

MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: *J.S.* Maxine Brown-Roberts, Development Review Specialist
Jennifer Steingasser, Deputy Director, Development, Design & Preservation

DATE: January 20, 2025

SUBJECT: OP Setdown Report - ZC 24-19 – Proposed Text Amendment to Subtitle B §100.2 Definitions, Youth Residential Care Home

I. REQUEST

On December 5, 2024, DC Child and Family Services Agency (“CDSA” or “Applicant”) submitted an application to:

1. Amend the definition of Youth Residential Care Home (Subtitle B §100.2) to specify that an individual 18 years or older or up to 21 years is considered a child if that individual is in foster care;
2. Take emergency action to adopt the proposed text amendment and set the petition down for a public hearing; and
3. Authorize an immediate publication of the proposed rulemaking for the petition.

II. RECOMMENDATION

The Office of Planning (“OP”) recommends that the Zoning Commission **set down for public hearing OP alternative text amendment** to that proposed by CDSA. The proposed amendments to the text of the Zoning Regulations are as follows: (text to be deleted is marked in **bold and strikethrough** text; new text is shown in **bold and underline** text):

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

Subsection 100.2 DEFINITIONS, of Chapter 1, DEFINITIONS of Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is proposed to be amended to read as follows:

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

1958 Zoning Regulations . . .

Youth Residential Care Home: A facility providing safe, hygienic, sheltered living arrangements for one (1) or more children individuals less than eighteen (18) years of age, not related by blood, adoption, or marriage to the operator of the facility, who are

ambulatory and able to perform the activities of daily living with minimal assistance. **For purposes of this definition, a child means any individual who is:**

- a. Under 18 years old; or**
- b. 18 to 20 years of age and in the care and custody of the Child and Family Services Agency or its successor agency.**

OP consulted with CFSAs on this alternate amendment and they were in agreement with the OP alternative text. OP's proposal would be reflective of the current text of Subtitle B, § 100.2 and would meet the objectives of CFSAs to allow children in foster care to be housed in residential care homes up to 20 years of age.

Consideration of emergency action and the publication of the proposed rulemaking for the petition is the preview of the Zoning Commission.

III. PROPOSED TEXT AMENDMENT

CFSAs submission proposes to amend Subsection 100.2 of Subtitle B § 100, DEFINITIONS, of Chapter 1, DEFINITIONS by revising the definition of Youth Residential Care Home to read as follow (new text is shown in **bold and underlined**):

Youth Residential Care Home: A facility providing safe, hygienic, sheltered living arrangements for one (1) or more children not related by blood, adoption, or marriage to the operator of the facility, who are ambulatory and able to perform the activities of daily living with minimal assistance. **For purposes of this definition, a child means any individual who is:**

- a. Under 18 years old; or**
- b. 18 to 20 years of age and subject to a dispositional order pursuant to Chapter 23 of Title 16 of the D.C. Code.**

CFSAs informed OP that it was an error in their submission that did not show or highlight the requested change from “*individuals less than eighteen (18) years of age*” to the word “*children*.” This change is reflected on the OP proposal.

The Youth Residential Facilities Licensure Act of 1986 (D.C. Law 6-139; [D.C. Official Code § 7-2101 et seq](#)) defines a child as follows:

For the purposes of this act, the term:

- (1) “Child” means any individual who is:*
 - (A) Under 18 years of age;*
 - (B) 18 to 20 years of age and subject to a consent decree or dispositional order entered pursuant to Chapter 23 of Title 16; or*
 - (C) 18 to 21 years of age and has an individualized education program pursuant to 20 U.S.C. § 1401 et seq.*

CFSAs proposal would be reflective of this definition and would note that this requirement would only apply to children or individuals in foster care.

OP also recommends amending Subsection (b):

b. 18 to 20 years of age and subject to a dispositional order pursuant to Chapter 23 of Title 16 of the D.C. Code.

to:

b. 18 to 20 years and in the care and custody of the Child and Family Services Agency or its successor agency.

The proposed text would simplify the language that the referenced children would have to be in the custody of CFSAs who would then evaluate if they meet the requirements of Chapter 23 of Title 16 of the D.C. Code.

The proposed amendment would bring both definitions in concert with each other and allow for youth residential homes to accommodate individuals in foster care until age 21. CFSAs states that they have conferred with DOB and that the proposed text amendment language would allow them to issue C of Os for youth residential care homes serving individuals up to age 21.

IV. BACKGROUND

CFSAs currently have contracts with eight youth residential care homes for foster children (table below) and they are located in Wards 4, 5, 6 and 7.

Youth Residential Care Home	Ward	Age	Contract Expiration Date
God's Anointed New Generation (G.A.N.G.)	5	Up to age 21	04/02/2025
God's Anointed New Generation (G.A.N.G.)	4	Up to age 21	04/02/2025
Innovative Life Solutions	5	Up to age 21	9/10/2025
Maximum Quest Residential Facilities I	4	Up to age 21	5/9/2025
Maximum Quest Residential Facilities II	4	Up to age 21	5/9/2025
Sasha Bruce Therapeutic Care Home	7	13-17 years olds	3/7/2025
Sasha Bruce Youthworks Emergency Care Facility	6	13-17 years olds	10/28/2025
Umbrella Therapeutic Services, Inc.	7	Up to age 21	4/28/2025

Of the eight facilities, six have Certificates of Occupancy (C of O), are licensed and have contracts to accommodate foster children up to age 21. The other two were licensed and have contracts with CFSAs, but their C of O limits them to children below 18 years of age due to the current Zoning Regulations. All of the contracts with CFSAs will expire sometime in 2025 and each provider will have to re-apply for a license to operate but they would not be issued a C of O to accommodate children up to 21 years old under the current Regulations. The individuals over 18 years would therefore have to be moved to other facilities which could be disruptive to their lives and may not provide the services needed.

V. ANALYSIS

CFSAs is the District's agency that is responsible for child welfare and for the care and placement of the District's foster children until they attain permanency, leave foster care, or turn 21 years of age. In the District, foster children may remain in foster care until their 21st birthday which provides older individuals the opportunity to develop life skills and to access housing and other supports to assist them in transitioning to adulthood.

CFSAs is also responsible for licensing youth residential facilities for foster children under the Youth Residential Facilities Licensure Act of 1986 (D.C. Law 6-139; D.C. Official Code § 7-2101 *et seq.*) where the definition of a child is inclusive of foster children under the age of 21 and states:

D.C. Official Code § 7-2101 *et seq.* defines a youth residential facility as:

(B) *The term “youth residential facility” shall include, but not necessarily be limited to, foster homes, youth shelters, runaway shelters, emergency care facilities, youth group homes, supervised apartments, and residential treatment centers; it shall not include informal substitute care provided by friends or neighbors or those facilities licensed under [Chapter 5 of Title 44](#).*

A requirement for the licensure of youth residential homes by CFSAs, is that the provider must provide CFSAs copies of all certificates of approval, authority, occupancy, or need that are required to operate in the District, (D.C. Official Code § 7-2101 *et seq.* (d) and 29 DCMR § 6209 (b)). One of these requirements is the provision of a C of O from the Department of Buildings (DOB) indicating that the facility is permitted under the Zoning Regulations to operate as a youth residential care home for foster children. CFSAs, upon receipt of that permit would issue a license if all other conditions are met.

CFSAs has indicated that over the years, DOB has provided C of O to allow these homes to accommodate individuals in foster care up to 21 years of age. However, since 2023, DOB has informed providers and CFSAs that they can no longer issue C of O for youth residential care homes to operators with foster care individuals over 18-years as the Zoning Regulations definition of a youth residential care home only allows for individuals less than 18 years. DOB recommended that CFSAs pursue a text amendment to the Zoning Regulations.

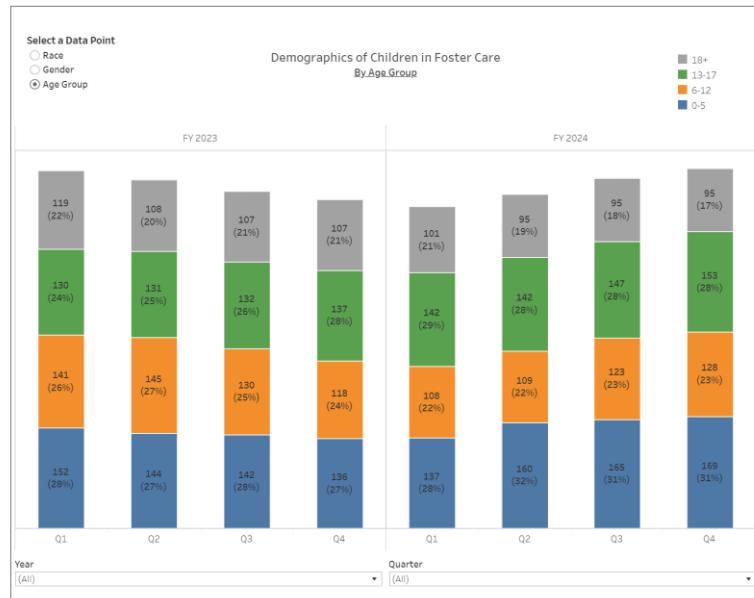
CFSAs states that many individuals in foster care at age 18 are not eligible for independent living programs and benefits as many are only available for individuals who are at least 20 years old and have met other eligibility requirements. Traditional foster homes are not an option for older individuals as they need a greater level of support and supervision than can be provided in these homes. This situation therefore creates a gap for individuals who are between age 18 and 21 and continue to need services. CFSAs states that they anticipate that the stance taken by DOB will result in a placement shortage for older foster individuals.

VI. COMPREHENSIVE PLAN

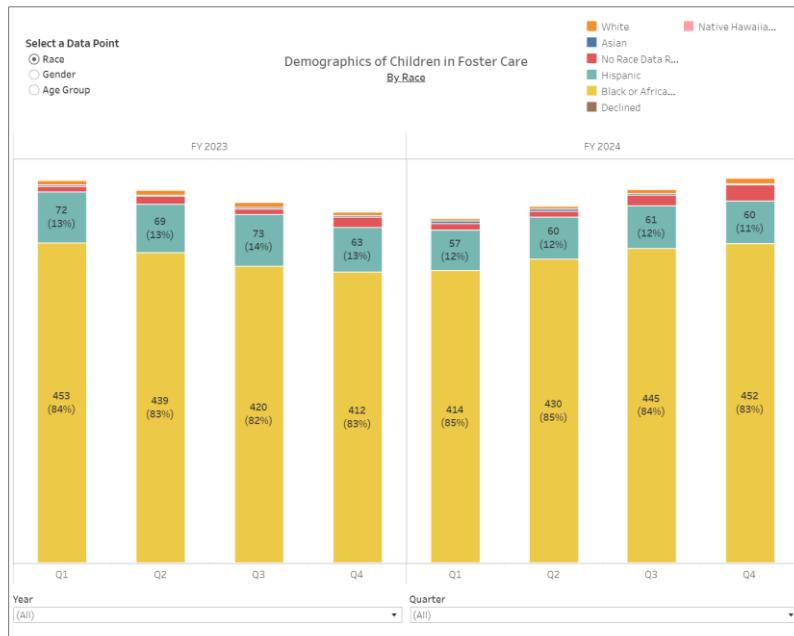
a. Comprehensive Plan Context Equity

Subtitle X § 1300.2 of Title 11 requires that the Zoning Commission determine that a proposed petition for a text amendment to the Zoning Regulations “*is not inconsistent with the Comprehensive Plan and other adopted public policies and active programs related to the subject text.*” The direction to consider equity “as part of its Comprehensive Plan consistency analysis” indicates that the equity analysis is intended to be based on the policies of the Comprehensive Plan and part of the Commission’s consideration of whether a proposed zoning action is “not inconsistent” with the Comprehensive Plan. One of the ways the Comprehensive Plan seeks to address equity is by supporting additional housing for residents. The Comprehensive Plan recognizes that without increased housing, the imbalance between supply and demand creates challenges for many residents, particularly low-income residents.

When children enter foster care, CFSAs priority is that they are placed with a relative who is willing and able, if possible. If relatives are not available, then CFSAs will place children in a family-based foster home with non-relatives. To a much lesser extent, CFSAs may place older individuals in group facilities. The CFSAs [Foster Care Demographics | cfsadashboard](#) shows the demography by race, gender and age. The graphic below show that in 2023, the total number of children in foster care was trending down but begun to trend upwards in 2024. However, for individuals above 18 years, the number has been trending down between 2023 and 2024 and at the end of 2024 of the total individuals in foster, only 17% of the individuals were above 18 years old. .



The dashboard also shows on the graph below that most of the individuals in foster care, above 80%, are Black or African American. This is a population that has been historically been underserved and the current Regulations could make the situation worse.



The proposed text amendment should not result in the displacement of any tenants or residents but would facilitate the opportunity for housing for persons who need continued housing and other supports prior to losing the housing support. On balance, the proposed text amendment would not be inconsistent with the Comprehensive Plan.

b. Comprehensive Plan Written Elements

Citywide Elements:

Chapter 5 - Housing Element

H-4 Housing for Vulnerable Populations and Persons with Disabilities 515

In 2017, among Washington DC's 693,972 residents, thousands of vulnerable populations and persons with disabilities required targeted help finding, paying for, and maintaining affordable housing. These individuals and families included persons experiencing homelessness, older adults, LGBTQ youth and adults, and persons living with other challenges, such as disabilities, HIV/AIDS, behavioral health issues, victims of domestic violence, citizens returning from correctional facilities, and youth being discharged from foster care and the juvenile justice system. Vulnerable populations and residents with disabilities are particularly vulnerable to displacement, experiencing homelessness, and other housing hardships. They often lack the income needed to afford safe, decent housing and the services that will help them lead stable, healthy lives. 515.1 [emphasis added]

Policy H-4.1.1: Integration of Vulnerable Populations and Residents with Disabilities

Integrate residents with disabilities or vulnerable populations through housing that includes wraparound supportive services throughout Washington, DC rather than segregating them into neighborhoods that already have a significant presence of such housing. 516.3

Policy H-4.1.3: Coordination of Housing and Support Services

Coordinate the siting of housing for persons with disabilities or vulnerable populations with the location of the key services that support the population being housed. The availability of affordable public transportation to reach those services also should be considered. 516.5

The proposed text amendment to increase the age limit for foster children to remain in Youth Residential Care Homes would provide them with the opportunity to have continued housing and individualized or group support services to assist in developing life skills to transition into independent living at 21 years.

Policy H-4.3.1: Short-Term and Emergency Housing Options

Ensure that adequate short-term housing options, including emergency shelter and transitional housing, exist for persons with disabilities, including people living with HIV/AIDS, harm-reduction units for substance abusers, detoxification beds and residential treatment facilities, safe housing for victims of domestic violence, halfway houses and group homes for returning citizens, and assisted-living and end-of-life care for older adults. 518.10

Policy H-4.3.6: Persons with Behavioral Health Issues

Support the production of housing for people with behavioral health issues through capital and operating subsidies. Improve the availability and coordination of such housing with wraparound behavioral health and other human services. Steps should be taken to prevent the eviction of persons experiencing behavioral health issues from publicly financed housing, so long as they are following the rules of tenancy, and to maintain each individual's housing if they need to be hospitalized. 518.15

The proposed text amendment would enable providers to continue or open opportunities for additional housing to serve individuals who have specialized needs and for whom placement can be challenging.

Chapter 11 - Community Services and Facilities Element

Policy CSF-2.3.3: Coordination to Better Serve Older Adults and Residents With Disabilities

Design and coordinate health, housing, and human services to foster the maximum degree of independence for older adults and persons with disabilities. 1108.16

Policy CSF-2.3.9: Improving Access to Long-Term Supports and Services for Vulnerable Populations

Continue to improve access to long-term supports and services (LTSS) for vulnerable populations, including people with disabilities, older adults and their families, and members of the LGBTQ+ community. Enhance the network of government and nonprofit organizations that provide LTSS to these individuals and seek to improve their experience. 1108.22

The proposal would help to break barriers to housing and open opportunities to address the current shortage of housing to serve older foster children and also provide them with support services in a coordinated manner in one location.

c. Community Outreach

CFSAs states that over the past 20 years they have had a variety of community engagements and outreach particularly when a home is to be sited in a community. These engagements address questions and concerns community members may have about the home. During those discussions, CFSAs always shared the age range of up to 21 years old of the youth that would be reside at the homes. CFSAs also engages with the community whenever issues arise and are brought to their attention. When CFSAs learned that DOB could only provide approvals for youth under 18, they had discussions with providers and encouraged them to make the necessary adjustments to comply with the Zoning Regulations.

CFSAs states that they are compiling the details of their prior engagements and will do additional outreach particular to this map amendment prior to the public hearing if the proposal is set down.

d. Summary of Context Analysis

The proposal text amendment would allow foster children to remain in youth residential care homes up to age 21 and would be consistent with regulations of CFSAs who is charged with the licensing of these facilities. The proposal would not be inconsistent with the Comprehensive Plan as it would allow continued housing and individualized services for foster children in a stable, safe and secure environment while preparing them to transition to independent living after age 21. On balance, the proposed text amendment is also not inconsistent with the Comprehensive Plan when viewed through a racial equity lens. Therefore, OP recommends that the Zoning Commission set down the proposed map amendment.

VIII. ANC COMMENTS

The proposal would be applicable District-wide. However, at the time of this report, there is no filing from any ANC.