

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF FINAL RULEMAKING

Z.C. CASE NO. 20-03<sup>1</sup>

(Text Amendment to Subtitles B, C, H, K, and U, to Require Certain Ground-Floor Uses in Self-Storage Establishment)

November 19, 2020

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797), as amended; D.C. Official Code § 6-641.01 (2018 Repl.), and pursuant to § 6 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 amendment of the following provisions of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all references are made unless otherwise specified), with the final text included at the end of this notice:

- Subtitle B, Definitions, Rules of Measurement, and Use Categories - §§ 100 and 200;
- Subtitle C, General Rules - §§ 701, 802, and 901;
- Subtitle H, Neighborhood Mixed Use (NC) Zones - § 1103;
- Subtitle K, Special Purpose Zones - §§ 415, 615, and 914; and
- Subtitle U, Use Permissions - §§ 801 and 802.

**Setdown**

On January 17, 2020, the Office of Planning (OP) filed a petition (Petition) requesting that the Commission consider the proposed text amendment to amend the “self-service storage establishment” use and standards, as well as to make technical changes, reorganize and renumber sections, and make terminology consistent.

At its January 27, 2020, public meeting, the Commission voted to grant’s OP’s request to set down the Petition for a public hearing and authorized flexibility for OP to work with the Office of the Attorney General (OAG) to refine the proposed text and add any conforming language as necessary.

**Public Hearing**

OP filed a September 25, 2020, public hearing report (OP Hearing Report) that responded to the Commission’s questions raised at January 17, 2020, setdown meeting and proposed some revisions to the Petition’s text.<sup>2</sup>

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<sup>1</sup> For Office of Zoning tracking purposes only, this Notice of Final Rulemaking shall also be known as Z.C. Order No. 20-23.

<sup>2</sup> OAG recommended the inclusion of the clarification of “health care” and “medical care.”

At its October 5, 2020, public hearing, the Commission heard from OP, which testified in support of the Petition and responded to the Commission's questions. No other person or entity testified.

### **Proposed Action**

At the close of the public hearing, the Commission voted to take **PROPOSED ACTION** to adopt the Petition as proposed by the OP Hearing Report:

**VOTE (October 5, 2020): 5-0-0** (Michael G. Turnbull, Peter A. Shapiro, Anthony J. Hood, Robert E. Miller, Peter G. May to **APPROVE**)

### **Notice of Proposed Rulemaking**

The Commission published a Notice of Proposed Rulemaking (NPR) in the November 6, 2020, *D.C. Register*. (67 DCR 13145, *et seq.*)

No comments to the NPR were received in the thirty- (30) day period required by § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968. (82 Stat. 1206, as amended; D.C. Official Code § 2-505 (2013 Repl..))

### **National Capital Planning Commission (“NCPC”)**

The Commission referred the proposed amendment to the National Capital Planning Commission (NCPC) on October 6, 2020, for the thirty- (30) day review period required by § 492 of the District Charter.

NCPC filed a November 4, 2020, report stating that NCPC had determined, pursuant to delegated authority, that the proposed amendment was not inconsistent with the federal elements of the Comprehensive Plan and would not adversely impact any identified federal interests.

### **Final Action**

#### ***Great Weight” to the Recommendations of OP***

The Commission must give “great weight” to the recommendations of OP pursuant to § 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..)) and Subtitle Y § 405.8. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

The Commission finds OP's recommendation that the Commission take proposed action to adopt the proposed text amendment persuasive and concurs in that judgment.

#### ***“Great Weight” to the Written Report of the ANCs***

The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 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) (2012 Repl..)) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

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) (citation omitted).)

As no ANC has filed a response to the proposed text amendment, there is nothing to which the Commission can give great weight.

At its November 19, 2020, public meeting, the Commission voted to take **FINAL ACTION** to adopt the text advertised in the Notice of Proposed Rulemaking:

**VOTE (November 19, 2020): 5-0-0** (Michael G. Turnbull, Peter A. Shapiro, Anthony J. Hood, Robert E. Miller, Peter G. May to **APPROVE**)

The complete record in the case can be viewed online at the Office of Zoning’s Interactive Zoning Information System (IZIS), at <https://app.dcoz.dc.gov/Content/Search/Search.aspx>.

The following amendments to the text of the Zoning Regulations are hereby adopted.

### **I. Amendments to Subtitle B, DEFINITIONS**

**Subsection 100.2 of § 100, DEFINITIONS, of Chapter 1, DEFINITIONS, of Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is amended by correcting a reference in the definition of “Health Care Facility,” by adding a new definition of “Self-Storage Establishment,” and by modifying the definition of “Warehouse,” to read as follows:**

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

Health Care Facility: A facility that meets the definition for and is licensed under the District of Columbia Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 44-501 *et seq.*)

...

School, Public: A building or use within a building ...

Self-Storage Establishment: A building devoted to the storing of personal property (property other than real property) that:

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<sup>3</sup> The uses of this and other ellipses indicate that other provisions exist in the subsection being amended and that the amendment of the provisions does not signify an intent to repeal.

- (a) Consists of a building partitioned into one (1) or more enclosed and lockable storage units at least one of which does not exceed four hundred square feet (400 sq. ft.) in area, for lease on an individual basis; and
- (b) Is leased on an individual basis to persons or businesses to store personal property on a self-service basis in which the lessee has control over the access and use of the self-storage space.

Service/Delivery Loading Space: An off-street space provided ...

...

Warehouse: Any building or premises where goods or chattel are stored. The term "warehouse" shall not include storage clearly incidental to the conduct of a retail business or other permitted use on the premises or a Self-Storage Establishment.

...

**Subsection 200.2 of § 200, INTRODUCTION, of Chapter 2, USE CATEGORIES, of Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is amended by revising paragraph (u) to correct the reference in the definition of the Medical Care use category and by revising paragraph (z) to update to self-storage establishment use, to read as follows:**

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

...

(u) Medical Care:

- (1) A use involving the on-site licensed ...
- (2) These facilities may provide ...
- (3) Examples include, but are not limited to: dentist, doctor, optician, hospitals, clinics, or medical offices. This use category also includes any facility that meets the definition for and is licensed under the District of Columbia Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 44-501 *et seq.*); and
- (4) Exceptions: This use category does not ...

...

(y) Parks and Recreation ...

(z) Production, Distribution, and Repair:

- (1) A use involving the on-site production ...
  - (2) Uses may include firms that provide centralized services ...
  - (3) Examples include, but are not limited to: manufacturing facility, concrete plant, asphalt plant, material salvage, hauling or terminal yard, chemical storage or distribution, outdoor material storage, acetylene gas manufacturing, fertilizer manufacturing, rock quarrying, warehouse, storage, self-storage establishment, ground shipping facility, or wholesale sales; and;
  - (4) Exceptions: This use category does not include ...
- (aa) Residential ...

**II. Amendments to Subtitle C, GENERAL RULES**

**Subsection 701.5 of § 701, MINIMUM VEHICLE PARKING REQUIREMENTS, of Chapter 7, VEHICLE PARKING, of Subtitle C, GENERAL RULES, is reorganized in alphabetical order to read as follows:**

701.5 Except as provided for in Subtitle C § 702 ...

**TABLE C § 701.5: PARKING REQUIREMENTS**

Use Category	Minimum number of vehicle parking spaces
...	
Government, local	0.5 space per 1,000 sq. ft. in excess of 2,000 sq. ft. with a minimum of 1 space required; except: Public recreation and community center: 0.25 space per 1,000 sq. ft. in excess of 2,000 sq. ft. with a minimum of 1 space required; and Kiosk public library – no requirement.
Institutional, general	1.67 per 1,000 sq. ft. in excess of 5,000 sq. ft.
...	
Marine	0.5 per 1,000 sq. ft.
Medical care	1 per 1,000 sq. ft. in excess of 3,000 sq. ft., with a minimum of 1 space required.
Motor vehicle-related	2 per 1,000 sq. ft.
...	

**Subsection 802.1 of § 802, MINIMUM NUMBER OF BICYCLE PARKING SPACES, of Chapter 8, BICYCLE PARKING, of Subtitle C, GENERAL RULES, is reorganized in alphabetical order to read as follows:**

802.1 All residential uses with eight (8) or more dwelling units ...

**TABLE C § 802.1: MINIMUM NUMBER OF BICYCLE PARKING SPACES**

Use	Long-Term Spaces	Short-Term Spaces
...		
Government, local	1 for each 7,500 sq. ft.	1 space for each 40,000 sq. ft. but no less than 6 spaces
Institutional, general	1 space for each 7,500 sq. ft.	1 space for each 2,500 sq. ft. but no less than 8 spaces
...		
Marine	None	1 space for each 3,500 sq. ft.
Medical care	1 space for each 10,000 sq. ft.	1 space for each 40,000 sq. ft.
Motor vehicle-related	1 space for each 20,000 sq. ft.	1 space for each 10,000 sq. ft.
...		

Subsection 901.1 of § 901, **LOADING REQUIREMENTS**, of Chapter 9, **LOADING**, of Subtitle C, **GENERAL RULES**, is amended to substitute “Medical Care” for “Health Care” and reorganize alphabetically, to read as follows:

901.1 All buildings or structures shall be provided ...

**TABLE C § 901.1: LOADING BERTHS AND SERVICE/DELIVERY SPACES**

Use	Minimum Number of Loading Berths Required	Minimum Number of Service/Delivery Spaces Required
...	None	None
Government, local		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1
Institutional		
...		
Marine		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1
Medical Care		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1
Motor vehicle-related		
...		

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

Paragraphs (j) and (k) of §§ 1103.1 of § 1103, **MATTER-OF-RIGHT USES (NC-USE GROUPS A, B, AND C)**, of Chapter 11, **USE PERMISSSIONS FOR NC ZONES**, of Subtitle H, **NEIGHBORHOOD MIXED USE (NC) ZONES**, are amended to substitute “Medical Care” for “Health Care” and reordered alphabetically to read as follows:

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

...

- (i) Government, local;
- (j) Institutional, general and religious;
- (k) Medical Care;
- (l) Office, including chancery;
- ...

**IV. Proposed Amendments to Subtitle K, SPECIAL PURPOSE ZONES**

**Paragraph (e) of § 415.1 of § 415, PROHIBITED USES IN THE HE ZONES (HE), of Chapter 4, HILL EAST ZONES – HE-1 THROUGH HE-4, of Subtitle K, SPECIAL PURPOSE ZONES, is amended for consistency, as follows:**

- 415.1           The following uses are prohibited within the HE zones ...
- ...
- (e) Self-storage establishment;
  - ...

**Paragraph (f) of § 615.1 of § 615, PROHIBITED USES (STE), of Chapter 6, SAINT ELIZABETHS EAST CAMPUS ZONES – StE-1 THROUGH StE-19, of Subtitle K, SPECIAL PURPOSE ZONES, is amended for consistency, as follows:**

- 615.1           The following uses are prohibited within the StE zones ...
- ...
- (f) Self-storage establishment;
  - ...

**Paragraph (b) of § 916.1 of § 916, PROHIBITED USES (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-8, of Subtitle K, SPECIAL PURPOSE ZONES, is amended by eliminating redundant standards, as follows:**

- 914.1           The following uses are prohibited in the WR zones ...
- ...
- (c) Self-storage establishment.

**V. Proposed Amendments to Subtitle U, USE PERMISSIONS**

**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 revising paragraph (n) to correct the reference of “Health Care” to “Medical Care,” by revising paragraph (v) to include “Self-**

**Storage Establishment,” by adding a new paragraph (y) and renumbering accordingly, and by revising new paragraph (cc) to correct the reference to “Waste incineration” to “Waste-related service uses,” to read as follows:**

- 801.1           The following uses shall be permitted in a PDR zone ...
- ...
- (n)    Medical Care;
  - ...
  - (v)    Production, distribution, and repair (PDR) uses are permitted as a matter of right, subject to compliance with the Standards of External Effects in Subtitle U § 804, except for a self-storage establishment or the following prohibited uses ...
  - (w)    Residential uses are limited to ...
  - (x)    Retail uses ...
  - (y)    Self-storage establishment uses shall be permitted provided they meet the following:
    - (1)    Devote to any use permitted by this section except for Parking, Transportation Infrastructure, Utility, Waste-related service or Wholesale or storage establishment:
      - (A)    Not less than fifty percent (50%) of the ground floor area;
      - (B)    One hundred percent (100%) of the building's street frontage along a public street to a minimum depth of thirty feet (30 ft.) from the front facade, with the exception of space devoted to building entrances or required for fire control, office associated with the self-storage establishment use, or required by the District of Columbia Building or Fire Codes (Titles 12A and 12H DCMR); and
    - (2)    Design the ground floor with:
      - (A)    A minimum clear floor-to-ceiling height of fourteen feet (14 ft.), measured from the finished grade; and
      - (B)    Not less than seventy-five percent (75%) of the surface area of the street wall associated with the preferred uses required by this paragraph at the ground floor to windows, which shall include:



- (i) Clear/low emissivity glass allowing transparency to a depth of twenty feet (20 ft.) into the preferred ground level space, with bottom sills no more than four feet (4 ft.) above the adjacent sidewalk grade; and
- (ii) Views from within the building to the street and from the street into the building;
- (z) Service uses are permitted as a matter of right ...
- (aa) Transportation infrastructure;
- (bb) Utility (basic) uses are permitted as a matter-of-right ...
- (cc) Waste-related service uses, including for conversion to energy subject to the Standards of External Effects in Subtitle U § 804, and the use shall not be permitted on any lot located in whole or in part within one hundred feet (100 ft.) of a residential zone; and
- (dd) Wholesale or storage establishment ...

**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 revising paragraphs (f) and (h), by adding a new paragraph (i) for Self-Storage Establishment, by adding a new paragraph (j) that was inadvertently deleted in Z.C. Case No. 19-04, and by modifying and renumbering current paragraphs (i) and (j) as new paragraphs (k) and (l), 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:

...

- (f) Production, distribution, and repair (PDR) uses that involve the excavation of clay, sand, or gravel ...
- (g) Repair of automobiles ...
- (h) Retail, large format, subject to the following conditions:
  - (1) The development standards ...
  - ...
  - (8) This section shall not apply to the following:

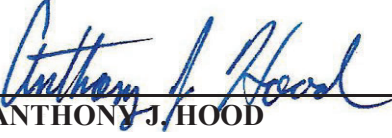
- (A) Large format retail that would occupy a planned unit development ...
  - (B) Large format retail that would occupy a project with a completed review ... meeting the definition of large format retail;
- (i) Self-storage establishment uses not meeting the requirements for such uses of Subtitle U § 801.1, subject to the applicant demonstrating with documentation the following;
- (1) The uses, buildings, or features at the size, intensity, and locations proposed, will substantially advance the purposes of creating an active streetscape and will not adversely affect neighboring property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area;
  - (2) The architectural design of the project will enhance the urban design features of the immediate vicinity in which it is located; and
  - (3) Vehicular access and egress are located and designed so as to minimize conflict with principal pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic conditions;
  - (4) Inability to meet one or more of the requirements of Subtitle U § 801.1 for a self-storage establishment use as a result of the property's size, shape, or topography, or the configuration of an existing building on the site proposed to be converted to a self-storage establishment;
  - (5) The reduced depth of the space that could be provided is not practical for the operation of a self-storage establishment; and
  - (6) The use proposed for the ground floor provides employment as permitted within the applicable PDR zone;
- (j) Service uses not meeting the conditions for such uses of Subtitle U § 801.1 for a self-storage establishment or whose principal use is the administration of massages, subject to the following conditions:
- (1) The use shall not be objectionable because of its effect on the character of the neighborhood or because of noise, traffic, or other conditions; and


- (2) The Board of Zoning Adjustment may impose additional requirements as it deems necessary to protect adjacent or nearby residential properties, including but not limited to:
  - (A) Limitations on the hours of operation; and
  - (B) Expiration on the duration of the special exception approval;
  
- (k) Utility (basic) uses not meeting the conditions for such uses of Subtitle U § 801.1; however, if the use is an electronic equipment facility (EEF), the Board of Zoning Adjustment shall consider:
  - (1) How the facility, as a consequence ...  
...
  - (5) The design appearance, landscaping, parking and other such requirements it deems necessary to protect adjacent property and to achieve an active, safe, and vibrant street life; and
  
- (l) Waste-related service uses not permitted under Subtitle U § 801.1, but not including hazardous waste, subject to the following conditions:
  - (1) Regardless of use ...  
...
  - (11) The applicant shall provide credible evidence to the Board of Zoning Adjustment to demonstrate the ability of the facility and its ancillary elements to comply with all applicable regulations. The evidence shall include, but not be limited to, the following:
    - (A) An indication of the site ...  
...
    - (F) A certified statement by an architect or engineer licensed in the District of Columbia that the facility as sited and designed to the best of his or her professional knowledge and belief is capable of complying with this subsection and all other applicable regulations of the District of Columbia government, including, without limitation, 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.)).

In accordance with the provisions of Subtitle Z § 604.9, this Notice of Final Rulemaking shall become final and effective upon publication in the *D.C. Register*; that is, on December 11, 2020.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

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

  
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ANTHONY J. HOOD  
CHAIRMAN  
ZONING COMMISSION

  
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SARA A. BARDIN  
DIRECTOR  
OFFICE OF ZONING