

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 08-06-A

Z.C. Case No. 08-06

(Comprehensive Zoning Regulations Rewrite: Chapter B-2 Use Category Regulations)
February 7, 2011

The Zoning Commission for the District of Columbia (the “Commission”), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 (2008 Repl.)), hereby gives notice that it took final rulemaking action to adopt amendments to Title 11 of the District of Columbia Municipal Regulations (“Title 11”). The amendment would establish a new use category system of classification to be used to control uses in individual zones. Once these amendments become effective, and provided the Commission makes no further changes in the Chapter prior to its effective date, uses will be divided into 29 categories that will be separately regulated in each zone.

This new chapter will be part of a revised Title 11. The Commission has already approved a codification format that would divide the revised Title 11 into 10 subtitles. A description of this codification can be found at www.dczoningupdate.org/codereorganization.asp. The proposed chapter that is the subject of this notice would be included within a new Subtitle B entitled “General Regulations.”

The Commission will not issue a notice of final rulemaking at this time, but wait until it has reviewed all portions of 10 subtitles and issued final orders for all approved text. At that point the Office of Planning (“OP”), the Office of the Attorney General (“OAG”), and the Office of Zoning will make any editorial changes needed to achieve consistency within the approved text and then present a final consolidated version to the Commission. The Commission will then decide whether to authorize the publication of a notice of final rulemaking that will make the revised Zoning Regulations and Map effective, subject to whatever transitional measures the Commission may adopt.

Zoning Review Process to Date

The Zoning Review process began in 2007 with a pair of public roundtables before the Commission and the formation of a citywide Taskforce. Since then, OP has organized 19 public working groups by subject area and held over 180 public meetings. Each subject area has been reviewed in consultation with a public working group that discusses issues identified in the Comprehensive Plan as well as issues arising from the existing Zoning Regulations. Recommended changes have been forwarded to the 24-member appointed Taskforce for further review and input. Finally, recommendations for most subject areas have been made available for

public review including a public hearing before the Commission. After the conclusion of public review for each subject areas, OP has been working with OAG to draft zoning language to reflect the proposed policy changes.

Proceedings Leading to the Adoption of this Amendment

For this amendment, the Commission was presented with a proposal to consolidate the existing 650 distinct uses into a far more limited set of use categories as part of the guidance proceeding advertised as Case No. 08-06-5 (Comprehensive Zoning Regulations Rewrite: Commercial Zones: Mapping and Use Principles). A public hearing on the subject was held on October 23, 2008. At its regularly scheduled public meeting of December 8, 2008, the Commission reviewed a decision worksheet provided by OP. As to the issue of use classification, the Commission was presented with the following options:

Consolidation of use lists

OPTION ONE (OP Recommendation)

- Consolidate existing lists of uses throughout the code into limited set of use categories.

OPTION TWO

- Update existing lists of uses. Continue to regulate use by lists of permitted uses

The Commission chose Option One.

For the next two years, the OP continued to work with the working group assigned to this topic to compile a final list of consolidated uses and to formulate a definition for each.

A final list of the uses, their definitions, and associated regulations were presented to the Commission through OP Report dated August 12, 2010. Notice of a public hearing on the proposed text was advertised in the August 6, 2010 edition of the *D.C. Register* based upon the Commission's prior decision to waive the setdown process for hearings under this docket. At a special public meeting held September 2, 2010, the Commission rescinded the waiver, voted to set down the case for hearing for September 20, 2010, and confirmed the continued validity of the public hearing notice. A second notice of public hearing was published in the *D.C. Register* on September 10, 2010 to narrow the scope of proposed height rules that were also be the topic of the hearing, but which will be discussed in a separate order.

Pursuant to § 13 (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)) notice was given to all Advisory Neighborhood Commissions ("ANCs). No ANC reports were received on the subject of uses.

The public hearing took place as scheduled on September 20, 2010 and the matter came before the Commission for proposed action on November 8, 2010, at which time it voted to refer the text to the National Capital Planning Commission (“NCPC”) for review pursuant to § 492 of the District Charter and to authorize the publication of a notice of proposed rulemaking in the *D.C. Register* (“DCR”).

A Notice of Proposed Rulemaking was published in the *D.C. Register* on December 3, 2010, at 57 DCR 11621. No comments were received.

NCPC, through a delegated action dated January 6, 2011, found that the proposed text amendments would not adversely affect the identified federal interests, nor be inconsistent with the Comprehensive Plan for the National Capital. (Exhibit No. 117.)

At a properly noticed public meeting held on February 7, 2011, the Commission took final action to adopt the text amendments, but to delay publication of a notice of final rulemaking until the text has been finalized and conformed to all other text that will comprise the revised Zoning Regulations adopted under this docket. The Commission made one change to the definition for the use classification “lodging”. The Commission decided to strike the word “lodging” within the definition and to substitute the phrase “temporary housing”.

The following new Chapter 2, **USE CATEGORY REGULATIONS**, shall be included within a proposed Subtitle B, **GENERAL REGULATIONS**, of a revised Title 11 DCMR:

CHAPTER 2 USE CATEGORY REGULATIONS

200	Introduction to Use Regulation
201	Relationship to Land Use Subtitles
202	Rules for Determining Use Categories
203	Applicability of Multiple Uses
204	Accessory Uses
205	Temporary Uses
206	Definitions of Use Categories

200 INTRODUCTION TO USE REGULATION

200.1 This chapter provides general *use* regulations that apply regardless of *zone*.

200.2 The purpose of *use* regulations is to:

- (a) Ensure an efficient mix, concentration, and separation of uses;
- (b) Provide for a systemic method of permission; and
- (c) Effectively balance the competing demands for land.

- 200.3 The purpose of this chapter is to:
- (a) Organize and regulate uses into categories based on common functional, activity, or physical characteristics;
 - (b) Establish rules for assigning and codifying use categories;
 - (c) Provide clear guidance to property owners and administrative officials;
 - (d) Establish a use system that remains current and is easily updated and minimizes excessive amendments; and
 - (e) Establish regulations for the operation of temporary uses.

201 RELATIONSHIP TO LAND USE SUBTITLES

- 201.1 In addition to the general regulations of this subtitle each land use subtitle shall include a *use categories* regulations chapter containing *use categories* regulations specific to that subtitle, including tables identifying *use* requirements, permissions, conditions, and exceptions specific to each zone.
- 201.2 Use permissions shall be codified and presented in the appropriate *use category* permission table as follows:
- (a) Each cell in the *use category* permission table shall contain a letter representing the *use category* permission within a specific zone:
 - (1) “P” indicates *uses* that are permitted by-right in the applicable *zone*;
 - (2) “N” indicates uses that are prohibited in the applicable zone;
 - (3) “C” indicates uses that are permitted in the applicable zone only when the use complies with listed conditions;
 - (4) “S” indicates uses that are permitted only upon Board of Zoning Adjustment approval of a special exception; and
 - (5) “A” indicates *uses* that are permitted only as an accessory to a permitted principal use.
 - (b) Conditions and special exception criteria shall be indicated within the table by a code reference number within the relevant cell for the use; and

- (c) Corresponding lists of conditions and special exception criteria shall be located in the *permitted use by condition, special exception use, or accessory use* conditions sections.

202 RULES FOR DETERMINING USE CATEGORIES

- 202.1 *Use categories* describe activities being performed on-site. They are groups of uses that have similar activities, functions, physical characteristics, impacts, or operational behaviors.
- 202.2 All individual uses shall be included in at least one (1) *use category*, and may be included in multiple *use categories*. On-site and off-site activities may cause a use to be included in more than one (1) category.
- 202.3 Uses may have one (1) or more *accessory uses*. Buildings or lots with more than one (1) *principal use* are addressed in B § 203. *Accessory uses* are addressed in B § 204.
- 202.4 *Descriptions of use categories* shall include a definition, examples, and potential exceptions:
 - (a) Definitions are composed of a series of characteristics that include similar activities, functions, physical characteristics, impacts, or operational behaviors;
 - (b) Examples and exceptions are provided to illustrate typical uses within a category, give clarity to the definitions, and assist in determination of an appropriate categorization of a use; they are not intended to be comprehensive lists of *uses*;
 - (c) The following applies to examples:
 - (1) They may include *uses* which may be particularly difficult to classify;
 - (2) They are included based on their operational or functional similarities, or common meanings of terms, they are not included based on business name alone; and
 - (3) Where a term is not defined by the regulations, it will have the meanings given in *Webster's Unabridged Dictionary*; and
 - (d) Definitions should be applied as the sum of their components, using the content of definitions, examples, and exceptions to determine the use category, rather than an individual subsection alone.

- 202.5 The Zoning Administrator shall determine a use to be within the *use category*, or categories, whose definition is most consistent with the activities, functions, physical characteristics, and impacts of the use.
- 202.6 The following items may be considered by the Zoning Administrator when determining what *use category* a use is within, and whether the activities constitute a *use*:
- (a) The description of the activities in relationship to the definition of each *use category*;
 - (b) Similarities in function to the examples given in the definition of each *use category*, based on:
 - (1) The relative amount of site or floor space and equipment devoted to the activity;
 - (2) Relative amounts of sales from each activity;
 - (3) The customer type for each activity;
 - (4) The relative number of employees in each activity;
 - (5) Hours of operation;
 - (6) Building and site arrangement;
 - (7) Number and type of vehicles used;
 - (8) The relative number of vehicle trips generated by the activity; or
 - (9) How the *use* advertises itself; and
 - (c) Exceptions which are explicitly excluded from the definition of the use category.
- 202.7 Uses shall be considered to remain within the same *use category* as long as the activities, functions, physical characteristics, and impacts of the occupancy remain consistent with the *use category's* definition. If a use changes the activities, functions, physical characteristics, and impacts of the occupancy to a degree that is inconsistent with the *use category's* definition, the property owner shall apply for a new certificate of occupancy that either changes or adds to the *use categories* applicable to that occupancy.

203 APPLICABILITY OF MULTIPLE USES

- 203.1 When multiple *uses* within a building fall within different *use categories*, each *use* is classified in the applicable category and is subject to the regulations for that category.
- 203.2 If a *use* is determined to fall into multiple *use categories*, the use is subject to the regulations for all applicable use categories.
- 203.3 If there are conflicting conditions or criteria on *uses* in multiple *use categories*, the most stringent conditions must be met.

204 ACCESSORY USES

- 204.1 A use in any *use category* can also be determined to meet the definition of an *accessory use*.
- 204.2 An *accessory use* is a use that meets the following criteria:
- (a) A use that is subordinate in area, extent, and purpose to the principal use; and
 - (b) Serves a purpose clearly incidental to and customarily associated with a principal use.
- 204.3 Any use allowed as a permitted use shall be allowed as an *accessory use*. Any use allowed as a conditional use shall be allowed as an accessory use subject to all conditions.
- 204.4 The following are requirements on *accessory uses*:
- (a) *Accessory uses* shall be allowed only when associated with permitted or conditionally permitted uses;
 - (b) The *use* shall occupy no more than fifteen percent (15%) of the gross floor area of the building in which it is located; and
 - (c) The *use* will meet all of the conditions of the appropriate *use category*.

205 TEMPORARY USES

- 205.1 A use in any *use category* can also be determined to meet the definition of a *temporary use*.
- 205.2 A *temporary use* is a use that meets the following criteria:

- (a) Any *use* established for a fixed period of time with the intent that such use will expire automatically unless permission to conduct the *use* is renewed; and
- (b) *Examples* may typically include but are not limited to circus, or farmers' market.

205.3 The following are requirements on temporary uses:

- (a) The *time* period of the allowance of the *use* shall be determined by the Certificate of Occupancy; and
- (b) No *permanent* structures may be erected for a temporary use, although existing permanent structures may be used.

206 DEFINITIONS OF USE CATEGORIES

206.1 This section provides the definitions of *use categories* which govern the regulation of *uses* in all *zones*.

206.2 *Agriculture*

- (a) Definition: Any *use* involving the on-site cultivation, or maintenance of plants, or the breeding or keeping of animals and livestock intended for personal use or eventual sale or lease off-site. Typical products of an agricultural use include produce, field crops, flowers, ornamental crops, livestock, poultry, honeybees, or other animal husbandry; and
- (b) Examples include, but are not limited to: farm, truck garden, beekeeping, greenhouse, dairy, horticultural nursery, or community garden.

206.3 *Animal Sales, Care, and Boarding*

- (a) Definition: Any *use* involving the on-site sale, medical care, or short term boarding of animals for a fee. These *uses* may include licensed veterinary practices such as medicine, surgery, or dentistry for animals, or the provision of animal services such as grooming, training, or care-taking; and
- (b) Examples include, but are not limited to: pet shop, veterinary clinic or hospital, pet grooming establishment, dog day care center, animal boarding facility, animal sales establishment, or animal shelter.

206.4 *Antennas*

- (a) Definition: Any *structure* involving conducting, transmitting, or receiving communication signals. This *use category* encompasses the portions of the *structure* responsible for signal transmission and reception, any associated towers, immediately-related support and stabilizing elements, and rotating or other directional mechanisms;
- (b) Examples include, but are not limited to: commercial broadcast antenna, terrestrial microwave dish, satellite earth station, whip, or yagi antennas; and
- (c) Exceptions: The regulation of this *use* does not include antennas constructed on, or affixed to buildings, penthouses, or other rooftop *structures*. The form and location of antenna *uses* are further regulated in B § XXX.

206.5 *Arts Design and Creation*

- (a) Definition: Any *use* involving the on-site design and creation of visual, auditory, or performance art. This use may encompass work space for artists, artisans, or craftsmen practicing fine arts or applied arts or crafts;
- (b) Examples include, but are not limited to: artist studio, photographic studio, recording studio, radio, or broadcasting studio; and
- (c) Exceptions: This term does not include *uses* which more precisely meet the definition of *Entertainment, Assembly and Performing Arts, Educational, or Sexually-based Business Establishment*.

206.6 *Basic Utilities*

- (a) Definition: Any *use* involving the commercial or governmental generation, transmission, distribution, or storage of energy, water, stormwater, or telecommunication-related information. This *use* commonly takes the form of infrastructure services which are provided city-wide. This *use* may include methods and facilities for renewable energy generation;
- (b) Examples include, but are not limited to: electrical sub-station, telephone exchange, optical transmission node, electronic equipment facility, sewer plant, water treatment plant, or utility pumping station; and
- (c) Exceptions: This term does not include *uses* which more precisely meet the definition of *Antennas* or *Waste-related Services*.

206.7 *Chancery*

- (a) Definition: The principal offices of a foreign mission used for diplomatic or related purposes, and annexes to such offices (including ancillary offices and support facilities), including the site and any building on such site that is used for such purposes;
- (b) Examples include, but are not limited to: chancery or embassy; and
- (c) Exceptions: This term does not include *uses* which more precisely meet the definition of Residential, such as an ambassador's residence.

206.8 *Commercial Parking*

- (a) Definition: Any *use* involving the on-site short or long-term storage of motor vehicles, when such storage is made available to the public for a fee. *Commercial parking uses* may occur in a variety of formats on surface lots or within *structures*. *Commercial parking uses* may be operated by private commercial or public entities. Separate standards that delineate the form, size, and number of parking spaces allowed as *accessory uses* to other use categories can be found in General Subtitle B § XXX;
- (b) Examples include, but are not limited to: public parking lot or public parking garage; and
- (c) Exceptions: This term does not include rental of private parking to a car-share company.

206.9 *Community-based Institutional Facility*

- (a) Definition: Any *use* providing monitored care to individuals who have a common need for treatment, rehabilitation, assistance, or supervision in their daily living; been assigned to the facility; or are being detained by the government, other than as a condition of probation;
- (b) Examples include, but are not limited to: adult rehabilitation home, youth rehabilitation home, or detention or correctional facilities; and
- (c) Exceptions: This term does not include *uses* which more precisely meet the definition of *Emergency Shelter*.

206.10 *Daytime Care*

- (a) Definition: Any *use* involving the non-residential licensed care, supervision, counseling, or training, for a fee, of individuals who are not

related by blood, adoption, or marriage to the caregiver, and who are present on the site for less than twenty-four (24) hours per day;

- (b) Examples include, but are not limited to: child care centers and programs, pre-schools, nursery schools, before-and-after school programs, or elder care centers and programs; and
- (c) Exceptions: This term does not include *uses* which more precisely meet the definition of *Health Care*, or *Parks and Recreation*. This use does not refer to home-based care given by parents, guardians, or relatives of the individuals requiring care which does not require a Certificate of Occupancy.

206.11 *Education*

- (a) Definition: Any *use* including education and academic institutions at the elementary, middle, junior high, or high school level that provide District or state mandated basic education or educational uses of higher learning which offer courses of general or specialized study leading to a degree. These *uses* may include accessory play areas, dormitories, cafeterias, recreational, or sports facilities;
- (b) Examples include, but are not limited to: private schools, public schools, charter schools, colleges, community colleges, universities, or boarding schools; and
- (c) Exceptions: This term does not include *uses* which more precisely meet the definition of *Daytime Care*.

206.12 *Emergency Shelter*

- (a) Definition: Any *use* providing thirty (30) days or less of temporary housing to indigent, needy, homeless, or transient individuals. Emergency Shelter uses may also provide ancillary services such as counseling, vocational training, or similar social and career assistance; and
- (b) Exceptions: This term does not include *uses* which more precisely meet the definition of *Residential*.

206.13 *Entertainment, Assembly, and Performing Arts*

- (a) Definition: Any *use* involving facilities designed primarily for public assembly that enables patrons to experience visual, auditory, performance, or literary arts; attend sporting events or conferences; or to participate in

active leisure activities. These *uses* may be characterized by activities and structures that draw large numbers of people to specific events or shows;

- (b) Examples include, but are not limited to: bowling alley, miniature golf, movie theatre, concert hall, or stadium; and
- (c) Exceptions: This term does not include *uses* which more precisely meet the definition of *Arts Design and Creation*, *Sexually-based Business Establishment*, or *Parks and Recreation*.

206.14 *Firearm Sales*

- (a) Definition: Any *use* engaged in the on-site sale, lease, or purchase of firearms or ammunition. A firearm is defined as a gun, pistol, or any other weapon capable of firing a projectile and using an explosive charge as a propellant. This *use category* has been established to identify those *uses* which offer sales of goods whose impacts are incompatible with the intended health, safety, and welfare of other *uses* of land; and
- (b) Examples include, but are not limited to: gun store, ammunition sales, pawn shop carrying guns, or weaponry store.

206.15 *Food and Alcohol Services*

- (a) Definition: Any *use* involving the sale of food, alcoholic drinks, or refreshments prepared on the premises and sold to customers for immediate consumption on or off the premises;
- (b) Examples include, but are not limited to: prepared food shop, café, delicatessen, restaurant, fast food establishment, bar, nightclub, ice cream parlor, or coffee shop; and
- (c) Exceptions: This term does not include *uses* which more precisely meet the definition of *Sexually-based Business Establishment*.

206.16 *Health Care*

- (a) Definition: Any *use* involving the on-site licensed provision of medical diagnosis, treatment, or prevention of illness or disease of humans. These facilities may provide medical or surgical care to patients or offer overnight care;
- (b) Examples include, but are not limited to: dentist, doctor, optician, hospitals, clinics, or medical offices; and

- (c) Exceptions: This term does not include *uses* which more precisely meet the definition of *Community-based Institutional Facility* or *Emergency Shelter*.

206.17 *Institutional*

- (a) Definition: Any non-governmental *use* involving the public assembly of people or provision of services for social, cultural, or religious purposes. These *uses* may include uses of a public, nonprofit, or charitable nature generally providing local service on-site to people of a local community;
- (b) Examples include, but are not limited to: private clubs, private libraries, non-profit social service providers, or religious facilities; and
- (c) Exceptions: This term does not include *uses* which more precisely meet the definition of *Chancery, Education, Entertainment, Assembly, and Performing Arts, Local Government, Service, Office, or Parks and Recreation*.

206.18 *Lodging*

- (a) Definition: Any *use* providing customers with temporary housing for an agreed upon term of less than thirty (30) consecutive days; any *use* where temporary housing is offered to the public for compensation, and is open to transient rather than permanent guests. These *uses* differ from the *Residential use category* because of the short tenure of residence;
- (b) Examples include, but are not limited to: hotels, motels, inns, or bed and breakfast establishments; and
- (c) Exceptions: This term does not include *uses* which more precisely meet the definition of *Emergency Shelter*.

206.19 *Local Government*

- (a) Definition: Any *use* involving services owned, managed, or provided by local government and associated with providing neighborhood-scaled services to meet the community needs of the directly adjacent areas;
- (b) Examples include, but are not limited to: public community centers, police stations, libraries, or fire stations; and
- (c) Exceptions: This term does not include large-scale government uses with a regional or larger service area or *uses* which more precisely meet the

definition of *Emergency Shelter, Parks and Recreation, or Motor Vehicle-related*.

206.20 *Marine*

- (a) Definition: Any *use* in which proximity to the waterfront constitutes an integral aspect of its function; or *uses* which depend upon access to the water for their effectuality. This *use category* includes activities associated with water and marine-based travel, movement, storage, and related activities;
- (b) Examples include, but are not limited to: marina, boathouse, boat launch, dock, or pier, boat repair facility, or water facilities; and
- (c) Exceptions: This term does not include *uses* which more precisely meet the definition of *Motor Vehicle-related*.

206.21 *Motor Vehicle-related*

- (a) Definition: Any *use* engaging primarily in the on-site sale, rental, service, maintenance, or refueling of motor vehicles or their components. These *uses* include the sale, installation or repair of parts, components, accessories, or fuel for motor vehicles;
- (b) Examples include, but are not limited to: gas service station, auto repair facility, carwash, automobile sales, boat sales, or motorcycle sales; and
- (c) Exceptions: This term does not include *uses* which more precisely meet the definition of *Motor-Vehicle Parking*.

206.22 *Office*

- (a) Definition: Any *use* engaging primarily in on-site administrative, business, professional, research, or laboratory-based activities. These *uses* are characterized by activities in an office setting that focus on the provision of off-site sale of goods or on-site information-based services, usually by professionals. *Office uses* may have infrequent contact with the public, and when applicable, perform service activities off-site;
- (b) Examples include, but are not limited to: real estate agent, attorney, accountant, advertising agency, stockbroker, or laboratory; and
- (c) Exceptions: This term does not include *uses* which more precisely meet the definition of *Health Care; Education; Local Government; Retail; Production, Distribution, and Repair; or Chancery*.

206.23 *Parks and Recreation*

- (a) Definition: Any *use* involving publicly accessible passive or active open space or recreation spaces available to the public. This term includes any area, structure, or facility under the jurisdiction of a public agency that is used for community recreation activities. These *uses* may consist of public plazas or mostly vegetated landscaping, outdoor recreation, community gardens. *Parks and Recreation* facilities may include accessory kitchen facilities;
- (b) Examples include, but are not limited to:
 - (1) Activities such as picnicking, boating, fishing, bicycling, tennis, or swimming;
 - (2) Classes and services relating to health and wellness, culture, arts and crafts, or education;
 - (3) *Structures* or other recreation facilities such as auditorium, multi-purpose room, gymnasium, meeting space, open space, playground, playing court, golf course, playing field, or swimming pool; and
- (c) Exceptions: This term does not include *uses* which more precisely meet the definition of *Entertainment, Assembly, and Performing Arts, Arts Design and Creation, Health Care, or Service*.

206.24 *Production, Distribution, and Repair*

- (a) Definition: Any *use* involving the on-site production, distribution, repair, assembly, processing, or sale of materials, products, technology, or goods intended for a wholesale, manufacturing, or industrial application. *Uses* may include firms that provide centralized services or logistics for retail uses. These *uses* typically have little contact with the public;
- (b) 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, ground shipping facility, or wholesale sales; and
- (c) Exceptions: This term does not include *uses* which more precisely meet the definition of *Retail, Service or Waste-related Services*.

206.25 *Residential*

- (a) Definition: Any *use* offering habitation to one (1) or more *households* on a continuous basis of at least thirty (30) days. The continuous basis is established by tenancy with a minimum term of a month or property ownership. This use category also includes residential facilities which provide housing and supervision for persons with disabilities. This may include twenty-four (24) hour on-site supervision, lodging, and meals for individuals who require supervision within a structured environment, which may include specialized services such as medical, psychiatric, nursing, behavioral, vocational, social, or recreational services;
- (b) Examples include, but are not limited to: single dwelling unit, multiple dwelling units, community residence facilities, retirement homes, substance abusers' home, youth residential care home, assisted living facility, floating homes, and other residential uses; and
- (c) Exceptions: This term does not include *uses* which more precisely meet the definition of *Accommodation, Education, or Community-based Institutional Facility*.

206.26 *Retail*

- (a) Definition: Any use engaging primarily in the on-site buying or selling of goods, wares, or merchandise directly to the consumer or persons without a resale license. These *uses* include goods commonly sold to individuals in small quantities for their direct use. These *uses* may have moderate to frequent contact with the public;
- (b) Examples include, but are not limited to: antique shop, drugstore, card shop, grocery store, jewelry store, fabric store, or bicycle shop; and
- (c) Exceptions: This term does not include wholesale goods commonly sold to businesses in bulk or *uses* which more precisely meet the definition of *Arts Design and Creation, Automobile-related, Firearm Sales, Marine, Production, Distribution, and Repair, or Sexually-based Business*.

206.27 *Service*

- (a) Definition: Any *use* engaging primarily in the on-site buying, selling, or renting of work performed for a fee by a person or machine that does not, in itself, result in a tangible commodity. These *uses* may provide personal services or provide small-scale product repair or services for consumer and business goods on-site. These *uses* may have moderate to frequent

contact with the public. *Service uses* which provide services off-site are typically *Office uses*;

- (b) Examples include, but are not limited to: bank, appliance repair, travel agency, fitness center, yoga studio, tailor shop, or parcel delivery service; and
- (c) Exceptions: This term does not include *uses* which more precisely meet the definition of *Food and Alcohol Services, Entertainment, Assembly, and Performing Arts, Local Government, Parks and Recreation, Animal Care and Boarding, Motor Vehicle-related, Accommodation, Daytime Care Facility, Health Care, Sexually-based Business Establishment, Arts Design and Creation, Marine, or Waste-related Services*.

206.28 *Sexually-based Business Establishment*

- (a) Definition: Any *use* involving goods, services, or live performances that are characterized by their emphasis on matter depicting, describing, or related to specified sexual activities. Specified sexual activities include, but are not limited to: acts of sexual stimulation or arousal including human genitals in a discernibly turgid state, human masturbation, sexual intercourse, sodomy, or bestiality; or any erotic touching of human genitals, pubic region, buttock, or breast. This *use category* has been established to identify those *uses* which offer services or goods whose sexually-oriented impacts are incompatible with the intended health, safety, and welfare of other uses of land; and
- (b) Examples include, but are not limited to: sexually-themed bookstores, newsstands, theatres, and amusement enterprises.

206.29 *Transportation Infrastructure*

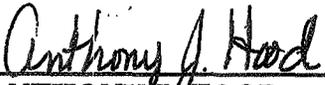
- (a) Definition: Any *use* involving structures or conveyances designed for individual mode or multimodal public transportation purposes. These *uses* may include land or facilities for the movement or storage of transportation system components;
- (b) Examples include, but are not limited to: streetcar or bus passenger depots, transportation rights of way, Metro stations, mass transit stations, bus stops, bicycle paths, bus transfer stations, accessways, airports, bicycle facilities, multi-use paths, pedestrian connections, or streets; and
- (c) Exceptions: This term does not include *uses* which more precisely meet the definition of *Basic Utilities*.

206.30 *Waste-related Services*

- (a) Definition: Any *use* involving the collection, transportation, recycling, or elimination of trash or other refuse. Disposal or processing may be on-site or transfer to another location. This term may include the collection of sanitary wastes or *uses* that produce goods or energy from wastes; and
- (b) Examples include, but are not limited to: solid waste handling facility or non-intensive recycling facility.

On November 8, 2010, upon a motion made by Chairman Hood, as seconded by Commissioner May, the Zoning Commission **APPROVED** this Petition at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Konrad W. Schlater, Greg M. Selfridge, Peter G. May, and Michael G. Turnbull and Peter G. May to approve).

On February 7, 2011, upon motion of Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission **ADOPTED** this Order by a vote of **5-0-0** (Anthony J. Hood, Konrad W. Schlater, Peter G. May, and Michael G. Turnbull to approve; Greg M. Selfridge to approve by absentee ballot).



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



JAMISON L. WEINBAUM
DIRECTOR
OFFICE OF ZONING

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



Z.C. CASE NO.: 08-06

MAR 4 2011

As Secretary to the Commission, I hereby certify that on _____ copies of these Z.C. Order Nos. 08-06-A (Use) and 08-06-B (Height) were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. *D.C. Register*
2. All ANC Chairs
3. Gottlieb Simon
ANC
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
4. All Councilmembers
5. DDOT (Karina Ricks)
6. Melinda Bolling, Acting General Counsel
DCRA
1100 4th Street, S.W.
Washington, DC 20024
7. Office of the Attorney General (Alan Bergstein)
8. Zoning Administrator (Matthew LeGrant)

ATTESTED BY:

Sharon S. Schellin
Secretary to the Zoning Commission
Office of Zoning