of one-and-one-half (1.5) acres or less; and
 - to properties located at least forty feet (40 ft.) away from an adjacent property in a R, RF, or RA-1 zone; and
- Imposing landscape buffers facing adjacent public space, residential uses, and parks and recreation uses for CSF special exceptions. (Ex. 30.)

OP's Final Report also provided information on all pending building permit applications, clarifying that only three (3) were ground-mounted, and only one (1) of those had a panel size exceeding one-and-one-half (1.5) acres. OP 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 40-foot (40 ft.) setback from adjacent property in the R, RF, and RA-1 zones included intervening streets and alleys.

At the close of the June 10, 2019 public meeting, upon the motion of Chairman Hood, as seconded by Vice Chairman Miller, the Zoning Commission took **PROPOSED ACTION** to authorize a notice of proposed rulemaking for the revised text included in OP's Final Report by a vote of **4-1-0**

(Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, and Michael G. Turnbull to approve; Peter G. May to oppose).

Immediately following this vote, upon the motion of Chairman Hood, as seconded by Vice Chairman Miller, the Zoning Commission took **EMERGENCY ACTION** to adopt the revised text included in OP's Final Report 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).

Notice of Second Emergency and Proposed Rulemaking

The proposed revised amendment was referred to the NCPC for the thirty (30)-day review period required by § 492 of the District Charter on June 17, 2019 and was published as a Notice of Second Emergency and Proposed Rulemaking in the *D.C. Register* (66 DCR 7711, *et seq.*) on June 28, 2019.

NCPC filed a report dated July 11, 2019, stating that it had determined that the proposed revised amendment would not be inconsistent with the Comprehensive Plan or other federal interest. (Ex. 34.)

The Commission received seven (7) comments in support of the Notice of Second Emergency and Proposed Rulemaking, all from solar energy entities, both non-profit and for-profit:

- All objected to the revised amendment's height and setback limits for by-right CSFs and requirements for screening and DOEE review for special exception CSFs, with some referring to solar installations that were reduced or eliminated due to the current regulations; (Ex. 38-39, 41, 43, 46, 52-53.)
- One (1) objected to the inclusion of carport canopies as penthouses (by the exclusion from being deemed mechanical equipment); and (Ex. 41.)
- One (1) proposed that the forty-foot (40-ft.) setback requirement for lots adjacent to R zones should be reduced to ten (10) feet, or less, for smaller solar installations of less than one-and-one-half (1.5) acres. (Ex. 53.)

The Commission received fifteen (15) comments in opposition to the Notice of Second Emergency and Proposed Rulemaking:

- Most opposed:
 - any by-right CSF and requested the retention of the current special exception requirement for CSFs;
 - potential tree-cutting and alleged herbicide use in CSF installation; and
 - the maximum size allowed by right; (Ex. 35-37, 40, 42, 44-45, 47-51, 54-56.)
- Several referred to a proposed CSF that is the subject of a special exception application before the BZA; (Ex. 47, 49, 56.)
- Two (2) wanted the size limit to apply to the lot and not the panels and to limit the by-right CSF to lots of one-quarter (.25) acre or less; (Ex. 37, 44.)
- Two (2) wanted to limit any by-right CSFs to low-income subscribers; (Ex. 44, 45.)

- One (1) requested that a pilot program be run before allowing by-right CSFs city-wide, while two (2) objected to the lack of a city-wide study of potential impacts; (Ex. 49, 51, 54.)
- One (1) asserted that the proposed amendment was inconsistent with nine (9) policies of the Comprehensive Plan because:
 - CSFs are inappropriate for residential zones, either as commercial or industrial uses; (LU-2.1.5, LU-2.3.1, UNE-1.1.10; Ex. 51.)
 - CSF installations allegedly used herbicides; (E-1.5.3.)
 - solar panels would allegedly reduce the tree canopy; and (E-3.1.2.)
 - allowing CSFs by right allegedly reduced transparency of government decision-making; and (UNE-1.2.7, IM-1.1.1, IM-1.5.4, E-3.4.2.)
- One (1) asserted that the Commission lacked the authority to regulate solar arrays. (Ex. 55.)

In response to these comments, the Commission noted OP’s multiple refinements in response to the Commission’s concerns to find the correct balance between supporting the expansion of solar energy to meet the District’s clean energy policy goals and to provide solar energy to residents, often lower-income, otherwise unable to install solar energy systems on their own residences on the one hand, and protecting residents from potential adverse impacts of adjacent CSFs on the other hand. In response to concerns raised by public comments and testimony, the Commission refined the amendment to limit the by-right CSF standards and retain a special exception for CSFs that did not meet the by-right standards, to reduce the size of the total solar panels, to establish buffering, and to impose more stringent height and setback standards than for by-right buildings. The Commission acted within the authority granted to it by the Zoning Act, the same authority used for the current special exception process, to regulate the size, location, and use of CSFs, but not the generation of energy, and carefully considered the elements and policies of the Comprehensive Plan in crafting the amendment. The amendment’s CSF by-right and special exception standards provide clear and accessible guidance for applicants and neighbors ensuring a transparent process. The Commission agreed with OP and DOEE that CSFs are compatible with almost all zones, especially with the additional protections imposed by the amendment that exceed the development standards applicable to solar installations that generate energy only for use on the same property. Although the Commission recognized that solar installations at times conflict with the tree canopy, the Commission believes the amendment strikes a reasonable balance to meet District environmental goals and policies that seek to expand both clean energy generation and the tree canopy in the District and notes that both OP and DOEE support the amendment. The Commission noted that the use of herbicides is not necessarily or exclusively related to CSF installations and is regulated by other District agencies. As to the potential impact of the amendment on current applications before the BZA, the Commission notes that the general vesting rule of Subtitle A § 301.4 requires a permit to comply with the regulations in effect on the date of issuance of the permit.

“Great Weight” to the Written Report of Affected ANCs

The Commission must give “great weight” to the issues and concerns contained in the written report of an affected ANC under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976. (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)(3)(A) (2012 Repl.); *see* Subtitle Z §406.2.) To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive

advice under the circumstances. The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).)

As this amendment applies citywide, it is of concern to all ANCs, as was directly stated in the Public Hearing Notice published in the *D.C. Register*. However, as no ANC submitted a written report to the record, the Commission has nothing to which it can give great weight.

“Great Weight” to the Recommendations of OP

The Commission must give “great weight” to the recommendations contained in the OP Reports under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990. (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.); *see* Subtitle Z § 405.8.)

The Commission found OP’s proposal and refinements persuasive as an effective means of balancing the public policy goals of expanding solar energy to residents otherwise unable to benefit from clean solar energy with appropriate protections from potential adverse impacts of CSFs on neighbors. The Commission therefore concurred with OP’s judgment to adopt the amendment as revised.

Based on the record, at its public meeting on July 29, 2019, upon the motion of Vice Chairman Miller, as seconded by Commissioner Shapiro, the Zoning Commission took **FINAL ACTION** to adopt the amendments as proposed in the Notice of Second Emergency and Proposed Rulemaking by a vote of **4-1-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, and Michael G. Turnbull to approve; Peter G. May to oppose).

The following amendments to Title 11 DCMR, Zoning Regulations of 2016, are adopted:

I. Amendments to Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES

Subsection 100.2 of § 100, DEFINITIONS, of Chapter 1, DEFINITIONS, is amended by adding a definition of “Community Solar Facility” to read as follows:

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

...¹

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

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.

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 megawatts (5 MG) 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.

...

Subsection 200.2 of § 200, INTRODUCTION, of Chapter 2, USE CATEGORIES, is amended by renaming paragraph (f) “Basic Utilities: to “Utility (Basic)” and by revising paragraph (gg) to exclude Community Solar Facilities and reordering alphabetically to read as follows:

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

(a) Agriculture, Large:

(1) The on-site cultivation ...

...

(f) Chancery:

(1) The principal offices ...

...

(g) Community-Based Institutional Facility:

(1) A use providing ...

...

(h) Daytime Care:

(1) The non-residential ...

...

(n) Firearm Sales:

(1) A use engaged in ...

- ...
- (o) Government, Large Scale:
 - (1) A use involving services ...
 - ...
- (p) Government, Local:
 - (1) A use involving ...
 - ...
- (q) Institutional, General:
 - (1) A non-governmental use involving ...
 - ...
- (r) Institutional, Religious Based:
 - (1) A non-governmental use involving ...
- (s) Lodging:
 - (1) A use providing ...
 - ...
- (t) Marine:
 - (1) A use in which ...
 - ...
- (u) Medical Care:
 - (1) A use involving the on-site licensed ...
- (v) Motor Vehicle-Related:
 - (1) A use engaging in ...
 - ...
- (ff) Transportation Infrastructure:
 - (1) A use involving ...
 - ...

(gg) Utility (basic):

- (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 renewable energy facility, or utility pumping station; and
- (4) Exceptions: This use category does not include a community renewable energy facility use or uses which would typically fall within the antennas or waste-related services use categories;

(hh) Waste-Related Services:

- (1) A use involving

II. Amendments to Subtitle C, GENERAL RULES

Subsection 1500.5 of § 1500, PENTHOUSE GENERAL REGULATIONS, of Chapter 15, PENTHOUSES, is amended to exclude solar canopies on parking garages from being mechanical equipment for penthouse purposes to read as follows as follows:

1500.5 For the administration of this section, mechanical equipment shall not include telephone equipment, radio, television, 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.

III. Amendments to Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES

Subsection 1103.1 of § 1103, MATTER-OF-RIGHT USES (NC-USE GROUPS A, B, AND C), of Chapter 11, USE PERMISSIONS FOR NC ZONES, is amended by adding a new paragraph (e) and reordering alphabetically 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;

- (b) Agriculture, large;
- (c) Arts, design, and creation;
- (d) Chancery;
- (e) 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.
- (f) Daytime care;
- (g) Education, private;
- (h) Education, public;
- (i) Government, local;
- (j) Health care;
- (k) Institutional, general and religious;
- (l) Office, including chancery;
- (m) Parking;
- (n) Parks and recreation;
- (o) Residential;
- (p) Retail;

- (q) Services, financial; and
- (r) Transportation infrastructure.

Subsection 1105.1 of § 1105, SPECIAL EXCEPTION USES (NC-USE GROUP A), of Chapter 11, USE PERMISSIONS FOR NC ZONES, is amended by adding a new paragraph (d) and reordering alphabetically to read 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 boarding uses not meeting the conditions of Subtitle H § 1101.4(g)(3), subject to the following:
 - (1) The animal boarding use ...
...
- (b) Animal care uses, not meeting the conditions of Subtitle H § 1101.4(g), subject to the following;
 - (1) The use shall not be located ...
...
- (c) Community-based institutional facilities provided that the use shall house no more than to fifteen (15) persons, not including resident supervisors or staff and their families;
- (d) Community solar facility not meeting the requirements of Subtitle H § 1103.1(e), 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;
 - (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;
- (e) Emergency shelter uses for up to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the following conditions:
 - (1) There shall be no other property ...
...
- (f) Eating and drinking establishment use that is a prepared food shop with more than twenty-four (24) seats;
- (g) Education, college/university uses shall be permitted as a special exception subject to Subtitle X § 102;
- (h) Motor vehicle-related uses limited to the following and subject to the corresponding conditions:
 - (1) The use is a gasoline service station ...
...
- (i) Utility (basic) uses, other than an optical transmission node, but not including an EEF use, subject to the use not, as a consequence of its design, operation, low employee presence, or proximity to other electronic equipment facilities inhibit future revitalization of the neighborhood, reduce the potential for vibrant streetscapes, deplete street life, or inhibit pedestrian or vehicular movement;

Subsection 1107.1 of § 1107, SPECIAL EXCEPTION USES (NC-USE GROUP B), of Chapter 11, USE PERMISSIONS FOR NC ZONES, is amended by adding a new paragraph (c) and reordering alphabetically to read 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 the conditions of Subtitle H § 1101.4(h), subject to the conditions of Subtitle H § 1105.1(a);
 - (b) Community-based institutional facilities provided that the use shall house no more than twenty (20) persons, not including resident supervisors or staff and their families;

- (c) Community solar facility not meeting the requirements of Subtitle H § 1103.1(e), 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
 - (2) The Application, including the landscape plan, shall be referred to the District Department of Energy and Environment for review and report;
- (d) Emergency shelter uses for up to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the conditions in Subtitle H § 1105.1(e);
- (e) Eating and drinking establishment uses as follows:
 - (1) Prepared food shop ...
...
- (f) Education, college/university uses subject to Subtitle X § 102, in all the other zones in NC-Use Group B that are not allowed as a matter of right;
- (g) Motor vehicle-related uses are not permitted except for the following uses subject to the corresponding conditions:
 - (1) The uses shall not be ...
...
- (h) Motorcycle sales and repair uses subject to the following conditions:
 - (1) The use and all its accessory facilities ...
...
- (i) 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 ...
...
- (j) The following service (general) uses:
 - (1) A self-service or full-service laundry ...
...
- (k) Utility (basic) uses, other than an optical transmission node, but not including an EEF use, provided the Board of Zoning Adjustment concludes the use will not, as a consequence of its design, operation, low employee presence, or proximity to other electronic equipment facilities inhibit future revitalization of the neighborhood, reduce the potential for vibrant streetscapes, deplete street life, or inhibit pedestrian or vehicular movement.

Subsection 1109.1 of § 1109, SPECIAL EXCEPTION USES (NC-USE GROUP C), of Chapter 11, USE PERMISSIONS FOR NC ZONES, is amended by adding a new paragraph (b) and reordering alphabetically to read 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 the conditions of Subtitle H § 1101.4(h), subject to the conditions of Subtitle H § 1105.1(a);
- (b) Community solar facility not meeting the requirements of Subtitle H § 1103.1(e), 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;
 - (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.

- (c) Eating and drinking establishment use that is a fast food establishment, subject to the conditions of Subtitle H § 1107.1; except that the use shall not be permitted in the NC-5 zone;
- (d) Motor vehicle-related uses are not permitted except for the following uses subject to the corresponding conditions:
 - (1) A gasoline service station ...
- (e) 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 ...
- (f) An automated parking garage as a principal use located and designed so as it is not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions.
- (g) Service (general) uses not meeting the conditions of Subtitle H §1108.1(h); and
- (h) Utility (basic) uses not meeting the conditions of Subtitle H § 1108.1(i) and subject to the use will not, as a consequence of its design, operation, low employee presence, or proximity to other electronic equipment facilities inhibit future revitalization of the neighborhood, reduce the potential for vibrant streetscapes, deplete street life, or inhibit pedestrian or vehicular movement.

IV. Amendments to Subtitle K, SPECIAL PURPOSE ZONES

Subsection 410.3 of § 410, USE PERMISSIONS (HE), of Chapter 4, HILL EAST ZONES – HE-1 THROUGH HE-4, is amended by adding a new paragraph (d) and reordering alphabetically to read as follows:

410.3 The following uses are permitted in the HE zones:

- (a) Agriculture, residential;
- ...
- (d) 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.
- (e) Daytime care;
- (f) Eating and drinking establishments subject to the following conditions:
 - (1) A drive-through, fast food restaurant ...
 - ...
- (g) Emergency shelter uses are permitted by-right provided that the use may not house more than four (4) persons, not including resident supervisors or staff and their families;
- (h) Entertainment, assembly, and performing arts;
- (i) Government, local;
- (j) Lodging;
- (k) Office;
- (l) Parks and recreation;
- (m) Residential;
- (n) Retail; and
- (n) Service, general and financial.

Subsection 412.1 of § 412, USE PERMITTED BY SPECIAL EXCEPTION (HE), of Chapter 4, HILL EAST ZONES – HE-1 THROUGH HE-4, is amended by adding a new paragraph (d) and reordering alphabetically to read as follows:

412.1 The following uses shall be permitted 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) Campus plan for a college or university use, including a college or university hospital, dormitory, fraternity, or sorority house, proposed to be located on the campus of a college or university, subject to the following conditions:

(1) The use shall be located only ...
...

(b) Community-based institutional facility not meeting the matter-of-right conditions of Subtitle K §410 as follows:

(1) Residential uses for ...
...

(c) Community service center to accommodate organizations created for the purpose of improving the social or economic well-being of the residents of the area in which the center is proposed to be located, which may include, but not be limited to, centers for job training, family counseling, consumer cooperatives, and such other facilities as are similar in nature and purpose, provided that the community service center shall not be organized for profit, and no part of its net income shall inure to the benefit of any private shareholder or individual;

(d) Community solar facility not meeting the requirements of Subtitle K § 410.3(d), 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

- (2) The Application, including the landscape plan, shall be referred to the District Department of Energy and Environment for review and report; and
- (e) Emergency shelter uses for five (5) to fifteen (15) persons, not including resident supervisors or staff and their families;
- (f) Fast food establishment or food delivery business subject to the following conditions:
 - (1) The use shall not ...
- (g) Health care uses:
 - (1) A hospital use may be located only ...
- (h) Parking uses, subject to the following conditions:
 - (1) Parking in above grade structures...
- (i) Private school, including residences for teachers and/or staff, subject to the following conditions:
 - (1) The use shall be located only ...
- (j) Utility (basic) uses and supporting infrastructure facilities, such as an electrical substation, natural gas regulator station, pump station, telecommunications facility, or any co-generation facility. Additional setbacks and screening requirements may be required as the Board of Zoning Adjustment deems necessary for protection of the surrounding neighborhood; and
- (k) Other principal uses that are not permitted by Subtitle K § 410, but not prohibited by Subtitle K § 415 shall be permitted in the HE zones as a special exception subject to the following conditions in addition to the general special exception criteria of Subtitle X and Subtitle K § 416; provided the Zoning Commission considers that the use is appropriate 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, is amended by adding a new paragraph (f) and reordering alphabetically to read as follows:

612.1 The following use 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;
...
- (d) Arts, design, and creation;
- (e) Chancery;
- (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.
- (g) Daytime care;
...
- (w) Service, general and financial;
- (x) Transportation infrastructure; and
- (y) Utility (basic).

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

614.1 The uses in this section shall be permitted in the StE zones if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, subject to the criteria set forth in Subtitle K § 618 and any applicable conditions of each paragraph below:

- (a) Community-based institutional facilities (CBIF) for seven (7) to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the following conditions:
 - (1) There shall be no other property ...
...
- (b) Community solar facility not meeting the conditions of Subtitle K § 612.1(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;
 - (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
- (c) Except as permitted as a matter of right in the StE-2 zone by Subtitle K § 612.1(j), emergency shelter uses for five (5) to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the following conditions:
 - (1) There shall be no other property ...
...

Subsection 911.1 of § 911, USE PERMISSIONS (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-8, is amended by adding a new paragraph (e) and reordering alphabetically 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;
...
- (c) Arts, design, and creation subject to the conditions of Subtitle K § 912.3;
- (d) Chanceries;
- (e) 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;
- (f) Daytime care subject to the conditions of Subtitle K § 912.5;
...
- (m) Retail subject to the conditions of Subtitle K § 912.10;
- (n) Transportation infrastructure; and
- (o) Utility (basic).

Subsection 913.1 of § 913, SPECIAL EXCEPTION USES (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-8, is amended by adding a new paragraph (b) and reordering alphabetically to read as follows:

913.1 The uses in this section shall be permitted in the WR-1 zone 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 below:

- (a) Community-based institutional facilities ... the following conditions:
...
- (b) Community solar facility not meeting the requirements of Subtitle K § 911.1(e), 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
 - (2) The Application, including the landscape plan, shall be referred to the District Department of Energy and Environment for review and report; and
- (c) Emergency shelter use for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the following conditions:
 - (1) There shall be no other property ...
...

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

913.2 The following uses shall be permitted 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 below:

- (a) Animal sales, care, and boarding shall be subject to the following conditions:
...
- (c) Community solar facility not meeting the requirements of Subtitle K § 911.1(e), 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
 - (2) The Application, including the landscape plan, shall be referred to the District Department of Energy and Environment for review and report.
- (d) Food establishment ...
 - ...
 - (f) All motor vehicle related uses ...

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

913.3 The following uses shall be permitted 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 below:

- (a) Community solar facility not meeting the requirements of Subtitle K § 911.1(e), 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

- (2) The Application, including the landscape plan, shall be referred to the District Department of Energy and Environment for review and report;
- (b) Daytime care uses not meeting the conditions of Subtitle K § 912.6 shall be permitted by special exception, subject to the following conditions:
 - (1) The facility shall be located ...
- (c) Emergency shelter use for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the conditions of Subtitle K § 913.1(c).

V. Amendments to Subtitle U, USE PERMISSIONS

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, is amended by adding a new paragraph (c) to read 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;
- (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, is amended by adding a new paragraph (f) and reordering alphabetically to read as follows:

203.1 The uses in this section shall be permitted 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:

- (a) Accessory apartment that does not mean the requirements of Subtitle U § 253;

...

- (f) 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;

- (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.

Current 203.1(f) through (q) becoming (g) through (r) as follows:

- (g) Continuing care retirement community, subject to the provisions of this paragraph:

...

- (h) Daytime care uses subject to the following conditions:

...

- (i) Emergency shelter use for five (5) to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the following conditions:
...
- (j) Health care facility use for nine (9) to three hundred (300) persons, not including resident supervisors or staff and their families, subject to the following conditions:
...
- (k) Parking as a principal use, or accessory parking elsewhere than on the same lot as the principal use, subject to the following conditions:
...
- (l) Performing arts, live theatrical use of an existing theater or performance space in an institutional, educational, or performing arts building subject to the following conditions:
...
- (m) Private schools and residences for teachers and staff of a private school, but not including a trade school, subject to the following conditions:
...
- (n) Private stables shall be permitted as an accessory use subject to the following conditions:
...
- (o) Use of existing residential buildings and the land on which they are located by a nonprofit organization for the purposes of the nonprofit organization:
...
- (p) Uses and programs conducted by a religious congregation or group of congregations, subject to the following conditions:
...
- (q) Utility uses subject to the following conditions:
...
- (r) Any use within a District of Columbia former public school building that does not comply with the matter of right conditions of Subtitle U § 252 subject to the special exception conditions of Subtitle U § 252.

Subsection 600.1 of § 600, MATTER-OF-RIGHT USES ON ALLEY LOTS (R, RF, AND RA), of Chapter 6, USE PERMISSIONS FOR ALLEY LOT, is amended by adding a new paragraph (d) and reordering alphabetically to read 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) 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.

Current 600.1(d) through (e) becoming (e) through (f) as follows:

- (e) Parking subject to ...; and
- (f) Residential dwelling

Subsection 601.1 of § 601, SPECIAL EXCEPTION USES ON ALLEY LOTS (R, RF, AND RA), of Chapter 6, USE PERMISSIONS FOR ALLEY LOT, is amended by adding a new paragraph (b) and reordering alphabetically to read as follows:

- 601.1 The following uses shall be permitted on an alley lot in the R, RF, and RA zones, 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:
- (a) No camp or any temporary place of abode ... subject to the following conditions:

- (1) The use shall be ...
...
- (b) Community solar facility not meeting the requirements of Subtitle U § 600.1(d), 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
 - (2) The Application, including the landscape plan, shall be referred to the District Department of Energy and Environment for review and report;

Current 601.1(b) through (d) becoming (c) through (e) as follows:

- (c) Parking uses ...
- (d) Residential use not meeting ...; and
- (e) Storage of wares or goods on an alley lot

Subsection 801.1 of § 801, MATTER-OF-RIGHT USES (PDR), of Chapter 8, USE PERMISSIONS PRODUCTION, DISTRIBUTION AND REPAIR (PDR) ZONES, is amended by adding a new paragraph (g) and reordering alphabetically to read 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;
...
- (g) 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;

Current 801.1(g) through (bb) become (h) through (cc) as follows:

- (h) Daytime care;
- (i) Eating and drinking establishments ...
- (j) Education uses, private and public;
- (k) Emergency shelter for not more ...
- (l) Firearm sales uses are permitted ...
- (m) Government uses, local and large-scale;
- (n) Health care;
- (o) Institutional uses, general and religious;
- (p) Lodging;
- (q) Marine;
- (r) Motor vehicle-related sales and repair ...
- (s) Office;
- (t) Parking;
- (u) Parks and recreation;
- (v) Production, distribution, and repair uses ...
- (w) Residential uses are limited ...
- (x) Retail uses, except large format retail;
- (y) Service uses are permitted ...
- (z) Transportation infrastructure;
- (aa) Utility (basic) uses are permitted ...

- (bb) Waste incineration, including for conversion to energy ... within one hundred feet (100 ft.) of a residential zone; and
- (cc) Wholesale or storage establishment, including open storage, except a junk yard.

Subsection 802.1 of § 802, SPECIAL EXCEPTION USES (PDR), of Chapter 8, USE PERMISSIONS PRODUCTION, DISTRIBUTION AND REPAIR (PDR) ZONES, is amended by adding a new paragraph (b) and reordering alphabetically to read as follows:

802.1 The following uses shall be permitted in a PDR zone 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:

- (a) Animal sales, care, and boarding uses ...
- (b) Community solar facility not meeting the requirements of Subtitle U § 801.1(g), 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
 - (2) The Application, including the landscape plan, shall be referred to the District Department of Energy and Environment for review and report;

Current 802.1(b) through (f) become (c) through (g) as follows:

- (c) Eating and drinking establishments ...
- (d) Emergency shelter not meeting ...
- (e) Entertainment, assembly, and performing arts uses ...
- (f) Production, distribution, and repair uses ...

- (g) Repair of automobiles ...

Current 802.1(j) becomes (h) as follows:

- (h) Retail, large format, subject ...


Current 802.1(h) through (j) become (i) through (j) as follows:

- (i) Utility (basic) uses not meeting the conditions of Subtitle U § 801.1(z); however, if the use is an electronic equipment facility (EEF), the Board of Zoning Adjustment shall consider:
 - (1) How the facility ...
...
- (j) 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 ...
...


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 September 13, 2019.

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