



PETITION TO AMEND TEXT of *Zoning Ordinance*

Applicant Development Advisory Committee Meeting of February 7, 2024

Report to the Dover Planning Commission for February 20, 2024

Proposed Changes:

Text Amendments to the following:

- *Dover Code of Ordinances*, Appendix B: Zoning (*Zoning Ordinance*)
 - Article 3 – District Regulations, Section 13 –Central Commercial Zone (C-2)
 - Article 4 Section 4.14 – C-1, C-1A, C-2, C-2A zones (Bulk Standards)
 - Article 5 Section 6 – Dumpsters for trash and recycling
 - Article 6 Section 3.1 – Required off-street parking spaces
 - Article 12 – Definitions (Define Live-work unit)

Summary of Amendments: This is a series of text amendments to the *Zoning Ordinance* provisions of the C-2 (Central Commercial Zone) and related development provisions. These amendments revise the permitted uses and the conditional uses, add design standards, and revise the bulk standards for height and floor area ratio (FAR) of the C-2 (Central Commercial Zone). There are proposed revisions to other sections of the *Zoning Ordinance* related to parking requirements and Dumpsters. These text amendments are offered for consideration as part of the implementation of the *Transforming Downtown Dover: Capital City 2030 (Transforming Downtown Dover)* Plan.

File Number:

MI-23-04

Ordinance Number:

#2024-01 (CCOW-LFA #1)

Proposed Ordinance #2024-01 - Amending Zoning Ordinance, Article 3 Section 13 Central Commercial Zone (C-2) and related development provisions of Zoning Ordinance with CCOW- LFA Amendment #1

I. BACKGROUND ON DEVELOPMENT OF TEXT AMENDMENTS

Introduction

The *Transforming Downtown Dover: Capital City 2030 (Transforming Downtown Dover)* focused on a range of physical and programmatic solutions to provide a fresh and integrated approach to transform Downtown Dover and the surrounding area into a vibrant, thriving community and regional destination. <https://www.downtowndoverpartnership.com/ddp/downtown-dover-strategic-master-plan/>

Background

The Downtown Dover Master Plan Code Revisions Workgroup (Workgroup) was organized in 2023 with the purpose of reviewing the *Dover Code* of ordinances and other comparable codes for revitalized downtowns and to see what changes could/should be made based on the *Transforming Downtown Dover* Plan. The Workgroup was made up of City Planning Staff and representatives from the Downtown Dover Partnership. This Workgroup put together a list of suggested changes as presented in a Memo dated September 26, 2023 “Potential Revisions to Zoning Ordinance for C-2 (Central Commercial Zone)” and set up a series of public meetings to ascertain public feedback.

Comment Gathering with Outreach Meetings

The Workshop & Meetings on C-2 Code Amendments associated with the *Transforming Downtown Dover: Capital City 2030 Plan* were held on October 10, 11, and 12, 2023 as two Stakeholder Meetings (Business Interests, Realtors, Engineers, Developers, and Others) and a Walk-in Workshop for the Public. The events included a series of presentation boards of the Potential Revisions, the Tentative Timeline, and informational maps of area for viewing and also a PowerPoint Presentation of the same information. Conversations and discussions of these items occurred with Planning Staff and the participants. Comment sheets and post-its gathered written comments. These comments were reported to the CCOW-LFA Committee at their October 24, 2023 Meeting in a summary listing by topic area (Uses, Building Height, Parking, and Miscellaneous).

Presentation of Suggested Changes

The potential code changes were articulated in concept form. Since most of the Downtown area is zoned C-2 (Central Commercial Zone), the proposed changes focus on the C-2 zoning district. From the feedback received, we listed the proposed changes in the chart “Potential Revisions to Zoning Ordinance for C-2 (Central Commercial Zone); see chart as follows. The proposed changes are listed in the column titled “Recommended Concepts for Revision.” These potential changes were categorized into the four topic areas of Uses, Building Height, Parking and Miscellaneous and were numbered 1 through 23 for ease of discussion. These were presented to the CCOW-LFA Committee as concepts only and not formal ordinance (text amendment) language and format.

Potential Revisions to Zoning Ordinance for C-2 (Central Commercial Zone) 10.24.2023

		CURRENT CODE <i>Zoning Ordinance, Article 3 Section 13 or as noted</i>	RECOMMENDED CONCEPTS FOR REVISION
USES	1	Retail stores	No change
	2	Restaurants	No change
	3	Hotels, including bed and breakfast inns	No change
	4	Art galleries and studios	No change
	5	Service establishments	No change
	6	Personal service establishments	No change
	7	Business professional, and government offices	No change
	8	Apartments and multi-family dwellings, provided that no dwelling units shall be permitted in the first floor on the street frontage of Loockerman	Allow uses associated with apartments (i.e., lobbies, amenity spaces) on first floor of Loockerman Street
	9	Parking lot and parking structure is a Conditional Use (A Conditional Use is required to be reviewed and approved by the Planning Commission.)	Parking lot and parking structure as a permitted use
	10	Not clearly allowed	Microbrewery/craft distillery/meadery

	11	Allowed by interpretation	Commercial Kitchen
	12	Manufacturing, assembling, converting, altering, finishing, cleaning, or any other processing of products where goods so produced or processed are to be sold at retail exclusively on the premises, provided that: (1) An area fully concealed from any street and equal to not more than 20 percent of the area devoted to retail sales shall be so used; (2) Electrical power not to exceed a total of five rated horsepower, and steam pressure not in excess of 60 pounds of pressure per square inch shall be used exclusively; (3) Not more than four employees are engaged in such production or processing	Allow the making and processing of consumer goods and products such as baked goods, glass blowing, and handmade items where goods are processed and sold at retail or on-line.
	13	Pop-up kitchen/restaurant/retail are not clearly allowed	Pop-up kitchen/pop-up restaurant/pop-up retail
	14	Place of public assembly is a Conditional Use	Place of public assembly as a permitted use
	15	Outdoor use – i.e., patios, eating areas, parklets	Clarify process of outdoor use – i.e., patios, eating areas, parklets
BUILDING HEIGHT	16	Maximum building height is 6 stories and 75 feet <i>Zoning Ordinance, Article 4 Section 4.14</i>	Maximum building height 10 stories and 125 feet - If building is above 3 stories, then upper floors need to be setback (wedding cake style) on sides facing the street. - Consider Residential 10% set aside of units for affordable units for every floor above 6 stories and 75 feet. Can be put into an affordable housing fund for non-profits.
PARKING	17	No parking requirements for existing buildings in C-2 <i>Zoning Ordinance, Article 6 Section 3.1(a)ii</i>	No parking requirements for existing buildings in C-2 zone No minimum parking requirements for new construction in C-2 zone
	18	Parking minimums for the following uses (for all zoning districts): - Medical Office: 1 space per 300 square feet of floor area - Apartments: 2 spaces per dwelling unit plus 1 space per 200 square feet office space plus 0.25 space per dwelling unit for visitor space - Restaurants and bars: 1 space for every 4 seats plus 1 space for every 3 bar seats - Hotel: 1 space per guestroom plus 1 space for every 200 square feet of office space, banquet hall, or meeting areas <i>Zoning Ordinance, Article 6 Section 3.1</i>	No minimum parking requirements based on use in the Downtown Redevelopment Target Area
	19	The Planning Commission (or City Planner if it's an administrative plan review) may consider a waiver to reduce the required parking amount by up to 50% if applicant demonstrates the project is adequately served by transportation and parking alternatives. <i>Zoning Ordinance, Article 6 Section 3.9</i>	Parking Waiver still available for consideration

	20	Bicycle parking-1 bicycle parking space for every 20 parking spaces. The Planning Commission may waive this requirement. <i>Zoning Ordinance, Article 6 Section 3.10</i>	Bicycle parking will still be required
MISCELLANEOUS	21	Floor Area Ratio (FAR) 4.0	Consider removing any lot coverage restrictions
	22	Tree mitigation fund not available	Allow for tree mitigation fund whereby a donation to the fund in lieu of planting a tree per the landscaping requirements in Downtown
	23	Dumpster rate based on use. • Restaurant: Two required for the first 3,000 square feet of gross building area; one required for each additional 3,000 square feet of gross building area or fraction thereof • Office and retail less than 50,000 square feet: Two required for the first 16,000 square feet of gross floor area; one required for each additional 16,000 square feet of gross floor area or fraction thereof • Apartment: Two required for the first 48 apartments; one required for each additional 24 apartments or fraction thereof <i>Zoning Ordinance, Article 5 Section 6</i>	Eliminate Dumpster rate but keep screening and enclosure requirements

Recommendation to Draft the Ordinance

Following review and discussion of the proposed concepts for changes, the CCOW-LFA Committee at their October 24, 2023 Meeting recommended that Staff move forward with drafting of the Text Amendments. This recommendation was adopted by the Consent Agenda at the City Council Meeting of December 11, 2023.

Proposed Draft Ordinance #2024-01

Planning Staff conducted additional research and developed a Draft Proposed Ordinance #2024-01 which focuses on revisions to the C-2 (Central Commercial Zone) found in *Zoning Ordinance*, Article 3 Section 13 and the C-2 zoning district bulk standards found in *Zoning Ordinance*, Article 4 Section 4.14. Planning Staff also looked at some of the regulations related to development activity in general and how a development location in the Downtown core is affected. There are proposed revisions to other sections of the *Zoning Ordinance* as related to parking requirements and Dumpsters. Some of these revisions will amend these development regulations when they are applied to properties located in the Downtown Redevelopment Target Area. The Downtown Redevelopment Target Area is defined (boundaries described) in the *Dover Code of Ordinances*, Appendix C – Downtown Redevelopment, Article II. Definitions, Section 4 – Target Area.

The Proposed DRAFT Ordinance was offered to the CCOW-LFA Committee on January 9, 2024 for review and consideration to begin the formal review and adoption process. Following public comments and discussion by the Council Committee of the Whole – Legislative, Finance, and Administration Committee, recommended that the Ordinance be forwarded for First Reading and that Staff look again at the step-back provisions for a determination. Staff evaluated the design standards for height related to the step back provisions as proposed in the Draft Ordinance and presented an alternative. This alternative was captured as the Council Committee of the Whole - Legislative, Finance, and Administration Committee (CCOW-LFA) Amendment #1 which revises the proposed step back provision from a distance of ten (10) feet to six (6) feet in certain areas of the primary façade.

II. CODE REVIEW & ANALYSIS:

Any revisions to the C-2 zoning district need to stay within similar parameters for development in the Downtown core where the C-2 zoning district is found. The C-2 Zone allows for a mix of uses, both residential and commercial; therefore, adjustments to the uses permitted and conditional uses were carefully considered. Also, in looking to increase opportunities for density within the Downtown core as envisioned by the *Transforming Downtown Dover Plan*, the revisions to the allowable height (and number of stories) were tempered with adding a series of design standards to guide implementation of such building construction to be compatible with the existing character of the area and its location within the Historic District Zone. Staff also looked at other provisions related to development activities and from experience with projects in the Downtown area adjustments were suggested related to the Dumpsters and parking provisions.

III. SUMMARY OF PROPOSED TEXT AMENDMENTS:

Key components of the proposed Text Amendments for Proposed Ordinance #2024-01 (CCOW-LFA #1) amending *Zoning Ordinance*, Article 3 Section 13 – Central Commercial Zone (C-2) and related development provisions includes the following:

- **Article 3 Section 13.1** – Add new permitted uses, revise certain uses from conditional uses to permitted uses, add Live-work units as use, and limit the establishment size of manufacturing related uses.
- **Article 3 Section 13.2** – Move certain conditional uses to permitted uses and require conditional use review for manufacturing related uses where the size of the establishment is greater than 5,000 square feet in floor area.
- **Article 3 Section 13.5** – Add design standards related to façade articulation, height, step-backs of upper floors (above fourth floor), and off-street parking and screening.
- **Article 4 Section 4.14** – Increase allowable building height to ten stories and 125 feet in height. Increase Floor Area Ratio to 5.0.
- **Article 5 Section 6** – Revise requirements for number of dumpsters based on use. Revised to list requirements for Apartment Complexes or Apartment Buildings with over 10 units and for non-residential uses. Also allow for consideration of alternative solutions for the storage and collection of trash and recycling.
- **Article 6 Section 3** – For the off-street parking space requirements, an exemption is added for new construction with the Downtown Redevelopment Target Area so that there are no minimum parking requirements based on use. However, a parking strategy statement must be submitted for review to use the exemption.
- **Article 12** – Add definition of “live-work unit”

IV. TEXT AMENDMENT REVIEW PROCESS

Because this is a Text Amendment proposed to the *Zoning Ordinance*, a Public Hearing and Recommendation by the Planning Commission are required. This review process began when the proposed Ordinance was submitted to the City Council for First Reading on January 22, 2024. The

City Council has referred Ordinance #2024-01 (CCOW-LFA #1) to the Planning Commission for a Public Hearing and consideration on February 20, 2024. Then it is scheduled for Final Reading, Public Hearing and Final Action by Council on March 11, 2024. At the meeting the City Council may act to adopt the whole Ordinance, to reject it, to adopt part of the Ordinance, and/or to make other amendments to the proposed text.

V. RECOMMENDATION OF PLANNING STAFF: Review and Recommendations:

As part of the process outlined in *Zoning Ordinance*, Article 10 Section 5, the City Planner must evaluate the following factors when preparing a report on the text amendment request:

Article 10 § 5.22 *City planner report*. For each proposed zoning text amendment, the city planner shall issue a report to the planning commission and city council, including comments from other reviewing agencies, that evaluates the following factors:

(A) Whether such change is consistent with the aims and principles embodied in the ordinance as to the particular zones concerned; and;

(B) Whether proposed amendment is consistent with the aims of the comprehensive plan of the city.

The Planning Office is in support of these changes to the C-2 zoning district and related development provisions as drafted in Proposed Ordinance #2024-01 with CCOW-LFA #1. The Planning Staff was the lead drafter of this Text Amendment package. Planning Staff developed the proposed Ordinance for the Text Amendment for the C-2 (Central Commercial Zone) and related provisions as part of efforts to implement the *Transforming Downtown Dover* Plan and in consideration of economic development strategies and interaction with developers/property owners with an interest in development in the Downtown area.

The *2019 Comprehensive Plan* as part of Chapter 11: Housing and Community Development Plan under Goal 3: Provide Safe and Healthy Livable Neighborhoods, Recommendation 7: Articulate the Link Between Housing and Health discusses complete neighborhoods and mixed-use developments. Additionally, the Chapter 12: Land Development Plan discusses goals for Mixed Use Areas including in Downtown Dover. For the Land Development Plan and its principles, one of the goals is to encourage redevelopment of the Downtown Redevelopment Target Area with a mix of residential, commercial and office uses. See Page 12-2. This Text Amendment to the C-2 zone clarifies and enhances the potential mixed uses in the C-2 zone.

Additionally, the following advisory items are noted.

- 1) The Planning Office provided an opportunity to Development Advisory Committee (DAC) members to comment on the proposed Text Amendments at their meetings on January 31, 2024 and February 7, 2024. No other Agency which partakes in the DAC process had any significant comment or objection with regards to the proposed Text Amendments to the C-2 zone and related provisions.
- 2) The Proposed Ordinance is also subject to Legal Review by the City Solicitor, which may identify additional clarifications or corrections.
- 3) The approval of this Text Amendment does not authorize the establishment of the uses on properties within the C-2 zone. Prior to the establishment of a use, the appropriate

applications for site development activity plan review, Building Permits, and other construction activity Permits, Business and Occupancy Licensing, etc. are required.

V. PLANNING COMMISSION REVIEW FOR RECOMMENDATION

This is a request for a zoning text amendment which revises the text in the *Zoning Ordinance*. The Planning Commission as part of their public hearing and review process will provide a recommendation on the zoning text amendment request to City Council. As part of the process outlined in *Zoning Ordinance*, Article 10 Section 5, the Planning Commission must evaluate the following factors when considering the request:

Article 10 § 5.23 *Report of the planning commission*. Regarding each proposed amendment to the ordinance text, the planning commission shall provide a report to the city council stating a recommended action with regards to the proposed amendment, along with the commission's evaluation of the following factors:

- (A) Whether such change is consistent with the aims and principles embodied in the ordinance as to the particular zones concerned; and
- (B) Whether such proposed amendment is consistent with the aims of the comprehensive plan of the city.

A Recommendation Report from the Planning Commission will be forwarded to the City Council for their consideration of the Text Amendment Application.

Attachments:

- Development Advisory Committee Agency Comments
- Public Comments received during CCOW-LFA Review and to date (2/7/2024)
- Proposed Ordinance #2024-01 (CCOW-LFA#1)



CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

STAFF D.A.C. MEETING DATE: JANUARY 31, 2024



APPLICATION: Text Amendment: Text Amendments: C-2 (Central Commercial Zone)

FILE #: MI-23-04

REVIEWING AGENCY: City of Dover Department of Public Works and Water & Wastewater

CONTACT PERSON: Jason A. Lyon, P.E., Director of Water & Wastewater / Engineering Services

CONTACT PHONE #: 302-736-7025

CONTACT EMAIL #: jlyon@dover.de.us

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESSED BY THE APPLICANT:

CITY AND STATE CODE REQUIREMENTS

SANITATION / STREETS / STORMWATER / WATER / WASTEWATER / GENERAL

1. Our office has no objections to the proposed text amendment to the C-2 zone.

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES

SANITATION / STREETS / STORMWATER / WATER / WASTEWATER / GENERAL

1. None

ADVISORY COMMENTS TO THE APPLICANT

SANITATION

1. Please note that if a dumpster is installed in the City of Dover, it shall be serviced by a private contractor.

WATER

1. The developer will be responsible for the design and installation of any infrastructure necessary to provide proper water pressure to all stories of the building in the C-2 zone.

STREETS / STORMWATER / WASTEWATER / GENERAL

1. None

IF YOU HAVE ANY QUESTIONS OR NEED TO DISCUSS ANY OF THE ABOVE COMMENTS, PLEASE CALL THE ABOVE CONTACT PERSON AND THE PLANNING DEPARTMENT AS SOON AS POSSIBLE.

CITY OF DOVER ELECTRIC
DEVELOPMENT ADVISORY COMMITTEE
APPLICATION REVIEW COMMENTARY
STAFF D.A.C. MEETING DATE: JAN 31, 2023

APPLICATION: Text Amendment: C-2 (Central Commercial Zone) Use and Standards
FILE #: MI-23-04
REVIEWING AGENCY: City of Dover Electric Department
CONTACT PERSON: Shawn Burgett, Engineering Services & System Ops Superintendent
CONTACT PHONE #: 302-674-7568
CONTACT EMAIL #: sburgett@dover.de.us

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESSED BY THE APPLICANT:

CITY AND STATE CODE REQUIREMENTS

ELECTRIC

1. Electric Department has no objections to the Text Amendments to the Zoning Ordinance provisions of the C-2 and related development provisions.

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES

1. None

ADVISORY COMMENTS TO THE APPLICANT

1. None

IF YOU HAVE ANY QUESTIONS OR NEED TO DISCUSS ANY OF THE ABOVE COMMENTS, PLEASE CALL THE ABOVE CONTACT PERSON AND THE PLANNING DEPARTMENT AS SOON AS POSSIBLE.

CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

D.A.C. MEETING DATE: 01/31/24 Revised**APPLICATION:** Text Amendments C-2 Use and Standards**FILE #:** MI-23-04REVIEWING AGENCY: City of Dover, Office of the Fire MarshalCONTACT PERSON: Jason Osika, Fire Marshal
josika@dover.de.usPHONE #: (302) 736-4457

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY, AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESS BY THE APPLICANT:

CITY AND STATE CODE REQUIREMENTS:

1. Proposal is a review of a series of Text Amendments to the Zoning Ordinance provisions of the C-2 and related development provisions. This office has no objections.

ADDITIONAL / SPECIFIC REQUIREMENTS TO OBTAIN APPROVAL:

1. Routine DAC comments/requirements should be taken into consideration, especially:
 - a. Parking distances and access with parking
 - b. Perimeter access
 - c. Fire Lane
 - d. Emergency/Rear access
 - e. Street width
 - f. Water supply for fire systems
2. Live-work unit will need to follow IBC and NFPA for occupancy classification and most stringent will apply.
3. The 10 stories, 125 feet is noted

APPLICABLE CODES LISTED BELOW (NOT LIMITED TO):

2021 NFPA 1 Fire Code (NFPA; National Fire Protection Association)
 2021 NFPA 101 Life Safety Code (NFPA; National Fire Protection Association)
 2019 NFPA 72 National Fire Alarm and Signaling Code (NFPA; National Fire Protection Association)
 2019 NFPA 13 Installation of Sprinkler Systems (NFPA; National Fire Protection Association)
 2009 IBC (International Building Code)
 Latest editions of all other NFPA Codes as defined by the Delaware State Fire Prevention Regulations
 2021 Delaware State Fire Prevention Regulations
 City of Dover Code of Ordinances

*If you have any questions or need to discuss any of the above comments, please call the above contact person listed.

CITY OF DOVER
DEVELOPMENT ADVISORY COMMITTEE
APPLICATION REVIEW COMMENTARY
D.A.C. MEETING DATE: 2/7/2024

**Dover/Kent
County
Metropolitan
Planning
Organization**

APPLICATION: MI-23-04 Text Amendments: C-2 (Central Commercial Zone) Use and Standards

FILE # MI-23-04

REVIEWING AGENCY: Dover/Kent County MPO

CONTACT PERSON: Malcolm Jacob

PHONE #: (302) 387-6030

Issues of concern to the MPO are effective transit, reducing the amount of vehicle emissions by shortening or eliminating trips, and facilities for alternative modes of transportation, including bicycle and pedestrian access. The MPO considers the bicycle facilities required by the City of Dover to be the standard for all applications, not to be waived.

City of Dover Planning Commission
Text Amendment Review

MI-23-04 Text Amendments: C-2 (Central Commercial Zone) Use and Standards

- 1) The MPO does not have any objections to the proposed text amendments. Note that the MPO is currently working on a study to address the walkability of downtown Dover and find critical areas in need of safety and connectivity improvements. The proposed changes to parking requirements are likely to complement this study's results, as they will both encourage walking and bicycling in the downtown area. More can be found on the study's webpage which continues to be updated: <https://doverkentmpo.delaware.gov/downtown-dover-pathways/>

If you have any questions or need to discuss any of the above comments, please call the above contact person and the Planning Department as soon as possible.

