

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Child and Family Services Agency



CFSA Text Amendment Petition to the Zoning Commission
Z.C. Case No. 24-xx – Text Amendment
December 5, 2024

The District of Columbia Child and Family Services Agency (“CFSA”) petitions the Zoning Commission (“Commission”) for the District of Columbia to amend the definition of a youth residential care home (Section 100.2 of Subtitle B of the Zoning Regulations).

The proposed text amendment would:

- Amend Subtitle B, Chapter 1, Definitions by revising the definition of Youth Residential Care Home to specify that the term “child” includes a foster child under the age of 21.

CFSA requests the following actions so the District can license group homes to serve foster children up to the age of 21:

- Take emergency action to adopt the proposed text amendment as necessary for the “immediate preservation of the public ... welfare,” as authorized by Section 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.));
- Set the petition for a public hearing; and
- Authorize an immediate publication of the proposed rulemaking for the petition.

PROPOSED TEXT AMENDMENT

The proposed amendment to the text of the Zoning Regulation is to revise the definition of Youth Residential Care Home are as follow: (new text is shown in **bold and underline**)

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

Subsection 100.2 of § 100, DEFINITIONS, of Chapter 1, DEFINITIONS of is proposed to be amended by revising the definition of Youth Residential Care Home to read 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:**

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

JUSTIFICATION

CFSA, as the District's child welfare agency, is responsible for the care and placement of the District's foster children until they attain permanency, leave foster care, or turn 21 years of age and has the exclusive authority to license group homes for foster children. Group homes for children are regulated by 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 21.¹

As a condition of licensure, group homes must provide CFSA with "copies of all certificates of approval, authority, occupancy, or need that are required as a precondition to lawful operation in the District of Columbia". (D.C. Official Code § 7-2102(d) and 29 DCMR § 6209.2(b)). The group home submits a letter from the Department of Buildings (DOB) indicating that the group home is permitted under the zoning regulations as either a community-based residential facility or youth residential care home. CFSA, upon receipt of this letter, would issue the license if all other conditions for licensure were met.

However, DOB informed CFSA in 2023 that it can only issue a letter for youth group homes that serve residents under the age of 18 because the zoning definitions define a youth residential care home as a sheltered living arrangement for individuals less than 18 years. Without a letter from DOB indicating that the group home is permitted under the zoning regulations, CFSA is unable to license group homes for foster youth older than 18 even though the Youth Residential Facilities Licensure Act permits youth group homes to be licensed for foster youth up to age 21. CFSA anticipates that this will result in a placement shortage for older foster youth that cannot be remedied by finding other types of placements, such as independent living programs or foster homes. Many of CFSA older foster children are not eligible for independent living programs which are only available to youth who are at least 20 years old and have met other eligibility criteria. Traditional foster homes are often not an option for older youth who need a higher level of support and supervision than can be offered by group homes.

Thus, CFSA requests that the definition of a youth residential care home in the zoning regulations be amended to increase the age limit to 21 for foster children to align with the definition of child found in the Youth Residential Facilities Licensure Act of 1986. This will allow CFSA to license group homes for foster youth up to age 21.

COMPREHENSIVE PLAN

CFSA's proposed text amendment complies with the Zoning Act's charge that the zoning regulations "shall not be inconsistent with the comprehensive plan ... [and] shall be designed ... to promote health and the general welfare ... [and the] distribution of population and of the uses of land as would tend to create conditions favorable to health ... [and] prosperity" (D.C. Code § 6-641.02). Additionally, the proposed amendment would further Comprehensive Plan policy objectives, particularly with respects to policies within the Citywide Housing Element. The most

¹ For purposes of the Youth Residential Facilities Licensure Act, a child is defined as "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.*" and a youth residential facility is defined as including youth group homes. D.C. Official Code § 7-2101.

significant of the Housing Element policies are:

Policy H-1.5.E: Remove Regulatory Obstacles. Continue to identify and review regulatory impediments to the production of market rate and affordable housing. Remove unnecessary and burdensome regulations and propose more efficient and effective alternatives for achieving important policy and regulatory goals. (§ 507.10)

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)

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. (§ 518.5)

RACIAL EQUITY

In the District, foster children may remain in foster care until their 21st birthday. This provides older foster youth with opportunities to develop life skills and to access housing and other supports to help them transition to adulthood. The Comprehensive Plan promotes the integration of vulnerable populations and persons with disabilities (§ 516) into the general population and encourages steps be taken to reduce the stigma associated with housing. It also encourages equitable development, a “participatory approach for meeting the needs of underserved communities through policies, programs and/or practices that reduce and ultimately eliminate disparities while fostering places that are healthy and vibrant.” (§ 213.7)

As children of color are disproportionately represented in foster care, the proposed text amendment will help address systemic racial inequities by improving housing opportunities for older foster youth. It will also ensure that the District can fulfill its responsibility for these youth who are in its care and custody.

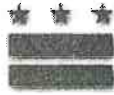
The proposed text amendment to revise the definition of Youth Residential Care Home would not be inconsistent with the Comprehensive Plan.

CFSA requests that the Zoning Commission set this petition for a proposed text amendment for a public hearing and is prepared to respond to any questions or concerns of the Commission.

Respectfully submitted,

Nicola N. Grey
Interim General Counsel

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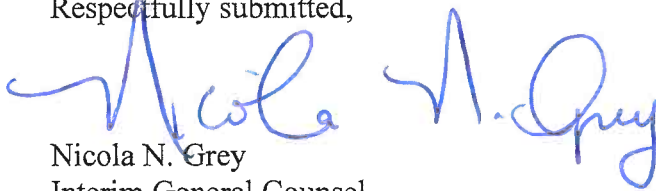
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A handwritten signature in blue ink, appearing to read "Nicola N. Grey", is written over the typed name and title.

Nicola N. Grey
Interim General Counsel