



PETITION TO AMEND TEXT of
Dover Zoning Ordinance
Report to the
Dover Planning Commission
October 16, 2023

Proposed Changes:

Text Amendments to the following:

- *Dover Code of Ordinances, Appendix B: Zoning (Zoning Ordinance)*
 - Article 3 – District Regulations, Section 13.1 – Central Commercial Zone (C-2)

Summary of Amendments:

Review of a Text Amendment to the *Zoning Ordinance*, Article 3 – District Regulations, Section 13. Central commercial zone (C-2), Section 13.1. The Ordinance proposes adding the use of indoor recreation and amusement establishments as a permitted use in the C-2 zone. *First Reading was held by City Council on September 11, 2023 where the Public Hearing dates were set for Planning Commission on October 16, 2023 and City Council on October 23, 2023.*

Ordinance Number:

Proposed Ordinance #2023-08

File Number:

MI-23-03

I. Background on Development of Text Amendments

The proposed ordinance would amend the C-2 (Central Commercial Zone) to allow indoor recreation and amusement establishments as a permitted use. This revision was suggested by a realtor from the Commercial Moving Experience Real Estate Company who indicated that the lack of this use is making it difficult to open a gym in the Downtown area that would service the critical mass of citizens the City is hoping to get to the Downtown and that he believes that this is an important service that should be offered if we want to attract more residents to this area.

Indoor recreation and amusement establishments are an allowed use in the following zoning districts:

- IO (Institutional and Office Zone)
- C-3 (Service Commercial Zone)
- C-4 (Highway Commercial Zone)
- IPM-2 (Industrial Park Manufacturing Zone – Business and Technology Center)

Proposed New Uses

The addition of indoor recreation and amusement establishments to the C-2 zone found in the Downtown area will allow the opening of an indoor gym in the downtown district.

II. Code Review & Analysis:

Planning Staff believes that any revisions to the C-2 zoning district need to stay within similar parameters. The C-2 Zone allows for a mix of uses both residential and commercial. See the following code excerpt regarding uses in the C-2 zone.

Article 3 Section 13. Central commercial zone (C-2).

13.1 *Uses permitted.* In a central commercial zone (C-2), no building or premises shall be used, and no building or part of a building shall be erected, which is arranged, intended, or designed to be used, in whole or in part, for any purpose, except the following:

- (a) Retail stores.
- (b) Restaurants.
- (c) Hotels, including bed and breakfast inns.
- (d) Art galleries and studios.
- (e) Service establishments.
- (f) Personal service establishments.
- (g) Business, professional, and government offices.
- (h) Apartments and multi-family dwellings, provided that no dwelling units shall be permitted in the first floor on the street frontage of Loockerman Street.

13.2 *Conditional uses.* The following uses are permitted, conditional upon the approval of the planning commission in accordance with the procedures and subject to the general conditions set forth in article 10, section 1:

- (a) Parking lots and parking structures as a principal use.
- (b) Places of public assembly.
- (c) 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.

13.3 *Uses prohibited.* The following uses are prohibited:

- (a) Fuel pumps and motor vehicle storage, sales, or repairs.

III. Summary of Proposed Text Amendments:

Key components of the proposed Text Amendment to the *Zoning Ordinance*, Article 3 Section 20A – Central Commercial Zone includes the following:

- **Article 3 Section 13.1 – Add use:**
 - (i) Indoor recreation and amusement establishments.

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 September 11, 2023. City Council has referred the Ordinance #2023-08 to Planning Commission for a Public Hearing

and consideration on October 16, 2023. Then it is scheduled for Final Reading, Public Hearing and Final Action by Council on October 23, 2023. 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.

IV. RECOMMENDATION OF PLANNING STAFF: Review and Recommendations:

Planning Staff developed the proposed Ordinance for the Text Amendment for the C-2 (Central Commercial Zone) because of consideration of economic development strategies and interaction with developers/property owners.

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 permitted uses in the C-2 zoning district to add indoor recreation and amusement establishments.

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. A recreational facility in the Downtown District encourages healthy lifestyles of residents in the area or ones traveling to the area. See pages 11-14 and 11-17.

Additionally, the Chapter 12: Land Development Plan, starting on page 12-7, discusses Residential High Density Areas its opportunities and then 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.

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 September 27, 2023 and October 4, 2023. 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.
- 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
- Proposed Ordinance #2023-08

CITY OF DOVER PROPOSED ORDINANCE #2023-08

1 **BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN**
2 **COUNCIL MET:**

3
4 That Appendix B – Zoning, Article 3 Section 13 Central Commercial Zone (C-2) be amended by
5 inserting the text indicated in bold, blue font:

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7 APPENDIX B – ZONING

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9 ARTICLE 3 - DISTRICT REGULATIONS

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11 **Section 13. Central commercial zone (C-2)**

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13 13.1 *Uses permitted.* In a central commercial zone (C-2), no building or premises shall be
14 used, and no building or part of a building shall be erected, which is arranged, intended, or
15 designed to be used, in whole or in part, for any purpose, except the following:

16
17 **(i) Indoor recreation and amusement establishments.**
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20 **SYNOPSIS**

21 This is a text amendment to the Zoning Ordinance provisions related to the Central commercial zone (C-
22 2). This revision adds the use of indoor recreation and amusement establishments to this zoning district.

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24 (SPONSORS: COUNCILMAN ANDERSON, COUNCILMAN BOGGERTY, AND COUNCILWOMAN ARNDT)
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27 **Actions History:**

28 09/11/23 – Scheduled for First Reading - City Council

29 08/15/23 – Introduced - Council Committee of the Whole/Legislative Finance, and Administration Committee



CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

STAFF D.A.C. MEETING DATE: SEPTEMBER 27, 2023



APPLICATION: Text Amendment: Add Use to C-2 (Central Commercial Zone)

FILE #: MI-23-03

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 PHONE #: 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 add indoor recreation and amusement establishments as a permitted use in 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 / STREETS / STORMWATER / WATER / 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: SEP 27, 2023

APPLICATION: Text Amendment: Add Use to C-2 (Central Commercial Zone)
FILE #: MI-23-03
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, Article 3 – District Regulations, Section 13.

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.

MI-23-03

CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

D.A.C. MEETING DATE: 09/27/23

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APPLICATION: Text Amendment: Add Use to C-2, Indoor Recreation and Amusement Establishments

FILE #: MI-23-03

REVIEWING AGENCY: City of Dover, Office of the Fire Marshal

CONTACT PERSON: Jason Osika, Fire Marshal
josika@dover.de.us

PHONE #: (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. The proposal is a text amendment to add use to C-2, Indoor Recreation and Amusement Establishments. This office has no objections.

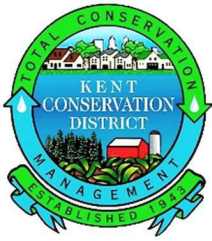
ADDITIONAL / SPECIFIC REQUIREMENTS TO OBTAIN APPROVAL:

1. Definitions from City Ordinance, Delaware State Fire Prevention Regulations, NFPA, and IBC would be utilized for occupancy classification for building and life safety requirements.

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.



KENT CONSERVATION DISTRICT

1679 SOUTH DUPONT HIGHWAY • DOVER, DELAWARE 19901 • (302) 608-5370 • WWW.KENTCD.ORG

**CITY OF DOVER
DEVELOPMENT ADVISORY COMMITTEE
APPLICATION REVIEW COMMENTARY
OCTOBER 2023**

APPLICATION: Text Amendment: Add Use to C-2 (Central Commercial Zone)

FILE #: MI-23-03

REVIEWING AGENCY: Kent Conservation District

CONTACT PERSON: Kate Owens

PHONE: (302) 608 – 5370

EMAIL: stormwater@kentcd.org

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:

Source: 2019 Delaware Sediment and Stormwater Regulations

CITY AND STATE CODE REQUIREMENTS:

Kent Conservation District has no objection to a text amendment to the *Zoning Ordinance*, Article 3 – District Regulations, Section 13. Central commercial zone (C-2), Section 13.1.