

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING¹**

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])**

May 1, 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 of 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 (DCCCSA) 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 stated that the proposed amendment was 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);
- DCCCSA 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 DCCCSA 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);

¹ For Office of Zoning tracking purposes only, this Notice of Final Rulemaking shall also be known as Z.C. Order No. 24-19.

- 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; and
- 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.

(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 noted 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 21 (Ex. 12).

Community Outreach and Engagement – The Petition stated 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 18. The Petition further stated 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 stated that the DCCFSA Foster Care Demographics dashboard shows that for individuals above 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 17% of the individuals were above 18 years old (Ex. 12). The dashboard also shows that above 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 made revisions to 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 an immediate publication of 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 Wright to **APPROVE**)

Emergency Rule

The emergency rule was 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.

National Capital Planning Commission (NCPC) Referral and Report

The Commission referred the proposed text amendment to the NCPC on March 13, 2025, for the thirty (30)-day review period required by Section 492(b)(2) of the District Charter (Dec. 24, 1973, Pub. L. 93-198, title IV, § 492(b)(2)); D.C. Official Code 6-641.05 (2018 Repl.)) (Ex. 14A). NCPC did not submit a report in response to the text amendment.

Notice of Emergency and Proposed Rulemaking

The Commission published a Notice of Emergency and Proposed Rulemaking (NOEPR) in the March 14, 2025 *District of Columbia Register* (72 DCR 002864 *et seq.*) (Ex. 19, 20).

Petitioner Supplemental Statements

On April 14 and 30 2025, the Petitioner submitted supplemental statements (Ex. 16, 28) largely reiterating the arguments in the original Petition. The Petitioner noted policies of the Comprehensive Plan Housing Element that would be furthered by the text amendment; provided additional information about its recent community outreach and engagement efforts through presentations, since January 2025, at several Advisory Neighborhood Commission (ANC) meetings where DCCFSA group homes are located, including ANCs 4B, 4D, 5B, 6B, and 7E, as well as conducting quarterly meetings with each DCCFSA group homes' governing board and Local Advisory Committees; and stated that the Commission's emergency action to adopt the text amendment already resulted in contract renewals and relicensing for homes that would otherwise have expired and required any youth over 18 in those homes to find immediate alternative

placements. For these reasons, the Petitioner requested that the Commission take final action to permanently adopt the text amendment. (Ex. 16, 28.)

Comments in Response to NOEPR

On April 14, 2025, ANC 7E's Chairperson submitted a letter expressing the ANC's support of the text amendment proposal; and on April 30, 2025, ANC 5B's Vice Chair submitted a letter expressing the ANC's support of the text amendment proposal² (Ex. 17, 29).

On both April 29 and 30, 2025, the Commission received comments in response to the NOEPR expressing support for the text amendment (Ex. 22-24, 26, 27). The comments in support were submitted by four group home provider organizations and a former group home resident (*Id.*).

In addition, on April 30, 2025, ANC 4D submitted a letter stating that at its properly noticed public meeting on March 19, 2025, with a quorum present, the ANC voted 8-0-0 to support the text amendment. The ANC 4D letter does not cite any issues and concerns (Ex. 25).

OP Hearing Report

On April 17, 2025, OP submitted a Hearing Report largely reiterating its findings and conclusions from its Setdown Report and recommending that the Commission take final action to permanently approve the text amendment as published in the NOEPR (Ex. 18). OP noted that, of the eight group homes that have contracts expiring in 2025, some that had an eminent expiration date have been able to renew their contracts because of the Commission's emergency action to adopt the text amendment on January 30, 2025. Further, OP's Hearing Report noted policies of the Comprehensive Plan Housing and Community Services and Facilities Elements that would be advanced by the text amendment; and DCCFSA's community outreach and engagement efforts regarding the Petition, including those subsequent to the Commission's emergency action (Ex. 18).

Public Hearing

At the May 1, 2025 public hearing, DCCFSA presented the Petition. OP also testified in support of the Petition. No entity or person appeared to testify.

“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 Z § 504.6 (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).

The Commission finds persuasive OP's recommendation that the Commission take final action to adopt the text amendment, as published in the NOEPR, and concurs in OP's judgment.

² The ANC 7E and the ANC 5B letter cannot be afforded “great weight” by the Commission because they do not meet the requirements of Subtitle Z § 505.1. Specifically, the letters do not contain the date of the properly noticed public meeting, with a quorum present, when the Petition was considered and voted on by the ANC; and they do not include the outcome of a vote, and any issues and concerns raised.

“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 § 505.1. 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)).

The Commission notes ANC 4D’s³ letter in support of the text amendment and concurs in ANC 4D’s judgment. The ANC 4D letter cites no issues and concerns.

Final Action

At the close of its May 1, 2025, public hearing, the Commission voted to take **FINAL ACTION** to permanently adopt the text amendment and to authorize the publication of a Notice of Final Rulemaking.

VOTE (May 1, 2025): 5-0-0

(Anthony J. Hood, Robert E. Miller, Joseph S. Imamura, Tammy Stidham, and Gwen Wright 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>.

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 24-19 shall become final and effective upon publication in the *District of Columbia Register*; that is, on May 30, 2025.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS THE D.C. HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (THE “ACT”). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE ACT, THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR

³ *Id.*

PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER

TEXT AMENDMENTS

The following amendment to the text of the Zoning Regulations is hereby adopted:

I. Amendment to § 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 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 and in the care and custody of the Child and Family Services Agency or its successor agency.