

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

Z.C. Case No. 24-19

**District of Columbia Child and Family Services Agency
(Text Amendment – Subtitle B § 100.2 of Title 11 DCMR)
(Definition of Youth Residential Care Home)**

January 30, 2025

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, as amended; D.C. Official Code § 2-505 (2016 Repl.)), hereby gives notice of its amendment on an emergency basis, as well as its intent to amend on a permanent basis, Subtitle B, § 100.2 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) to change the definition of Youth Residential Care Home with the specific text at the end of this notice

Petition

On December 5, 2024, the District of Columbia Child and Family Services Agency (DCCFSA) filed a petition (Petition) with the Commission proposing an amendment to the Zoning Regulations to change the definition of a “Youth Residential Care Home” to specify that a home can house individuals under the age of twenty-one (21). Currently, the Zoning Regulations define a Youth Residential Care Home as a home that can house individuals under the age of eighteen (18). The Petition states the proposed amendment is necessary on an emergency basis because:

- The Youth Residential Facilities Licensure Act of 1986 (D.C. Law 6-139; D.C. Official Code § 7-2101 et seq.), which regulates group homes for children defines a child as under the age of twenty-one (21);
- DCCFSA is only able to license a youth residential care home with a letter from the Department of Buildings (DOB) indicating that the home is permitted under the Zoning Regulations. In 2023, DOB informed DCCFSA that it can only issue a letter for youth group homes that serve residents under the age of eighteen (18) because the Zoning Regulations define youth residential care homes as homes for individuals under the age of eighteen (18);
- Even though the Youth Residential Facilities Licensure Act permits youth group homes to be licensed for youth up to twenty-one (21) years of age, DCCFSA is only able to license youth group homes for individuals under eighteen (18). Thus, DCCFSA is unable to license group homes for older youth up to age twenty-one (21) because it cannot obtain DOB approval or a certificate of occupancy;
- DCCFSA anticipates that not being able to license youth group homes for individuals between eighteen (18) – twenty (20) years old will uproot older foster youth and place them in less equipped settings because:
 - Independent living programs are only available to youth who are at least twenty (20) years old and have met other eligibility criteria; and

- Traditional foster homes are often not an option for older youth who need more support and supervision that can be offered by group homes;
 - DCCFSA anticipates a greater placement shortage for older foster youth when DCCFSA's current group home contracts come up for renewal as youth up to the age of twenty-one (21) currently reside in these homes. Without the proposed text amendment, DCCFSA will not be able to place youth up to age twenty-one (21) in these homes and the youth currently placed at these homes will need to find alternative placements.
- (Exhibit [Ex.] 3, 11).

Comprehensive Plan

The Office of Planning (OP) Setdown Report and the Petition stated that the proposed amendment would not be inconsistent with the Comprehensive Plan, including when viewed through a racial equity lens; and would further policy goals and objectives of the Housing Element and the Community Services and Facilities Element (Ex. 3, 11, 12). The OP Setdown Report notes that the proposed amendment 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 twenty-one (21) (Ex. 12).

Community Outreach and Engagement – The Petition states that DCCFSA had discussions with group homes seeking licensure after learning that DOB could only approve group homes that serve residents under the age of eighteen (18). The Petition further states that DCCFSA's practice has always been to engage the community when group home sites for foster youth are identified (Ex. 11).

Disaggregated Race and Ethnicity Data – The OP Setdown Report states that the DCCFSA Foster Care Demographics dashboard shows that for individuals above eighteen (18) years old, the number in foster care has been trending down between 2023 and 2024; at the end of 2024 of the total individuals in foster care, only seventeen percent (17%) of the individuals were above eighteen (18) years old (Ex. 12). The dashboard also shows that above eighty percent (80%) of the individuals in foster care are Black/African American, a population that has historically been underserved (*Id.*).

Setdown and Emergency & Proposed Action

At its January 30, 2025 public meeting, the Commission heard testimony from OP in favor of the proposed amendment. OP reiterated the conclusions in its Setdown Report and stated that all of DCCFSA's current group home contracts will expire sometime in 2025. OP also stated that in coordination with DCCFSA, OP revised DCCFSA's originally proposed amendment language to replace "individuals less than eighteen (18) years of age" with "children"; and to simplify the language that referenced children would have to be in the custody of DCCFSA who would then evaluate if they meet the requirements of Chapter 23 of Title 16 of the D.C. Code. At the public meeting, the Commission voted to grant the Petition to:

- Take emergency action to adopt the Petition as revised by OP;
- Set the Petition down for a public hearing; and
- Authorize the immediate publication of a proposed rulemaking for the Petition.

The Commission concluded that taking emergency action to adopt the Petition is necessary for the “immediate preservation of the public ... welfare,” as authorized by § 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.)), to avoid any of DCCFSA’s current group home contracts from expiring before the proposed amendment became effective.

VOTE (January 30, 2025): 5-0-0

(Anthony J. Hood, Robert E. Miller, Joseph S. Imamura, Tammy Stidham, and Gwen Marcus Wright to **APPROVE**)

Emergency Action

The emergency rule is effective as of the Commission’s January 30, 2025 vote, and will expire on May 30, 2025, which is the one hundred-twentieth (120th) day after the adoption of this rule, or upon publication of a Notice of Final Rulemaking in the *District of Columbia Register* that supersedes this emergency rule, whichever occurs first.

Proposed Action

The Commission hereby also gives notice of its intent to adopt on a permanent basis the following text amendment to the Zoning Regulations in not less than thirty (30) days from the date of publication of this notice in the *District of Columbia Register*.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *District of Columbia Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, through the Interactive Zoning Information System (IZIS) at <https://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Ms. Schellin may be contacted by telephone at (202) 727-6311 or by email at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

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>.

EMERGENCY/PROPOSED TEXT AMENDMENT

The following amendments to the text of the Zoning Regulations are adopted on an emergency basis, and are proposed for the Commission’s final consideration (additions are shown in **bold** and **underlined** text and deletions are shown in **bold** and ~~strikethrough~~ text):

I. Amendment to Subsection 100.2 of Chapter 1, DEFINITIONS, of Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES

The definition of Youth Residential Care Home is amended as follows:

Youth Residential Care Home: A facility providing safe, hygienic, sheltered living arrangements for one (1) or more ~~individuals less than eighteen (18) years of age~~ **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 eighteen (18) years old; or

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