



April 08, 2024

New York City Council
City Hall Park
New York, NY 10007

Dear City Council Zoning and Franchises Subcommittee,

The Last-Mile Coalition respectfully submits comments on the City of Yes for Economic Opportunity (COYEO) (Calendar No. 30, ULURP No. 240011 ZRY) proposal and its comprehensive overhaul of outdated zoning regulations. We appreciate the efforts of the Department of City Planning (DCP) in recognizing the need to update regulations to align with the evolving economic landscape. However, we are concerned about the oversight in the current proposal, particularly in the context of last-mile mega-warehouses and their impact on marginalized communities. We believe that addressing the challenges posed by the rapid rise of e-commerce, particularly the impact of last-mile mega-warehouses, is crucial for fostering vibrant neighborhoods and supporting the economic recovery of New York City.

The rise of e-commerce is identified as a critical macroeconomic trend necessitating reform, and the COYEO aims to support emerging industries while minimizing the adverse effects on other land uses in the City. Although the DCP's COYEO proposal introduces a commendable initiative in the form of "Micro-Distribution Facilities," it falls short of addressing the significant land use conflicts stemming from the clustering of last-mile mega-warehouses. The proposal's focus on smaller facilities is crucial, but it misses the larger facilities, many of which exceed 1 million square feet, that operate around the clock and contribute substantially to vehicular congestion, safety risks, and environmental concerns.

In areas where last-mile warehouses are permitted as-of-right, the development of these facilities has introduced new activity that conflicts with existing businesses and industries and affects the surrounding area's character. Given that larger online retailers have the ability to pay more per square footage, this could curtail other industries and businesses from siting and operating in New York City. Furthermore, once last-mile warehouses begin operating, these facilities lead to vehicle congestion that negatively impacts the successful operation of surrounding businesses. These concerns highlight troubling implications for the city's adaptability and economic resiliency and highlight the land use rationale described for this action.



To rectify this oversight, we propose an expansion of the COYEO proposal to incorporate a specific text amendment defining "last-mile warehouses" as a distinct category to complement the "Micro-Distribution Facilities" proposal and establish a special permit process for last-mile warehouses of at least 50,000 square feet. Unlike traditional warehouses, last-mile warehouses substantially impact community character, vehicular traffic flow, and air quality. Last-mile warehouses are fundamentally different in scale from traditional warehouse uses due to the high volume of product loading and unloading and product flow velocity, involving a massive increase in truck trips to and from the facility compared to traditional warehouses. Given their size and operational scale, these facilities should be subject to a special permit, allowing for public participation in the siting process and ensuring that the concerns of affected communities are considered. Large last-mile warehouses should be required to obtain a special permit, as this aligns with COYEO's objectives of ensuring safe and sustainable deliveries, combating increased truck traffic, and preventing congestion. The issuance of a permit should be contingent on findings related to traffic and safety, ensuring that these facilities are good neighbors and do not unduly hinder surface traffic and pedestrian flow.

Moreover, the lack of regulations on last-mile mega-warehouses exacerbates environmental justice issues. By requiring a special permit, the City can address air quality concerns and encourage a shift to zero-emissions delivery, providing relief to communities grappling with the disproportionate pollution burden from various sources.

The omission of last-mile mega-warehouse regulations stands out in light of COYEO's stated objectives. Addressing this issue is crucial to the success of COYEO and aligns with the city's broader goals of modernizing zoning regulations. A zoning text amendment for last-mile mega-warehouses is crucial for managing the anticipated growth in goods movement while prioritizing the well-being of environmental justice communities. By promoting non-truck or van deliveries and supporting sustainable transportation options, we can collectively alleviate congestion, embrace modern delivery practices, and reduce the environmental impact on marginalized neighborhoods.

In conclusion, the current COYEO proposal misses a critical aspect of the e-commerce boom—land use conflicts arising from clustering last-mile mega-warehouses. **We urge this committee to require the DCP to take a comprehensive approach by including specific regulations for the siting and operation of last-mile mega-warehouses, as there are no barriers for the DCP to elect to include this proposal. In our comments, we have included text language to achieve these goals.** This amendment is essential for the immediate concerns of affected communities and aligns with the principles of environmental justice and the pursuit of a sustainable and equitable New York City. Addressing this issue is essential to the overall success of COYEO and its goal of creating vibrant and safe neighborhoods, as failing to regulate last-mile warehouses will lead to increased vehicular traffic congestion that impacts small businesses.



Thank you for the opportunity to provide these comments. We appreciate the time and effort of those who drafted these proposals and strongly encourage the DCP to expand on these proposals by considering a proposal for the siting and operation of last-mile warehouses.

Respectfully submitted,

The Last-Mile Coalition



Additions to Department of City Planning text proposals in **RED**.

UPDATED LAST MILE COALITION ADDITION TO PROPOSED ZONING TEXT AMENDMENTS 74-191 & 74-192

The currently proposed City of Yes Economic Opportunity zoning text amendments include a Special Permit provision, 74-191 (see below) that only addresses the impacts of distribution facilities in commercial zones-many of which are located in or adjacent to more affluent neighborhoods. Unfortunately, the impacts of larger last mile warehouse distribution facilities in and adjacent to environmental justice communities are not addressed. This omission could be seen to constitute a lack of adequate consideration of disparate racial impacts of distribution facilities. The proposed text addition would remedy this omission (see new 74-192).

PROPOSED NEW TEXT TO BE ADDED TO THE DCP PROPOSED ZONING TEXT AMENDMENTS

New Definitions

Section 12-10

Last-mile warehouse

A “last-mile warehouse” is a warehouse that has as its primary purpose the temporary storage, sorting, and redistribution of goods to fulfill e-commerce orders by receiving shipments of goods from one mode of transport and redistributing those goods via a delivery vehicle. Any facility where goods are manufactured or assembled on site and temporarily stored prior to distribution, or any facility that has as its primary purpose the temporary storage of food products for wholesale distribution shall not be defined as a “last mile warehouse”.

A “Last mile warehouse” under 50,000sq ft shall be “as of right” in M1, M2, M3 and C8 zoning districts.

A “Large Last- mile warehouse” of 50,000 sq ft or greater shall require a City Planning Commission Special Permit.

NEW Section 74-192

“Large Last Mile Warehouse” of 50,000sq ft. or greater

In C8, M1, M2, and M3 Districts the City Planning Commission may permit “large last-mile warehouses” as defined in Section 12-10 and currently in Use Group 16 (proposed to be in new Use Group 9- Storage)

To grant such permit the Commission shall find that:

(1) the large last-mile warehouse use as defined in Section 12-10 shall be a minimum of 1,000 feet from any school, park, nursing home, or public housing building;



(2) the large last-mile warehouse use shall be a minimum of 1,000 feet from any other large last-mile warehouse;

(3) for a large last-mile warehouse use located in a Significant Maritime Industrial Area, 80% of deliveries to and from the large last-mile warehouse shall be conducted by marine transport unless determined by the NYC Waterfront Revitalization Program staff at the Dept of City Planning to be physically infeasible or to be inappropriate based on the locations of delivery destinations.

(4) the large last-mile warehouse use will not create or contribute to serious traffic congestion, pedestrian safety risks, or adverse impacts to road conditions. *

* to inform the Commission's review, applications for the grant of a special permit pursuant to this Section shall be referred to the Department of Transportation for a report and recommendations on matters related to traffic congestion, pedestrian safety, and road conditions with regard to the proposed large last mile warehouse use. If the report is received within 45 days from the date of the referral, the Commission shall give due consideration to the report and its recommendations;

(5) the large last-mile warehouse use will not increase air pollution in any Disadvantaged Community, as defined under the New York Climate Leadership and Community Protection Act, E.C.L. § 75-0101(5); in the M1, M2, M3, or C8 District or in adjacent residential areas. *

* to inform the Commission's review, applications for the grant of a special permit pursuant to this Section shall be referred to the Department of Environmental Protection for a report and recommendations on matters related to air pollution and worker and public health with regard to the proposed large last mile warehouse use. If the report is received within 45 days from the date of the referral, the Commission shall give due consideration to the report and its recommendations.

6) The large last mile warehouse use will not impair the character or the future use or development of the surrounding area.

Additional requirements

1) The Commission shall require the large last-mile facility operator to submit an annual report to the Dept. of Transportation that includes data regarding the number and age of trucks servicing the facility, the trucks' owners, time-of-use, hours-of-operation, the routes used, and truck idling violations.

2) In areas where reports from DEP and DOT have identified potential adverse impacts on the surrounding area, the Commission may additionally prescribe appropriate conditions and safeguards such as: the use of alternative transportation, such as electric vehicles, rail, maritime and bikes, for deliveries to and from the facility; the installation of solar panels, vehicle charging equipment, and/or battery storage at the facility; the provision of air filtration systems at any



existing or new sensitive receptors such as schools, parks, nursing homes, or residential buildings, including public housing, within a quarter mile.



The current 74-192 (below) would be changed to 74-193

In C-Zones

A. General Storage

<u>USE GROUP 9A – GENERAL STORAGE</u>									
<p>● = Permitted ◆ = Permitted with limitations ○ = Special permit required – = Not permitted S = Size restriction P = Additional conditions U = Open use allowances</p>									
<u>Uses</u>	<u>C1</u>	<u>C2</u>	<u>C3</u>	<u>C4</u>	<u>C5</u>	<u>C6</u>	<u>C7</u>	<u>C8</u>	<u>PRC</u>
<u>General Storage</u>									
<u>Building materials or contractors' yards</u>	–	–	–	–	–	–	–	● S U	<u>D2</u>
<u>Depositories for storage office records, microfilm or computer tapes, or for data processing</u>	–	–	–	● S	● S	● S	● S	●	<u>D2</u>
<u>Last-Mile Warehouses</u>	–	–	–	–	–	–	–	● S ○	<u>D2</u>
<u>Micro-distribution facility</u>	● S	● S	–	● S	● S	● S	● S	–	<u>D2</u>
<u>Moving or storage facilities</u>	–	–	–	–	–	–	–	●	<u>D2</u>
<u>#Self-service storage facility#</u>	–	–	–	–	–	–	–	●	<u>D2</u>



<u>Trucking terminals or motor freight stations</u>	-	-	-	-	-	-	-	● S U	<u>D2</u>
<u>Warehouses</u>	-	-	-	-	-	-	-	●	<u>D2</u>
<u>Wholesale establishments</u>	● S P	● S P	-	● S P	● S P	● S P	● S P	● P	-*

In M-Zones

Section 42-191

Use Group 9 – general use allowances

The following table includes #uses# classified as Use Group 9 and sets forth their allowances by #Manufacturing District#. Such #uses# are categorized as general storage, specialized storage, or vehicle storage, as provided in paragraphs A, B and C of this Section. Notations found in the table are further described in Section 42-10 (USE ALLOWANCES).

A. General Storage

<u>USE GROUP 9A – GENERAL STORAGE</u>				
● = Permitted ♦ = Permitted with limitations ○ = Special permit required				
- = Not permitted				
S = Size restriction P = Additional conditions U = Open use allowances				
Uses	M1	M2	M3	PRC
<u>General Storage</u>				
<u>Building materials or contractors' yards</u>	● P U	● P U	● P U	<u>D2</u>
<u>Depositories for storage office records, microfilm or computer tapes, or for data processing</u>	●	●	●	<u>D2</u>
<u>Last-Mile Warehouses</u>	● S ○	● S ○	● S ○	<u>D2</u>



<u>Micro-distribution facility</u>	—	—	—	<u>D2</u>
<u>Moving or storage facilities</u>	● P	● P	● P	<u>D2</u>
<u>#Self-service storage facility#</u>	◆ P	◆ P	◆ P	<u>D2</u>
<u>Trucking terminals or motor freight stations</u>	● P U	● P U	● P U	<u>D2</u>
<u>Warehouses</u>	● P	● P	● P	<u>D2</u>
<u>Wholesale establishments</u>	● P	● P	● P	<u>A4</u>



Use Group 9 consists of #uses# that provide storage for materials, goods, and vehicles. The provisions regulating #uses# classified in this Use Group are set forth as follows:

- (a) Section 42-191 (Use Group 9 – general use allowances) which includes the compilation of #uses# in the Use Group table;
- (b) Section 42-192 (Use Group 9 – uses permitted with limited applicability) for additional limitations on applicability for certain #uses#, as denoted with “◆” in the Use Group table;
- (c) Section 42-193 (Use Group 9 – uses subject to additional conditions) for additional conditions that apply to certain #uses#, as denoted with a “P” in the Use Group table;
- (d) Section 42-194 (Use Group 9 – uses subject to open use allowances) for open #use
- (e) New Section 42-192 (Use Group 9 – uses permitted with limited applicability) for additional limitations on applicability for certain #uses#, as denoted with “○” in the Use Group table;
- (f) allowances that apply to certain #uses#, as denoted with a “U” in the Use Group table.

42-192

Use Group 9 – uses permitted with limited applicability

For #uses# denoted with “◆” in Section 42-191 (Use Group 9 – general use allowances), the provisions of this Section shall apply.

- (a) For #public parking garages# and #public parking lots#, the following provisions shall apply:
 - (1) In the #Manhattan Core#, such #uses# are subject to the provisions of Article I, Chapter 3, and in the #Long Island City area#, as defined in Section 16-02 (Definitions), such #uses# are subject to the provisions of Article I, Chapter 6.
 - (2) In M1-1, M1-2, M1-3, M2-1, M2-2, or M3-1 Districts, #public parking garages# and #public parking lots# with a capacity of up to 150 spaces are permitted. The City Planning Commission may permit #public parking garages# or #public parking lots# with more than 150 spaces pursuant to Section 74-193 (Public parking garages or public parking lots outside high density areas); and
 - (3) In M1-4, M1-5, M1-6, M2-3, M2-4 or M3-2 Districts, #public parking garages# are not permitted as-of-right, and #public parking lots# with a capacity of up to 150 spaces are permitted. The City Planning Commission may permit #public parking garages# with any capacity or #public parking lots# with more than 150 spaces pursuant to Section 74-194 (Public parking garages or public parking lots in high density central areas).

[SPECIAL PROVISIONS FOR SELF-STORAGE RELOCATED FROM SECTION 42- 121, WITH CROSS REFERENCES UPDATED]



In designated areas within #Manufacturing Districts#, as shown on the maps in APPENDIX J (Designated Areas Within Manufacturing Districts) of this Resolution, a #self-service storage facility# is subject to the provisions of this Section. Designated areas in which #self-service storage facilities# are subject to the as-of-right provisions of this paragraph are shown on the maps in Subarea 1, and those in which such #uses# are subject to special permit of the City Planning Commission pursuant to Section 74-192 (Self-service storage facility in designated areas within Manufacturing Districts) are shown on the maps in Subarea 2.

A #self-service storage facility# shall, in Subarea 1 of APPENDIX J of this Resolution, be limited to establishments that provide an #industrial floor space# as defined in Section 12- 10 (DEFINITIONS) or “business-sized” storage space as specified in paragraph (b)(2)(ii) of this Section.

- (1) On a #zoning lot# greater than or equal to 50,000 square feet in area, a #self-service storage facility# shall provide #industrial floor space# that is:
 - (i) equal in #floor area# or #cellar# space to 25 percent of the #lot area#;
 - (ii) located below the level of the third #story#, with at least 50 percent of such #industrial floor space# located on the ground floor, with such ground floor #story# located within five feet of #curb level#, or #base plane#, as applicable, and the remaining #industrial floor space# located on a level that is immediately above or below such #story#; and
 - (iii) provided with access to freight elevators and the #accessory# off-street loading berth required for such #industrial floor space# in accordance with the provisions of Section 44-566 (Regulations for permitted or required loading berths for zoning lots containing self-service storage facilities in designated areas).
- (2) On a #zoning lot# that on December 19, 2017, is less than 50,000 square feet in area, a #self-service storage facility# shall provide:
 - (i) #industrial floor space# as specified in paragraph (1) of this Section; or
 - (ii) #floor area# or #cellar# space containing securely subdivided space for lease within such #self-service storage facility#, where each subdivided space is not less than 100 square feet in area, and with a minimum clear height of eight feet. Such spaces shall be categorized as “business-sized” for the purposes of this Section and the number and sizes of such spaces shall be shown on plans filed with the Department of Buildings. The total area of such business-sized storage space shall be equal in #floor area# or #cellar# space to 25 percent of the #lot area#



- (3) On a #zoning lot# on which #industrial floor space# is provided in accordance with paragraph (b)(1) or (b)(2)(i) of this Section, an information #sign# shall be provided. Such required #sign# shall be mounted on an exterior #building# wall adjacent to and no more than five feet from all primary entrances of the #building# containing the #industrial floor space#. The #sign# shall be placed so that it is directly visible, without any obstruction, to persons entering the #building#, and at a height no less than four feet and no more than 5 feet 6 inches above the adjoining grade. Such #sign# shall be legible, no less than 12 inches by 12 inches in size and shall be fully opaque, non-reflective and constructed of permanent, highly durable materials. The information #sign# shall contain the name and address of the building in lettering no less than three-quarters of an inch in height, and the following statement in lettering no less than one-half inch in height: "This building is subject to Industrial Floor Space regulations which require a minimum amount of space to be provided for specific industrial uses." The information #sign# shall include an Internet URL, or other widely accessible means of electronically transmitting and displaying information to the public, where the information required in paragraph (b)(4) of this Section is available to the public.
- (4) On a #zoning lot# on which #industrial floor space# is provided in accordance with paragraph (b)(1) or (b)(2)(i) of this Section, no later than June 30 of each year, beginning in the first calendar year in which a temporary or final certificate of occupancy was issued for the #industrial floor space#, the owner of the #building# subject to the #use# restrictions of this Section shall prepare a report on the existing conditions of the #building#. Such report shall be in a form provided by the Director of the Department of City Planning, and shall provide the following information at the designated Internet URL, or other widely accessible means of electronically transmitting and displaying information to the public:
- (i) the total #floor area# of the #industrial floor space# in the #building# required by this Section;
 - (ii) the name of each business establishment occupying #floor area# reserved for the #industrial floor space#. Such business establishment name shall include that name by which the establishment does business and is known to the public. For each business establishment, the amount of #floor area# the Use Group, subgroup and specific #use# as listed in this Resolution shall also be included;
 - (iii) a description of each establishment, using the North American Industry Classification System (NAICS) code and number of employees;
 - (iv) the total amount of #industrial floor space# that is vacant, as applicable;
 - (v) the average annual rent for the portions of the #building#, in the aggregate, required to be #industrial floor space#; and



- (vi) the number of new leases executed during the calendar year, categorized by lease duration, in five-year increments from zero to five years, five to 10 years, 10 to 15 years, 15 to 20 years and 20 years or greater.

The report shall be submitted to the Director of the Department of City Planning, by any method, including e-mail or other electronic means, acceptable to the Director. The applicable Community Board, Borough President and local Council Member shall be included in such transmission.

A #self-service storage facility# shall, in Subarea 2 of APPENDIX J of this Resolution, be permitted by special permit of the City Planning Commission pursuant to Section 74-192 (Self-service storage facility in designated areas within Manufacturing Districts).

Any #self-service storage facility# existing on December 19, 2017, located in a designated area within #Manufacturing Districts#, as shown on the maps in APPENDIX J, shall be considered a conforming #use#, provided that the owner of such #self-service storage facility# has filed documentation satisfactory to the Department of Buildings that it existed on such date and met the definition of #self-service storage facility# set forth in Section 12-10. Any #enlargement# or #extension# to an existing conforming facility need not provide #industrial floor space#, business-sized storage, or apply for special permit of the City Planning Commission pursuant to Section 74-192, as applicable, provided there is no increase in #lot area# of the #zoning lot# as it existed on December 19, 2017. In the event that a #building# for which satisfactory documentation has been filed with the Department of Buildings is damaged or destroyed by any means, such #building# may be reconstructed on the same #zoning lot# and continue as a #self-service storage facility# without providing #industrial floor space# or business-sized storage, as applicable, provided that the #floor area# of such reconstructed #self-service storage facility# does not exceed the #floor area# permitted pursuant to the provisions of Section 43-10 (FLOOR AREA REGULATIONS), inclusive.

Any #self-service storage facility# existing on December 19, 2017, that does not file such documentation satisfactory to the Department of Buildings pursuant to the provisions of this Section shall be considered #non-conforming# and subject to the provisions of Article V (NON-CONFORMING USES AND NON-COMPLYING BUILDINGS) of this Resolution.

**ADD – Use Group 9 – uses subject to special permits
Need to add our proposed new zoning text for large last-mile warehouses**

42-193

Use Group 9 – uses subject to additional conditions

For #uses# denoted with a “P” in Section 42-191 (Use Group 9 – general use allowances), the following provisions shall apply:

- (a) Boat storage shall be restricted to boats less than 100 feet in length



- (b) #Public parking garages# and #public parking lots# shall be subject to the provisions set forth for #accessory# off-street parking spaces in Section 36-53 (Width of Curb Cuts and Location of Access to the Street), 36-55 (Surfacing) and 36-56 (Screening).
- (c) All #uses# denoted with a “P” in Section 42-191 (Use Group 9 – general use allowances), except boat storage, #public parking garages# and #public parking lots#, shall conform to the performance standards set forth in Sections 42-40 (PERFORMANCE STANDARDS) through 42-48 (Performance Standards Regulating Humidity, Heat or Glare), inclusive.

42-194

Use Group 9 – uses subject to open use allowances

For #uses# denoted with a “U” in Section 42-191 (Use Group 9 – general use allowances), a #use# may be open or enclosed except that:

- (a) building materials or contractors’ yard, including sales, storage, or handling of building materials, may be open or enclosed provided that any #yard# in which such #use# is conducted is completely enclosed on all sides by a solid opaque fence or wall (including opaque solid entrance and exit gates) of suitable uniform material and color, at least eight feet in height and constructed in accordance with rules and regulations to be promulgated by the Commissioner of Buildings;
- (b) boat storage may be conducted outside a #completely enclosed building# only if located at a distance greater than 100 feet from a #Residence District# boundary; and
- (c) #public parking garages# may be open or enclosed, provided that no portion of such #use# shall be located on a roof other than a roof which is immediately above a #cellar# or #basement#.