



District of Columbia

REGISTER

HIGHLIGHTS

- District Department of the Environment revises the stormwater management, soil erosion, and sediment control regulations
- Office of Tax and Revenue proposes a sales tax on admission charges to boat tours and cruises
- Department of Small and Local Business Development schedules a public hearing for the Golden Triangle bid
- Department of Health Care Finance solicits offers to develop an electronic system for transmitting health care information within and between states
- Department of Health announces funding availability for school based health centers
- Department of Health announces funding availability for the 2013 HIV Testing and Linkage to Care program

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

The District of Columbia Office of Documents and Administrative Issuances (ODAI) publishes the *District of Columbia Register* (ISSN 0419-439X) (*D.C. Register*) every Friday under the authority of the *District of Columbia Documents Act*, D.C. Law 2-153, effective March 6, 1979 (25 DCR 6960). The policies which govern the publication of the *D.C. Register* are set forth in Title 1 of the District of Columbia Municipal Regulations, Chapter 3 (Rules of the Office of Documents and Administrative Issuances.) Copies of the Rules may be obtained from the Office of Documents and Administrative Issuances. Rulemaking documents are also subject to the requirements of the *District of Columbia Administrative Procedure Act*, District of Columbia Official Code, §§2-501 *et seq.*, as amended.

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The deadline for receiving documents from the District of Columbia Agencies, Boards, Commissions, and Public Charter schools is TUESDAY, NOON of the week of publication. The deadline for receiving documents from the District of Columbia Council is WEDNESDAY, NOON of the week of publication. If an official District government holiday falls on Monday or Friday, the deadline for receiving documents remains the same as outlined above. If an official District government holiday falls on Tuesday, Wednesday or Thursday, the deadline for receiving documents is one day earlier from the deadlines outlined above.

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Legal Effect of Publication - Certification

Except in the case of emergency rules, no rule or document of general applicability and legal effect shall become effective until it is published in the *D.C. Register*. Publication creates a rebuttable legal presumption that a document has been duly issued, prescribed, adopted, or enacted and that the document complies with the requirements of the *District of Columbia Documents Act* and the *District of Columbia Administrative Procedure Act*. The Administrator of the Office of Documents hereby certifies that this issue of the *D.C. Register* contains all documents required to be published under the provisions of the *District of Columbia Documents Act*.

DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 19-292

**“Bloomingdale and LeDroit Park Backwater
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Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-936 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on February 4, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-660 and was published in the March 1, 2013 edition of the D.C. Register (Vol. 60, page 2354). Act 19-660 was transmitted to Congress on March 5, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-660 is now D.C. Law 19-292, effective April 27, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Mar. 5,6,7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-293****“District of Columbia Flood Assistance Fund Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-938 on first and second readings December 4, 2012 and December 18, 2012, respectively. The legislation was deemed approved without the signature of the Mayor on February 5, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-661 and was published in the March 8, 2013 edition of the D.C. Register (Vol. 60, page 2613). Act 19-661 was transmitted to Congress on March 5, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-661 is now D.C. Law 19-293, effective April 27, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Mar. 5,6,7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-294****“Construction and Demolition Waste Recycling Accountability Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-1032 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on January 31, 2013 pursuant to Section 404(e) of the Charter, the bill became Act 19-662 and was published in the March 8, 2013 edition of the D.C. Register (Vol. 60, page 2619). Act 19-662 was transmitted to Congress on March 5, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-662 is now D.C. Law 19-294, effective April 27, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

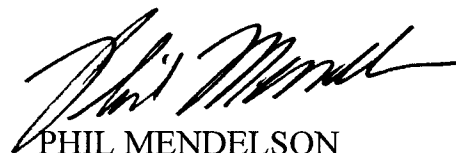
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Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-295****“Administrative Disposition for Weapons Offenses Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-888 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on February 4, 2013 pursuant to Section 404(e) of the Charter, the bill became Act 19-663 and was published in the March 8, 2013 edition of the D.C. Register (Vol. 60, page 2623). Act 19-663 was transmitted to Congress on March 5, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-663 is now D.C. Law 19-295, effective April 27, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Mar. 5,6,7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 19-296

**“United House of Prayer for All People Real Property Tax
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Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-1090 on first and second readings December 18, 2012 and January 8, 2013, respectively. Following the signature of the Mayor on January 31, 2013 pursuant to Section 404(e) of the Charter, the bill became Act 19-664 and was published in the March 8, 2013 edition of the D.C. Register (Vol. 60, page 2627). Act 19-664 was transmitted to Congress on March 5, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-664 is now D.C. Law 19-296, effective April 27, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Mar. 5,6,7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26

COUNCIL OF THE DISTRICT OF COLUMBIA

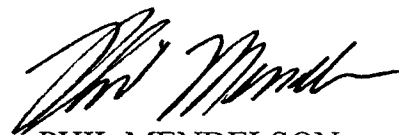
NOTICE

D.C. LAW 19-297

**“Beulah Baptist Church Real Property Equitable
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Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-1099 on first and second readings December 18, 2012 and January 8, 2013, respectively. Following the signature of the Mayor on January 31, 2013 pursuant to Section 404(e) of the Charter, the bill became Act 19-665 and was published in the March 8, 2013 edition of the D.C. Register (Vol. 60, page 2629). Act 19-665 was transmitted to Congress on March 5, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-665 is now D.C. Law 19-297, effective April 27, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Mar. 5,6,7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 19-298

“Bad Actor Debarment and Suspension Amendment Act of 2012”

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-701 on first and second readings December 4, 2012 and December 18, 2012, respectively. The legislation was deemed approved without the signature of the Mayor on February 5, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-666 and was published in the March 8, 2013 edition of the D.C. Register (Vol. 60, page 2631). Act 19-666 was transmitted to Congress on March 5, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-666 is now D.C. Law 19-298, effective April 27, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

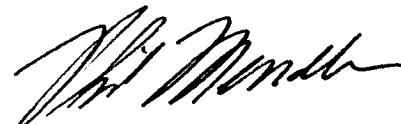
Mar. 5,6,7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-299****“Uniform Commercial Code Revision Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-136 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on signature of the Mayor on February 8, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-667 and was published in the March 8, 2013 edition of the D.C. Register (Vol. 60, page 2634). Act 19-667 was transmitted to Congress on March 5, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-667 is now D.C. Law 19-299, effective April 27, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Mar. 5,6,7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 19-300

“Workplace Fraud Amendment Act of 2012”

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-169 on first and second readings December 4, 2012 and December 18, 2012, respectively. The legislation was deemed approved without the signature of the Mayor on February 8, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-668 and was published in the March 8, 2013 edition of the D.C. Register (Vol. 60, page 26791). Act 19-668 was transmitted to Congress on March 5, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-668 is now D.C. Law 19-300, effective April 27, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Mar. 5,6,7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-301****“Equity in Survivor Benefits Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-570 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on January 29, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-650 and was published in the March 1, 2013 edition of the D.C. Register (Vol. 60, page 2310). Act 19-650 was transmitted to Congress on March 7, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-650 is now D.C. Law 19-301, effective May 1, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Mar. 7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26,29,30

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 19-302

“Uniform Commercial Code Article 9 Amendments Act of 2012”

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-222 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on February 5, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-669 and was published in the March 8, 2013 edition of the D.C. Register (Vol. 60, page 2688). Act 19-669 was transmitted to Congress on March 7, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-669 is now D.C. Law 19-302, effective May 1, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Mar. 7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26,29,30

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-303****“Pharmacy Technician Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-293 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on February 5, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-670 and was published in the March 8, 2013 edition of the D.C. Register (Vol. 60, page 2711). Act 19-670 was transmitted to Congress on March 7, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-670 is now D.C. Law 19-303, effective May 1, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

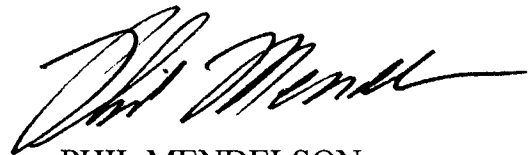
Mar. 7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26,29,30

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-304****“Interstate Compact on Educational Opportunity for
Military Children Establishment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-328 on first and second readings December 4, 2012 and December 18, 2012, respectively. The legislation was deemed approved without the signature of the Mayor on February 12, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-671 and was published in the March 8, 2013 edition of the D.C. Register (Vol. 60, page 2717). Act 19-671 was transmitted to Congress on March 7, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-671 is now D.C. Law 19-304, effective May 1, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Mar. 7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26,29,30

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-305****“Benefit Corporation Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-584 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on February 12, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-672 and was published in the March 8, 2013 edition of the D.C. Register (Vol. 60, page 2735). Act 19-672 was transmitted to Congress on March 7, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-672 is now D.C. Law 19-305, effective May 1, 2013.



PHIL MENDELSON

Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Mar. 7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26,29,30

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-306****“Portable Electronics Insurance Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-986 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on February 5, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-673 and was published in the March 8, 2013 edition of the D.C. Register (Vol. 60, page 2746). Act 19-673 was transmitted to Congress on March 7, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-673 is now D.C. Law 19-306, effective May 1, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Mar. 7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26,29,30

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-307****“Safety-Based Traffic Enforcement Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-1013 on first and second readings December 4, 2012 and December 18, 2012, respectively. The legislation was deemed approved without the signature of the Mayor on February 12, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-674 and was published in the March 8, 2013 edition of the D.C. Register (Vol. 60, page 2753). Act 19-674 was transmitted to Congress on March 7, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-674 is now D.C. Law 19-307, effective May 1, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Mar. 7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26,29,30

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-308****“Police Officers, Fire Fighters, and Teachers Retirement
Benefit Replacement Act of 1998 Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-1018 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on February 11, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-675 and was published in the March 15, 2013 edition of the D.C. Register (Vol. 60, page 3386). Act 19-675 was transmitted to Congress on March 7, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-675 is now D.C. Law 19-308, effective May 1, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Mar. 7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26,29,30

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 19-309

**“Police Officers, Fire Fighters, and Teachers Retirement
Benefit Replacement Act of 1998 Temporary Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-1071 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on February 11, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-676 and was published in the March 15, 2013 edition of the D.C. Register (Vol. 60, page 3388). Act 19-676 was transmitted to Congress on March 7, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-676 is now D.C. Law 19-309, effective May 1, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Mar. 7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26,29,30

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-310****“Omnibus Alcoholic Beverage Regulation Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-824 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on February 11, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-678 and was published in the March 15, 2013 edition of the D.C. Register (Vol. 60, page 3410). Act 19-678 was transmitted to Congress on March 7, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-678 is now D.C. Law 19-310, effective May 1, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

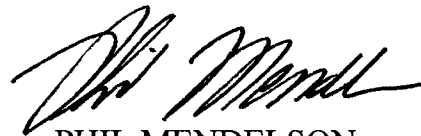
Mar. 7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26,29,30

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-311****“Fire and Emergency Medical Services Employee
Presumptive Disability Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-616 on first and second readings December 4, 2012 and December 18, 2012, respectively. The legislation was deemed approved without the signature of the Mayor on February 15, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-679 and was published in the March 15, 2013 edition of the D.C. Register (Vol. 60, page 3425). Act 19-679 was transmitted to Congress on March 7, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-679 is now D.C. Law 19-311, effective May 1, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Mar. 7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26,29,30

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-312****“Retirement of Public-School Teachers Omnibus Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-1017 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on February 15, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-680 and was published in the March 15, 2013 edition of the D.C. Register (Vol. 60, page 3434). Act 19-680 was transmitted to Congress on March 7, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-680 is now D.C. Law 19-312, effective May 1, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Mar. 7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26,29,30

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-313****“Retirement of Public-School Teachers Omnibus
Temporary Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-1067 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on February 15, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-681 and was published in the March 15, 2013 edition of the D.C. Register (Vol. 60, page 3450). Act 19-681 was transmitted to Congress on March 7, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-681 is now D.C. Law 19-313, effective May 1, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:


Mar. 7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26,29,30

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-314****“Police and Firefighter’s Retirement and
Disability Omnibus Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-1019 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on March 1, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-682 and was published in the March 15, 2013 edition of the D.C. Register (Vol. 60, page 3466). Act 19-682 was transmitted to Congress on March 7, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-682 is now D.C. Law 19-314, effective May 1, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Mar. 7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26,29,30

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-100

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 9, 2013

To disapprove, on an emergency basis, Modification Nos. 1 and 2 to Human Care Agreement No. DCJZ-2010-H-0025 to provide therapeutic family homes services to the District and authorization of payment for the services received under the agreement.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Option Year One Modifications to Human Care Agreement No. DCJZ-2010-H-0025 Disapproval Emergency Act of 2013".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council disapproves Modification Nos, 1 and 2 to Human Care Agreement No. DCJZ-2010-H-0025 with Beyondvision, Inc., to provide therapeutic family homes services, and payment in an amount not-to-exceed \$1,072,171.26 for services received under that agreement for the first option year, from July 2, 2011, through July 1, 2012.

Sec. 3. Fiscal impact statement.

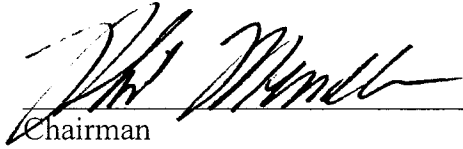
The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-06.02(c)(3)).

Sec. 4. Effective date.

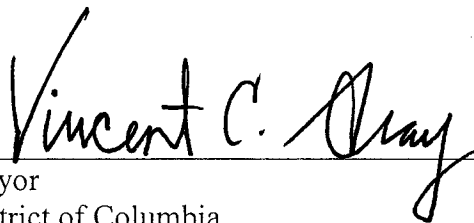
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

ENROLLED ORIGINAL

section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
July 9, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-101

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 9, 2013

To approve, on an emergency basis, Contract No. DCHT-2012-C-0025 with Xerox State Healthcare, LLC to provide and administer a point-of-sale pharmacy system and related activities to support the pharmacy programs for eligible District Medicaid and Medicaid waiver beneficiaries and to authorize payment for the services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Contract No. DCHT-2012-C-0025 Approval and Payment Authorization Emergency Act of 2013".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202(a) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02(a)), the Council approves Contract No. DCHT-2012-C-0025 with Xerox State Healthcare, LLC to provide and administer a point-of-sale pharmacy system and related activities to support the pharmacy programs for eligible District Medicaid and Medicaid waiver beneficiaries and authorizes payment in the amount of \$2,387,126.70 for services received and to be received under the contract.

Sec. 3. Fiscal impact statement.

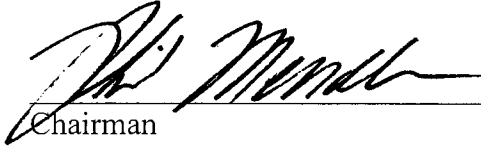
The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

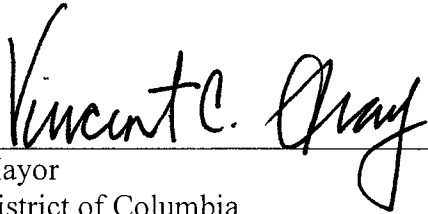
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
July 9, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-102

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 9, 2013

To approve, on an emergency basis, Change Orders Nos. 19 through 027 to Contract No. GM-09-M-0511-FM between the District of Columbia government and EEC of DC | Forrester Construction Anacostia Senior High School Joint Venture for design-build services for the modernization of Anacostia Senior High School, and to authorize payment to EEC of DC | Forrester Construction Anacostia Senior High School Joint Venture in the aggregate amount of \$2,921,117 for the goods and services received under these change orders.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Change Orders Nos. 019 through 027 to Contract No. GM-09-M-0511-FM Approval and Payment Authorization Emergency Act of 2013".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202(a) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02(a)), the Council approves Change Orders Nos. 019 through 027 to Contract No. GM-09-M-0511-FM with EEC of DC | Forrester Construction Anacostia Senior High School Joint Venture for design-build services and additional project scope consisting of changes to flooring materials in Phase 2 spaces, new terrazzo flooring in the cafeteria, and new HAZMAT abatement work, and authorizes payment in the aggregate amount of \$2,921,117 for the goods and services received under these change orders.

Sec. 3. Fiscal impact statement.

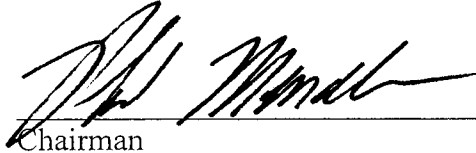
The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

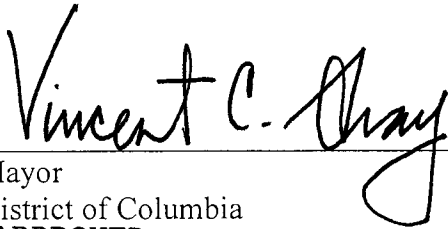
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
July 9, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-103

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 9, 2013

To disapprove, on an emergency basis, Modification Numbers 3 and 4 to Human Care Agreement No. DCJZ-2010-H-0025 to provide therapeutic family homes services to the District and authorization of payment for the services received under the agreement.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Option Year Two Modifications to Human Care Agreement No. DCJZ-2010-H-0025 Disapproval Emergency Act of 2013".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council disapproves Modification Numbers 3 and 4 to Human Care Agreement No. DCJZ-2010-H-0025 with Beyondvision, Inc., to provide therapeutic family homes services, and payment in an amount not-to-exceed \$1,901,419.80 for services received and to be received under that human care agreement for the second option year, from July 2, 2012, through July 1, 2013.

Sec. 3. Fiscal impact statement.

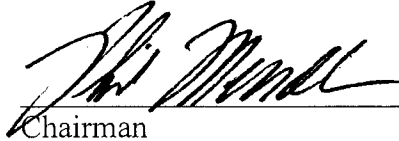
The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

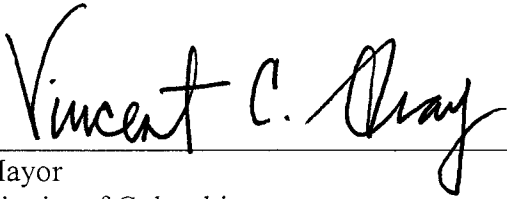
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
July 9, 2013

ENROLLED ORIGINAL

AN ACT
D.C. ACT 20-104

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JULY 2, 2013

To approve, on an emergency basis, Change Orders Nos. 002 through 005 to Contract No. GM-11-M-0606-FM between the District of Columbia government and GCS-Sigal, LLC, to provide design-build services to Cardozo Senior High School, and to authorize payment to GCS-Sigal, LLC, in the aggregate amount of \$4,326,055 for the goods and services to be received under these change orders.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Change Orders Nos. 002 through 005 to Contract No. GM-11-M-0606-FM Approval and Payment Authorization Emergency Act of 2013".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202(a) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02(a)), the Council approves Change Orders Nos. 002 through 005 to Contract No. GM-11-M-0606-FM with GCS-Sigal, LLC, for design-build services and necessary additional project scope as part of the modernization at Cardozo Senior High School, and authorizes payment in the aggregate amount of \$4,326,055 for the goods and services to be received under these change orders.

Sec. 3. Fiscal impact statement.

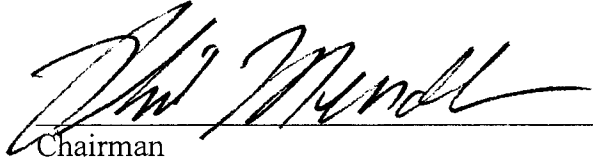
The Council adopts the fiscal statement of the Office of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

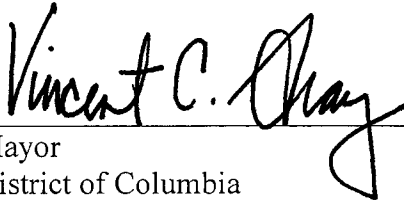
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

ENROLLED ORIGINAL

section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
July 2, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-105

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 9, 2013

To amend, on an emergency basis, the Washington Metropolitan Area Transit Authority Board of Directors Act of 2012 to change the initial appointment date of the Board of Directors appointments from July 1, 2013, to January 2, 2014.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Washington Metropolitan Area Transit Authority Board of Directors Emergency Amendment Act of 2013”.

Sec. 2. Section 2(b)(1) of the Washington Metropolitan Area Transit Authority Board of Directors Act of 2012, effective April 27, 2012 (D.C. Law 19-286; D.C. Official Code § 9-1108.11(b)(1)), is amended by striking the phrase “July 1, 2013” and inserting the phrase “January 2, 2014” in its place.

Sec. 3. Applicability.

This act shall apply as of July 1, 2013.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

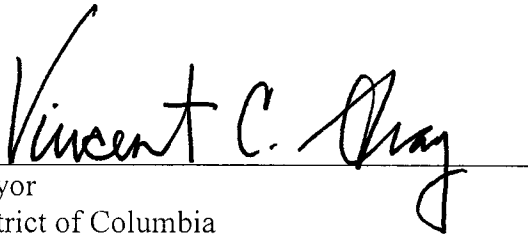
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
July 9, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-106

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 12, 2013

To authorize, on an emergency basis, the Mayor and the Chairman of the Council to jointly execute one or more quitclaim deeds to transfer property located within the Southwest Waterfront Project Site.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Southwest Waterfront Project Quitclaim Deed Authorization Emergency Act of 2013”.

Sec. 2. Authorization of transfer by quitclaim deed.

Pursuant to section 1 of An Act To authorize the Commissioners of the District of Columbia on behalf of the United States to transfer from the United States to the District of Columbia Redevelopment Land Agency title to certain real property in said District, approved September 8, 1960 (74 Stat. 871; D.C. Official Code § 6-321.01), the Mayor and the Chairman of the Council are authorized to jointly execute one or more quitclaim deeds to transfer all right, title, and interest in and to part or all of the property located within the bounds of the site, the legal description of which is the Southwest Waterfront Project Site (dated October 8, 2009) under Exhibit A of the document titled “Intent to Clarify the Legal Description in Furtherance of Land Disposition Agreement”, as filed with the Recorder of Deeds on October 27, 2009, as Instrument Number 2009116776.

Sec. 3. Fiscal impact statement.


The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

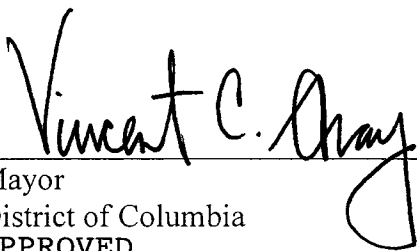
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than

ENROLLED ORIGINAL

90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
July 12, 2013

ENROLLED ORIGINAL

A RESOLUTION

20-221

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 10, 2013

To authorize and provide for the issuance, sale, and delivery in an aggregate principal amount not to exceed \$34 million of District of Columbia revenue bonds in one or more series and to authorize and provide for the loan of the proceeds of the bonds to assist the Washington International School in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Washington International School Refunding Revenue Bonds Project Approval Resolution of 2013”.

Sec. 2. Definitions.

For the purpose of this resolution, the term:

(1) “Authorized Delegate” means the Mayor or the Deputy Mayor for Planning and Economic Development, or any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated or to whom the foregoing individuals have subdelegated any of the Mayor’s functions under this resolution pursuant to section 422(6) of the Home Rule Act.

(2) “Bond Counsel” means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

(3) “Bonds” means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this resolution.

(4) “Borrower” means the owner of the assets financed, refinanced, or reimbursed with proceeds from the Bonds, which shall be the Washington International School, a nonprofit corporation organized under the laws of the District of Columbia and exempt from federal income taxes as an organization described in 26 U.S.C. § 501(c)(3).

(5) “Chairman” means the Chairman of the Council of the District of Columbia.

(6) “Closing Documents” means all documents and agreements other than Financing Documents that may be necessary and appropriate to issue, sell, and deliver the Bonds and to make the Loan contemplated thereby, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(7) “District” means the District of Columbia.

ENROLLED ORIGINAL

(8) “Financing Documents” means the documents other than Closing Documents that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the Bonds and the making of the Loan, including any offering document, and any required supplements to any such documents.

(9) “Home Rule Act” means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

(10) “Issuance Costs” means all fees, costs, charges, and expenses paid or incurred in connection with the authorization, preparation, printing, issuance, sale, and delivery of the Bonds and the making of the Loan, including, but not limited to, underwriting, legal, accounting, rating agency, and all other fees, costs, charges, and expenses incurred in connection with the development and implementation of the Financing Documents, the Closing Documents, and those other documents necessary or appropriate in connection with the authorization, preparation, printing, issuance, sale, marketing, and delivery of the Bonds and the making of the Loan contemplated thereby, together with financing fees, costs, and expenses, including program fees and administrative fees charged by the District, fees paid to financial institutions and insurance companies, initial letter of credit fees (if any), compensation to financial advisors and other persons (other than full-time employees of the District) and entities performing services on behalf of or as agents for the District.

(11) “Loan” means the District’s lending of proceeds from the sale, in one or more series, of the Bonds to the Borrower.

(12) “Project” means the financing, refinancing, or reimbursing of all or a portion of the Borrower’s costs (including payments of principal of, and interest on, the bonds being refunded) to:

(A) Currently refund, including any pre-payment premium, the outstanding District of Columbia Revenue Bonds (Washington International School Issue) Series 2003, which issue was used to:

(i) Refund the outstanding District of Columbia Revenue Bonds (Washington International School Project) Series 1999 (the “Series 1999 Bonds”), the proceeds of which were used to finance, refinance, or reimburse the Borrower for certain costs incurred in connection with:

(I) The construction, renovation, furnishing, and equipping of certain facilities on the Borrower’s existing campus located at 3100 Macomb Street, NW, Washington, D.C. (Lot 0837, Square 2084) (“Macomb Street Campus”);

(II) The acquisition, construction, renovation, furnishing, and equipping of a primary school located at 3601 Reservoir Road, NW, Washington, D.C. (Lot 0014, Square 1304); and

(III) Certain costs of issuance for the Series 1999 Bonds;

(ii) Fund any required deposit to a debt service reserve fund or capitalized interest; and

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(iii) Pay certain costs of issuance and fees and premiums for any bond insurance or credit enhancement;

(B) Currently refund, including any pre-payment premium, the outstanding District of Columbia Revenue Bonds (Washington International School Issue) Series 2006, the proceeds of which were used to:

(i) Finance or reimburse the Borrower for certain costs incurred in connection with the construction or renovation of a library, additional classrooms, and a theatre on the Macomb Street Campus;

(ii) Fund any required debt service reserve fund and capitalized interest; and

(iii) Pay certain costs of issuance, and fees and premiums for any bond insurance, credit enhancement, and other related costs;

(C) Renovate the Borrower’s building located on the Macomb Street Campus, known as the Tregaron Mansion (Lots 0841 and 0845, Square 2084), its surrounding grounds, including, but not limited to, with respect to certain geothermal improvements, and an adjacent cottage, known as the Dacha, and make other capital improvements to the Macomb Street Campus, including, but not limited to, renovations to other Macomb Street Campus buildings, known as the Greenhouse, the Gardener’s Cottage, and the Academic, Arts & Athletics Building; and

(D) Pay Issuance Costs for the Bonds.

Sec. 3. Findings.

The Council finds that:

(1) Section 490 of the Home Rule Act provides that the Council may by resolution authorize the issuance of District revenue bonds, notes, or other obligations (including refunding bonds, notes, or other obligations) to borrow money to finance, refinance, or reimburse costs, and to assist in the financing, refinancing, or reimbursing of the costs of undertakings in certain areas designated in section 490 and may effect the financing, refinancing, or reimbursement by loans made directly or indirectly to any individual or legal entity, by the purchase of any mortgage, note, or other security, or by the purchase, lease, or sale of any property.

(2) The Borrower has requested the District to issue, sell, and deliver revenue bonds, in one or more series, in an aggregate principal amount not to exceed \$34 million and to make the Loan for the purpose of financing, refinancing, or reimbursing costs of the Project.

(3) The Project is located in the District and will contribute to the health, education, safety, or welfare of, or the creation or preservation of jobs for, residents of the District, or to economic development of the District.

(4) The Project is an undertaking in the area of elementary and secondary education facilities as set forth within the meaning of section 490 of the Home Rule Act.

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(5) The authorization, issuance, sale, and delivery of the Bonds and the Loan to the Borrower are desirable, are in the public interest, will promote the purpose and intent of section 490 of the Home Rule Act, and will assist the Project.

Sec. 4. Bond authorization.

(a) The Mayor is authorized pursuant to the Home Rule Act and this resolution to assist in financing, refinancing, or reimbursing the costs of the Project by:

(1) The issuance, sale, and delivery of the Bonds, in one or more series, in an aggregate principal amount not to exceed \$34 million; and

(2) The making of the Loan.

(b) The Mayor is authorized to make the Loan to the Borrower for the purpose of financing, refinancing, or reimbursing the costs of the Project and establishing any fund with respect to the Bonds as required by the Financing Documents.

(c) The Mayor may charge a program fee to the Borrower, including, but not limited to, an amount sufficient to cover costs and expenses incurred by the District in connection with the issuance, sale, and delivery of each series of the Bonds, the District's participation in the monitoring of the use of the Bond proceeds and compliance with any public benefit agreements with the District, and maintaining official records of each bond transaction and assisting in the redemption, repurchase, and remarketing of the Bonds.

Sec. 5. Bond details.

(a) The Mayor is authorized to take any action reasonably necessary or appropriate in accordance with this resolution in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the Bonds of each series, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the Bonds, including a determination that the Bonds may be issued in certificated or book-entry form;

(2) The principal amount of the Bonds to be issued and denominations of the Bonds;

(3) The rate or rates of interest or the method for determining the rate or rates of interest on the Bonds;

(4) The date or dates of issuance, sale, and delivery of, and the payment of interest on the Bonds, and the maturity date or dates of the Bonds;

(5) The terms under which the Bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

(6) Provisions for the registration, transfer, and exchange of the Bonds and the replacement of mutilated, lost, stolen, or destroyed Bonds;

(7) The creation of any reserve fund, sinking fund, or other fund with respect to the

ENROLLED ORIGINAL

Bonds;

- (8) The time and place of payment of the Bonds;
- (9) Procedures for monitoring the use of the proceeds received from the sale of the Bonds to ensure that the proceeds are properly applied to the Project and used to accomplish the purposes of the Home Rule Act and this resolution;
- (10) Actions necessary to qualify the Bonds under blue sky laws of any jurisdiction where the Bonds are marketed; and
- (11) The terms and types of credit enhancement under which the Bonds may be secured.

(b) The Bonds shall contain a legend, which shall provide that the Bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve the faith and credit or the taxing power of the District, do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

(c) The Bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary of the District of Columbia's manual or facsimile signature. The Mayor's execution and delivery of the Bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the Bonds.

(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds.

(e) The Bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee to be selected by the Borrower subject to the approval of the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home Rule Act.

(f) The Bonds may be issued at any time or from time to time in one or more issues and in one or more series.

Sec. 6. Sale of the Bonds.

(a) The Bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interest of the District.

(b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the Bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters and may authorize the distribution of the documents in connection with the sale of the Bonds.

(c) The Mayor is authorized to deliver the executed and sealed Bonds, on behalf of the District, for authentication, and, after the Bonds have been authenticated, to deliver the Bonds to the

ENROLLED ORIGINAL

original purchasers of the Bonds upon payment of the purchase price.

(d) The Bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the Bonds of such series and, if the interest on the Bonds is expected to be exempt from federal income taxation, the treatment of the interest on the Bonds for purposes of federal income taxation.

Sec. 7. Payment and security.

(a) The principal of, premium, if any, and interest on, the Bonds shall be payable solely from proceeds received from the sale of the Bonds, income realized from the temporary investment of those proceeds, receipts and revenues realized by the District from the Loan, income realized from the temporary investment of those receipts and revenues prior to payment to the Bond owners, other moneys that, as provided in the Financing Documents, may be made available to the District for the payment of the Bonds, and other sources of payment (other than from the District), all as provided for in the Financing Documents.

(b) Payment of the Bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the Bond owners of certain of its rights under the Financing Documents and Closing Documents, including a security interest in certain collateral, if any, to the trustee for the Bonds pursuant to the Financing Documents.

(c) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the Bonds pursuant to the Financing Documents.

Sec. 8. Financing and Closing Documents.

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the Bonds and to make the Loan to the Borrower. Each of the Financing Documents and each of the Closing Documents to which the District is not a party shall be approved, as to form and content, by the Mayor.

(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Financing Documents and the Closing Documents to which the District is a party.

(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of said executed Financing Documents and said executed Closing Documents.

(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and

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delivery of the Bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

Sec. 9. Authorized delegation of authority.

To the extent permitted by District and federal laws, the Mayor may delegate to any Authorized Delegate the performance of any function authorized to be performed by the Mayor under this resolution.

Sec. 10. Limited liability.

(a) The Bonds shall be special obligations of the District. The Bonds shall be without recourse to the District. The Bonds shall not be general obligations of the District, shall not be a pledge of or involve the faith and credit or the taxing power of the District, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

(b) The Bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the Bonds.

(c) Nothing contained in the Bonds, in the Financing Documents, or in the Closing Documents shall create an obligation on the part of the District to make payments with respect to the Bonds from sources other than those listed for that purpose in section 7.

(d) The District shall have no liability for the payment of any Issuance Costs or for any transaction or event to be effected by the Financing Documents.

(e) All covenants, obligations, and agreements of the District contained in this resolution, the Bonds, and the executed, sealed, and delivered Financing Documents and Closing Documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set forth in this resolution.

(f) No person, including, but not limited to, the Borrower and any Bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District or any of its elected or appointed officials, officers, employees, or agents to perform any covenant, undertaking, or obligation under this resolution, the Bonds, the Financing Documents, or the Closing Documents, nor as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

Sec. 11. District officials.

(a) Except as otherwise provided in section 10(f), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the Bonds or be subject to any personal liability by reason of the issuance, sale, or delivery of the Bonds, or for any

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representations, warranties, covenants, obligations, or agreements of the District contained in this resolution, the Bonds, the Financing Documents, or the Closing Documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the Bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the Bonds, the Financing Documents, or the Closing Documents.

Sec.12. Maintenance of documents.

Copies of the specimen Bonds and of the final Financing Documents and Closing Documents shall be filed in the Office of the Secretary of the District of Columbia.

Sec.13. Information reporting.

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the Bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

Sec. 14. Disclaimer.

(a) The issuance of Bonds is in the discretion of the District. Nothing contained in this resolution, the Bonds, the Financing Documents, or the Closing Documents shall be construed as obligating the District to issue any Bonds for the benefit of the Borrower or to participate in or assist the Borrower in any way with financing, refinancing, or reimbursing the costs of the Project. The Borrower shall have no claims for damages or for any other legal or equitable relief against the District, its elected or appointed officials, officers, employees, or agents as a consequence of any failure to issue any Bonds for the benefit of the Borrower.

(b) The District reserves the right to issue the Bonds in the order or priority it determines in its sole and absolute discretion. The District gives no assurance and makes no representations that any portion of any limited amount of bonds or other obligations, the interest on which is excludable from gross income for federal income tax purposes, will be reserved or will be available at the time of the proposed issuance of the Bonds.

(c) The District, by adopting this resolution or by taking any other action in connection with financing, refinancing, or reimbursing costs of the Project, does not provide any assurance that the Project is viable or sound, that the Borrower is financially sound, or that amounts owing on the Bonds or pursuant to the Loan will be paid. Neither the Borrower, any purchaser of the Bonds, nor any other person shall rely upon the District with respect to these matters.

Sec. 15. Expiration.

If any Bonds are not issued, sold, and delivered to the original purchaser within 3 years of the date of this resolution, the authorization provided in this resolution with respect to the issuance,

ENROLLED ORIGINAL

sale, and delivery of the Bonds shall expire.

Sec. 16. Severability.

If any particular provision of this resolution or the application thereof to any person or circumstance is held invalid, the remainder of this resolution and the application of such provision to other persons or circumstances shall not be affected thereby. If any action or inaction contemplated under this resolution is determined to be contrary to the requirements of applicable law, such action or inaction shall not be necessary for the purpose of issuing of the Bonds, and the validity of the Bonds shall not be adversely affected.

Sec. 17. Compliance with public approval requirement.

This approval shall constitute the approval of the Council as required in section 147 (f) of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2635; 26 U.S.C. § 147(f)), and section 490(k) of the Home Rule Act, for the Project to be financed, refinanced, or reimbursed with the proceeds of the Bonds. This resolution approving the issuance of the Bonds for the Project has been adopted by the Council after a public hearing held at least 14 days after publication of notice in a newspaper of general circulation in the District.

Sec. 18. Transmittal.

The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Mayor.

Sec. 19. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the Home Rule Act.

Sec. 20. Effective date.

This resolution shall take effect immediately.

**COUNCIL OF THE DISTRICT OF COLUMBIA
NOTICE OF INTENT TO ACT ON NEW LEGISLATION**

The Council of the District of Columbia hereby gives notice of its intention to consider the following legislative matters for final Council action in not less than **15 days**. Referrals of legislation to various committees of the Council are listed below and are subject to change at the legislative meeting immediately following or coinciding with the date of introduction. It is also noted that legislation may be co-sponsored by other Councilmembers after it's introduction.

Interested persons wishing to comment may do so in writing addressed to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, NW, Room 5, Washington, D.C. 20004. Copies of bills and proposed resolutions are available in the Legislative Services Division, 1350 Pennsylvania Avenue, NW, Room 10, Washington, D.C. 20004 Telephone: 724-8050 or online at www.dccouncil.us.

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COUNCIL OF THE DISTRICT OF COLUMBIA	PROPOSED LEGISLATION
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BILLS

B20-382 Skyland Town Center Omnibus Act of 2013

Intro. 07-03-13 by Chairman Mendelson at the request of the Mayor and referred sequentially to (A) the Committee on Finance and Revenue (Title 2 only), the Committee on Government Operations (Title 3 only) and the Committee on Economic Development (Title 4 only); (B) the entire bill will then be referred to the Committee of the Whole

B20-387 Electric Company Infrastructure Improvement Financing Act of 2013

Intro. 07-09-13 by Chairman Mendelson at the request of the Mayor and referred sequentially to the Committee on Finance and Revenue and the Committee on Government Operations with comments from the Committee on Transportation and the Environment

B20-388 Closing of a Public Alley in Square 858, S.O. 12-03336, Act of 2013

Intro. 07-09-13 by Councilmember Wells and referred to the Committee of the Whole

B20-407 Healthy Tots Act of 2013

Intro. 07-10-13 by Councilmember Cheh and referred to the Committee on Education

B20-408 Tax Transparency and Effectiveness Act of 2013

Intro. 07-10-13 by Councilmember Cheh and referred to the Committee on Finance and Revenue with comments from the Committee Economic Development

BILLS Con't

- B20-409 Simple Possession of Small Quantities of Marijuana Decriminalization Amendment Act of 2013
- Intro. 07-10-13 by Councilmembers Wells, Barry, McDuffie, Evans, Bonds, Grosso, Graham, and Cheh and referred to the Committee on Judiciary and Public Safety
-
- B20-410 Breastmilk Bank and Lactation Support Act of 2013
- Intro. 07-10-13 by Councilmembers Alexander, Bonds, Barry and Cheh and referred to the Committee on Health
-
- B20-411 Health Enterprise Zone Act of 2013
- Intro. 07-10-13 by Councilmembers Alexander, Barry, Bonds and Evans and referred to the Committee on Finance and Revenue with comments from the Committee on Health
-
- B20-412 Universal Code of Conduct and BEGA Amendment Act of 2013
- Intro. 07-10-13 by Councilmembers McDuffie, Grosso, Cheh, Wells, Bowser, and Chairman Mendelson and referred to the Committee on Government Operations
-
- B20-413 Residency Requirement for Government Employees Amendment Act of 2013
- Intro. 07-10-13 by Councilmembers Barry, Alexander, Bonds, McDuffie, Graham, Bowser, Orange, Evans and Grosso and referred sequentially to the Committee on Workforce and Community Affairs and the Committee on Government Operations
-
- B20-414 Temporary Assistance for Needy Families Cost-of-Living Adjustment Amendment Act of 2013
- Intro. 07-10-13 by Councilmembers Barry and Graham and referred to the Committee on Human Services
-
- B20-415 Workers' Compensation and Disability Compensation Amendment Act of 2013
- Intro. 07-10-13 by Councilmember Barry and referred sequentially to the Committee on Workforce and Community Affairs and the Committee on Government Operations
-
- B20-416 Chief Financial Officer Compensation Amendment Act of 2013
- Intro. 07-10-13 by Chairman Mendelson and Councilmember Evans and referred to the Committee of the Whole
-

BILLS Con't

- B20-417 Sexual Assault Victims' Rights Amendment Act of 2013
Intro. 07-10-13 by Chairman Mendelson and Councilmember Wells and referred to the Committee on Judiciary and Public Safety
-
- B20-418 Renewable Energy Portfolio Standard Amendment Act of 2013
Intro. 07-10-13 by Chairman Mendelson and Councilmember Cheh and referred to the Committee on Government Operations
-
- B20-419 Civil Forfeiture Procedures Amendment Act of 2013
Intro. 07-10-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
-
- B20-420 DC Tax Lien Assignment Act of 2013
Intro. 07-11-13 by Councilmember Evans and referred to the Committee on Finance and Revenue

PROPOSED RESOLUTION

- PR20-375 Collective Bargaining Agreement between the District of Columbia Government Department of General Services and Teamster Locals 639 and 730, Affiliated with the International Brotherhood of Teamsters, FY 2013-FY 2017, Approval Resolution of 2013
Intro. 07-09-13 by Chairman Mendelson at the request of the Mayor and retained by the Council with comments from the Committee of the Whole
-
- PR20-377 Board of Dietetics and Nutrition Janet Unonu Confirmation Resolution of 2013
Intro. 07-08-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health
-
- PR20-378 District of Columbia Corrections Information Council Reverend Samuel W. Whittaker Confirmation Resolution of 2013
Intro. 07-08-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
-

PROPOSED RESOLUTIONS Con't

- PR20-380 Medical Marijuana Regulations Sliding Scale Program Approval Resolution of 2013
Intro. 07-08-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health
-
- PR20-381 Director of the Department of Behavioral Health Stephen T. Baron Confirmation Resolution of 2013
Intro. 07-09-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health
-
- PR20-384 Council Period 20 Recess Rules Amendment Resolution of 2013
Intro. 07-09-13 by Chairman Mendelson and retained by the Council
-
- PR20-398 Sense of the Council for Expansion of Integrated Care for Home Bound Patients Resolution of 2013
Intro. 07-10-13 by Councilmembers Alexander, Barry, Bonds, Bowser, Catania, Cheh, Evans, Graham, Grosso, McDuffie, Orange, Wells and Chairman Mendelson and retained by the Council
-
- PR20-399 Sense of the Council on NBC4 Washington's Review of Reporters Ethical Standards and Accuracy Resolution of 2013
Intro. 7-10-13 by Councilmember Orange and retained by the Council
-
- PR20-400 Motor Vehicle Inspection Regulations Approval Resolution of 2013
Intro. 07-10-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment
-

COUNCIL OF THE DISTRICT OF COLUMBIA**CONSIDERATION OF TEMPORARY LEGISLATION**

B20-353, “Extension of Time to Dispose of Hine Junior High School Temporary Approval Act of 2013”, **B20-385**, “Spring Place Real Property Limited Tax Abatement Assistance Temporary Act of 2013”, **B20-391**, “Chief Financial Officer Compensation Temporary Amendment Act of 2013”, **B20-396**, “CCNV Task Force Temporary Act of 2013”, **B20-399**, “Fire and Emergency Medical Services Major Changes Temporary Amendment Act of 2013”, **B20-403**, “Capitol Hill Business Improvement District Temporary Amendment Act of 2013”, and **B20-405**, “School Transit Subsidy Temporary Amendment Act of 2013” were adopted on first reading on July 10, 2013. These temporary measures were considered in accordance with Council Rule 413. A final reading on these measures will occur on September 17, 2013.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, JULY 24, 2013
2000 14TH STREET, N.W., SUITE 400S,
WASHINGTON, D.C. 20009

Ruthanne Miller, Chairperson
Members:

Nick Alberti, Donald Brooks, Herman Jones, Mike Silverstein

Protest Hearing (Status) **9:30 AM**
Case # 13-PRO-00092; Busboys of Takoma, LLC, t/a Busboys & Poets, 235
Carroll Street NW, License #92008, Retailer CR, ANC 4B
New Application

Protest Hearing (Status) **9:30 AM**
Case # 13-PRO-00081; The Historic Georgetown Club, Inc., t/a Georgetown
Club at Suter, 1530 Wisconsin Ave NW, License #779, Retailer CX, ANC 2E
Renewal Application

Protest Hearing (Status) **9:30 AM**
Case # 13-PRO-00088; Dos Ventures, LLC, t/a Riverfront at the Ballpark, 25
Potomac Ave SE, License #92040, Retailer CT, ANC 6D
New Application

Protest Hearing (Status) **9:30 AM**
Case # 13-PRO-00058; Matchbox Capitol Hill, LLC, t/a Matchbox, 521 8th
Street SE, License #79276, Retailer CR, ANC 6B
Renewal Application

Protest Hearing (Status) **9:30 AM**
Case # 13-PRO-00077; Sami Restaurant, LLC, t/a Bistro 18, 2420 18th Street
NW, License #86876, Retailer CR, ANC 1C
Renewal Application

Protest Hearing (Status) **9:30 AM**
Case # 13-PRO-00051; TBM Holdings, LLC, t/a TruOrleans, 400 H Street NE
License #86210, Retailer CR, ANC 6C
Renewal Application

Board's Calendar
Page -2- July 24, 2013

- Protest Hearing (Status)** **9:30 AM**
Case # 13-PRO-00067; RS of Washington DC, LLC, t/a Zengo, 781 7th Street NW, License #73795, Retailer CR, ANC 2C
Renewal Application
- Protest Hearing (Status)** **9:30 AM**
Case # 13-PRO-00027; 2100, LLC, t/a La Fonda, 2100 14th Street NW, License #85469, Retailer CR, ANC 1B
Renewal Application
- Show Cause Hearing (Status)** **9:30 AM**
Case # 13-251-00009; PTC, Inc., t/a Roadside Café, 2101 Benning Road NE License #88358, Retailer Caterer, ANC 7D
Sold, Delivered and Served Alcoholic Beverages for Consumption at a Catered Event, No ABC Manager on Duty, Failed to Take Steps Necessary to Ascertain Legal Drinking Age, Stored Alcoholic Beverages in the District of Columbia Without Boards Approval, Failed to File Semiannual Caterer's Report, Substantial Change without Board's Approval, Failed to Keep and Maintain Records for Inspection, Removed Unsealed Containers of Alcoholic Beverages from the Premises
- Show Cause Hearing (Status)** **9:30 AM**
Case # 13-CMP-00177; MYRB Corporation, t/a Geranium Market, 7350 Georgia Ave NW, License #60723, Retailer B, ANC 4A
Sold Go-Cups
- Show Cause Hearing (Status)** **9:30 AM**
Case # 13-CMP-00126; Chez Aunty Libe, LLC, t/a Chez Aunty Libe Restaurant, 6115 Georgia Ave NW, License #89030, Retailer DR, ANC 4B
Failed to File Quarterly Statements (4th Quarter 2013)
- Show Cause Hearing (Status)** **9:30 AM**
Case # 13-CMP-00006; Sula, LLC, t/a Masa 14, 1825 14th Street NW, License #81469, Retailer CR, ANC 1B
Failed to File Quarterly Statements (3rd Quarter 2012)
- Show Cause Hearing** **10:00 AM**
Case # 13-AUD-00002; Sisy's Salvadoran and Mexican Restaurant, Inc., t/a Sisy's, 3911 14th Street NW, License #76125, Retailer CR, ANC 4C
Failed to Maintain Books and Records

Board's Calendar
Page -2- July 18, 2013

Show Cause Hearing **11:00 AM**
Case # 13-CMP-00012; Bee Hive, LLC, t/a Sticky Rice, 1224 H Street NE
License #72783, Retailer CR, ANC 6A
**Failed to Allow an ABRA Investigator to Enter or Inspect Without Delay or
Otherwise Interfered with an Investigation**

BOARD RECESS AT 12:00 PM
ADMINISTRATIVE AGENDA
1:00 PM

Show Cause Hearing **1:30 PM**
Case # 12-CMP-00634; Biergarten Haus, Inc., t/a Biergarten Haus, Inc.
1355 H Street NE, License #83695, Retailer CT, ANC 6A
Permitted Patrons to Take Alcoholic Beverages off the Premises

Protest Hearing **2:30 PM**
Case # 13-PRO-00063; SST Management, LLC, t/a Bin 1301 Wine Bar
1301 U Street NW, License #91682, Retailer CT, ANC 1B
New Application

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: July 19, 2013
Petition Date: September 3, 2013
Hearing Date: September 16, 2013
Protest Hearing Date: November 6, 2013

License No.: ABRA- 92541
Licensee: BRRCO Mass Ave LLC
Trade Name: Bolt Burger
License Class: Retailer's Class "C" Restaurant
Address: 1010 Massachusetts Avenue NW
Contact: Andrew J. Kline, 202-686-7600

WARD 2 ANC 2C SMD 2C01

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 1:30pm November 6, 2013.

NATURE OF OPERATION

New restaurant serving burgers and fries with seating for 79 patrons, Total occupancy load 137. Sidewalk Café with seating for 48 patrons. No entertainment, no dancing.

HOURS OF OPERATION FOR INSIDE PREMISES AND SIDEWALK CAFE

Sunday through Thursday 7am-2am; Friday and Saturday 7am-3am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE AND CONSUMPTION FOR INSIDE PREMISES AND SIDEWALK CAFÉ

Sunday through Thursday 8am-2am; Friday and Saturday 8am-3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
7/19/2013

Notice is hereby given that:

License Number: ABRA-060401

License Class/Type: C Restaurant

Applicant: Zinat Inc.

Trade Name: Carriage House Pub

ANC:

Has applied for the renewal of an alcoholic beverages license at the premises:

2333 18TH ST NW, Washington, DC 20009

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:

9/3/2013

HEARING WILL BE HELD ON

9/16/2013

AT 10:00 AM, 2000 14th Street, NW, 4th Floor, Washington, DC 20009

ENDORSEMENTS: Dancing, Entertainment, Sidewalk Cafe, Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 2 am	11 am - 2 am	n/a -
Monday:	11 am - 2 am	11 am - 2 am	n/a -
Tuesday:	11 am - 2 am	11 am - 2 am	n/a -
Wednesday:	11 am - 2 am	11 am - 2 am	n/a -
Thursday:	11 am - 2 am	11 am - 2 am	10 pm - 1:30 am
Friday:	11 am - 3 am	11 am - 3 am	10 pm - 2:30 am
Saturday:	11 am - 3 am	11 am - 3 am	10 pm - 2:30 am

Days	Hours of Sidewalk Cafe Operation	Hours of Summer Garden Operation
Sunday:	11 am - 2 am	
Monday:	11 am - 2 am	
Tuesday:	11 am - 2 am	
Wednesday:	11 am - 2 am	
Thursday:	11 am - 2 am	
Friday:	11 am - 3 am	
Saturday:	11 am - 3 am	

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
7/19/2013**

Notice is hereby given that:

License Number: ABRA-078058

License Class/Type: C Restaurant

Applicant: Prospect Dining, LLC

Trade Name: George

ANC:

Has applied for the renewal of an alcoholic beverages license at the premises:

3251 PROSPECT ST NW CS-1, WASHINGTON, DC 20007

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:

9/3/2013

HEARING WILL BE HELD ON

9/16/2013

AT 10:00 AM, 2000 14th Street, NW, 4th Floor, Washington, DC 20009

ENDORSEMENTS: Dancing, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Monday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Tuesday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Wednesday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Thursday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Friday:	11 am - 3 am	11 am - 3 am	6 pm - 3 am
Saturday:	11 am - 3 am	11 am - 3 am	6 pm - 3 am

****RESCIND****

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: July 5, 2013
Petition Date: August 19, 2013
Hearing Date: September 3, 2013
Protest Date: October 23, 2013

License No.: ABRA-087961
Licensee: PTC, Inc.
Trade Name: Pelican’s Rum
License Class: Retailer’s “C” Restaurant
Address: 928 U Street NW
Contact Information: Andrew Harris 202 368-1948

WARD 1 ANC 1B SMD 1B02

Notice is hereby given that this licensee has applied for a substantial change to the License under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 2000 14th Street, NW, 4th Floor, Washington, D.C. 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 1:30 pm on October 23, 2013.

NATURE OF OPERATION

Restaurant Transfer to New Location. Transferring from 2101 Benning Road, NE (Safekeeping) Summer Garden. Occupancy Load is 60.

HOURS OF OPERATON

Sunday through Thursday 7 am – 2 am; Friday and Saturday 7 am – 4 am

HOURS OF SALES/SERVICE/CONSUMPTION

Sunday through Thursday 10 am – 2 am; Friday and Saturday 10 am – 3 am

HOURS OF OPERATON FOR SUMMER GARDEN

Sunday through Saturday 7 am – 2 am

HOURS OF SALES/SERVICE/CONSUMPTION OF SUMMER GARDEN

Sunday through Saturday 10 am – 2 am

HOURS OF ENTERTAINMENT

Sunday through Saturday 7 am – 4 am

HOURS OF ENTERTAINMENT FOR SUMMER GARDEN

Sunday through Saturday 7 am-2 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
7/19/2013

Notice is hereby given that:

License Number: ABRA-010284

License Class/Type: C Restaurant

Applicant: Adams Morgan Spaghetti Gardens Inc

Trade Name: Spaghetti Garden Brass Monkey Peyote Roxanne

ANC: 1C

Voluntary Agreement

Has applied for the renewal of an alcoholic beverages license at the premises:

2317 - 2319 18th ST NW, WASHINGTON, DC 20009

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:

9/3/2013

HEARING WILL BE HELD ON

9/16/2013

AT 10:00 AM, 2000 14th Street, NW, 4th Floor, Washington, DC 20009

ENDORSEMENTS: Dancing, Entertainment, Sidewalk Cafe, Summer Garden

Table with 4 columns: Days, Hours of Operation, Hours of Sales/Service, Hours of Entertainment. Rows for Sunday through Saturday.

Table with 3 columns: Days, Hours of Sidewalk Cafe Operation, Hours of Summer Garden Operation. Rows for Sunday through Saturday.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: July 19, 2013
Petition Date: September 3, 2013
Hearing Date: September 16, 2013
Protest Hearing Date: November 6, 2013

License No.: ABRA- 92730
Licensee: Wagshal's 3201, LLC
Trade Name: Wagshal's
License Class: Retailer's Class "B"
Address: 3201 New Mexico Avenue NW
Contact: Louis Courembis, 202-349-9510

WARD 3 ANC 3D SMD 3D08

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 1:30pm November 6, 2013.

NATURE OF OPERATION

New grocery store

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES

Sunday through Saturday 8am-9pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**NOTICE OF PUBLIC HEARING**

Posting Date: July 19, 2013
Petition Date: September 3, 2013
Hearing Date: September 16, 2013
Protest Hearing Date: November 6, 2013

License No.: ABRA- 92731
Licensee: Wagshal's 3201, LLC
Trade Name: Wagshal's
License Class: Retailer's Class "D" Restaurant
Address: 3201 New Mexico Avenue NW
Contact: Louis Courembis, 202-349-9510

WARD 3 ANC 3D SMD 3D08

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 1:30pm November 6, 2013.

NATURE OF OPERATION

New restaurant where shoppers can eat food purchased at the food market on the premises. Seating capacity is 38. Total load is 82. Summer Garden with seating for 44 patrons.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGES SALES/SERVICE AND CONSUMPTION FOR INSIDE PREMISES AND SUMMER GARDEN

Sunday through Saturday 8am-9pm

DEPARTMENT OF GENERAL SERVICES

NOTICE OF PUBLIC MEETINGS REGARDING
SURPLUS RESOLUTIONS PURSUANT TO D.C. OFFICIAL CODE 10-801

The District will conduct a public hearing to receive public comments on the proposed surplus of the following District properties. The date, time and location shall be as follows:

Properties: Square 3552, Lot 0816 – 301 Douglas Street, NE (“Shaed Elementary School Building”)

Date: August 21, 2013

Time: 6:00 p.m.

Location: Edgewood Recreation Center
3 Evarts St NE
Washington, DC 20017

Contact: Althea O. Holford, Real Estate Specialist
Department of General Services
202.478.2428 or althea.holford@dc.gov

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE OF PUBLIC HEARING

Extension Of The Term Of The Golden Triangle Business Improvement District

Notice is hereby given that, pursuant to section 18 of the Business Improvement Districts Act of 1996, D.C. Official Code § 2-1215.18, the Department of Small and Local Business Development on behalf of the Deputy Mayor for Planning and Economic Development will hold a public hearing to determine whether to approve the request by the Golden Triangle Business Improvement District (BID) to extend the term of the BID for another 5 years. The current term of the Golden Triangle BID will expire September 30, 2013. If the request for extension is granted, the new term will expire on September 30, 2018.

The hearing will be held at 6:00 p.m. on **Thursday, August 15, 2013** in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Washington, DC.

This public hearing is being conducted to inform citizens about the application to extend the term of the Golden Triangle Business Improvement District and to ensure that interested parties have an opportunity to present their views on the application in a public forum. **Complete copies of the application will be available, effective Thursday, August 8, 2013**, for public review between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday at the Department of Small and Local Business Development (at Judiciary Square), 441 4th Street, NW, Suite 970N, Washington, DC. The recertification package will also be available at the Golden Triangle BID office between 8:30 am and 5:30 pm, effective August 8, 2013. The Golden Triangle BID office is located at 1120 Connecticut Avenue, NW, Suite 260, Washington, DC.

Those who wish to present testimony are requested to submit their written responses along with the following information, no later than 12:00 noon on **Friday, August 2, 2013**: (a) the name of the person wishing to testify; (b) his/her company or affiliation; (c) his/her status as a commercial property owner, tenant, representative of an exempt property, resident, or private citizen; and (d) a phone number where he/she can be reached. Individuals presenting testimony are requested to bring five copies of their testimony to the hearing. Individuals will be limited to 5 minutes of oral testimony and organizations will be limited to 10 minutes of oral testimony.

Those who do not wish to testify at the hearing, but wish to present written comments on the application may submit them in hard copy to the Department of Small and Local Business Development, 441 4th Street, NW, Suite 970N, Washington, DC 20001, no later than 12:00 noon on **Friday, August 9, 2013**.

All written testimony and comments may be submitted to Lincoln Lashley at lincoln.lashley@dc.gov, and questions about this hearing should be directed to him at (202) 741-0814.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING**

TIME AND PLACE: **Thursday, October 10, 2013, @ 6:30 P.M.**
Jerrily R. Kress Memorial Hearing Room
441 4th Street, NW, Suite 220
Washington, DC 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 10-31 (DC Ballpark 2 LLC - Capitol Gateway Overlay District Review @ Square 700 Lots 37, 38, 39, 45, 46, 803, and alley being closed, and variance request to loading requirements of 11 DCMR § 2201.1)

THIS CASE IS OF INTEREST TO ANC 6D

On December 28, 2010, the Office of Zoning received an application from MR Ballpark 2, LLC, which application was supplemented on June 18, 2013, including identifying DC Ballpark 2, LLC (the “Applicant”) as the current owner of the property and acknowledging its intent to proceed with the application. The Applicant is requesting review and approval of a new office building with ground floor retail uses pursuant to the requirements of the Capitol Gateway (CG) Overlay District set forth in 11 DCMR § 1610 of the Zoning Regulations. In addition, pursuant to 11 DCMR § 1610.7, the Applicant is seeking variance relief from the loading requirements of 11 DCMR § 2201.1.

The site includes approximately 29,626 square feet of land area. Square 700 is bounded by M Street on the north, Van Street on the east, N Street on the south, and South Capitol Street on the west in southeast Washington, D.C. The site is located within the CR District and within the CG Overlay.

The Applicant proposes to develop the site with a new, eleven-story office building with ground floor retail. The proposed building will have an overall density of approximately 9.49 FAR and will rise to a maximum height of 130 feet. The building will contain approximately 9,420 square feet of gross floor area devoted to retail use. The building will also include a three-level underground parking garage that provides a total of 186 parking spaces.

This public hearing will be conducted in accordance with the contested case provisions of the Zoning Regulations 11 DCMR § 3022.

Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person’s interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. Persons seeking party status **shall file with the Commission, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application, a copy of which may be downloaded from the Office of Zoning’s website at: <http://dcoz.dc.gov/services/app.shtm>.** This form may also be obtained from the Office of Zoning at the address stated below.

Z.C. PUBLIC HEARING NOTICE
Z.C. CASE NO. 10-31
PAGE 2

Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusions in the record.

If an affected Advisory Neighborhood Commission (ANC), pursuant to 11 DCMR 3012.5, intends to participate at the hearing, the ANC shall also submit the information cited in § 3012.5 (a) through (i). The written report of the ANC shall be filed no later than seven (7) days before the date of the hearing.

The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

- | | | |
|----|----------------------------------|-------------------------|
| 1. | Applicant and parties in support | 60 minutes collectively |
| 2. | Parties in opposition | 60 minutes collectively |
| 3. | Organizations | 5 minutes each |
| 4. | Individuals | 3 minutes each |

Pursuant to § 3020.3, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

Information should be forwarded to the Director, Office of Zoning, Suite 200-S, 441 4th Street, NW, Washington, DC 20001. Please include the number of this particular case and your daytime telephone number. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

ANTHONY J. HOOD, MARCIE I. COHEN, PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING**

TIME AND PLACE: **Monday, September 23, 2013, @ 6:30 p.m.**
 Jerrily R. Kress Memorial Hearing Room
 441 4th Street, N.W., Suite 220-S
 Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

Case No. 10-32A Georgetown University – Northeast Triangle Residence Hall

THIS CASE IS OF INTEREST TO ANC 2E

Application of President and Directors of Georgetown College (Georgetown University), pursuant to 11 DCMR § 3104.1, for amendment to the 2010-2017 Campus Plan and further processing of the 2010-2017 Campus Plan, as well as variance relief from 11 DCMR § 400.9, to permit the construction of a new residence hall on the University's Main Campus, located at 3700 O Street, N.W. (Square 1321, Lot 1). The proposed residence hall is located in the center of the campus to the south of Henle Village and to the east of the Leavey Center.

PLEASE NOTE:

- Failure of the Applicant to appear at the public hearing will subject the application or appeal to dismissal at the discretion of the Commission.
- Failure of the Applicant to be adequately prepared to present the application to the Commission, and address the required standards of proof for the application, may subject the application to postponement, dismissal, or denial.

The public hearing in this case will be conducted in accordance with the provisions of Chapter 31 of the District of Columbia Municipal Regulations, Title 11, Zoning. Pursuant to § 3117.4 of the Regulations, the Commission will impose time limits on the testimony of all individuals.

How to participate as a witness.

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

Z.C. NOTICE OF PUBLIC HEARING
Z.C. CASE NO. 10-32A
PAGE 2

How to participate as a party.

Any person who desires to participate as a party in this case must so request and must comply with the provisions of 11 DCMR § 3106.2.

A party has the right to cross-examine witnesses, to submit proposed findings of fact and conclusions of law, to receive a copy of the written decision of the Zoning Commission, and to exercise the other rights of parties as specified in the Zoning Regulations. If you are still unsure of what it means to participate as a party and would like more information on this, please contact the Office of Zoning at dcoz@dc.gov or at (202) 727-6311.

Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. Persons seeking party status **shall file with the Commission, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application, a copy of which may be downloaded from the Office of Zoning's website at: <http://dcoz.dc.gov/services/app.shtm>.** This form may also be obtained from the Office of Zoning at the address stated below.

To the extent that the information is not contained in the Applicant's prehearing submission as required by 11 DCMR § 3013.1, the Applicant shall also provide this information not less than 14 days prior to the date set for the hearing.

If an affected Advisory Neighborhood Commission (ANC) intends to participate at the hearing, the ANC shall submit the written report described in § 3012.5 no later than seven (7) days before the date of the hearing. The report shall contain the information indicated in § 3012.5 (a) through (i).

Information responsive to this notice should be forwarded to the Director, Office of Zoning, Suite 200-S, 441 4th Street, N.W., Washington, D.C. 20001. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

ANTHONY J. HOOD, MARCIE I. COHEN, ROBERT E. MILLER, PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF RESCHEDULED¹ PUBLIC HEARING**

TIME AND PLACE: Monday, October 7, 2013, 6:30 P.M.
Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220-South
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NOS. 12-14 & 12-14A (3rd & M LLC & Park Inn Associates LP – Consolidated Planned Unit Developments (“PUD”) and related Zoning Map Amendments for Square 542, Lots 816 & Part of 79 (the “Property”))

THIS CASE IS OF INTEREST TO ANC 6D

On August 13, 2012, the Office of Zoning received an application from 3rd & M LLC & Park Inn Associates LP (the “Applicant”) requesting approval of consolidated PUDs and related Zoning Map amendments in order to permit the redevelopment of the Property. On October 1, 2012, the Applicant filed two revised applications splitting the original application into two because the Property is not contiguous. The Office of Planning provided its report on October 5, 2012. On October 15, 2012, the Commission set down the applications for a public hearing and agreed to hear the applications together. The Applicant provided its prehearing statement on March 15, 2013.

Combined, the property that is the subject of this hearing consists of approximately 108,895 square feet of land area (76,016 square feet for Z.C. Case No. 12-14 and 32,879 square feet for Z.C. Case No. 12-14A) and is located at the northwest corner of 3rd and M Streets S.W., to the east of the Southwest Waterfront Metrorail Station. The Property is located in the High-Density Residential land use category on the Future Land Use Map of the District of Columbia Comprehensive Plan. The Property is located in the R-5-D Zone District. The Applicant also requests a PUD related map amendment to rezone the Property to the CR Zone District.

The Applicant proposes to redevelop the Property with three new residential buildings plus the renovation of an existing residential building. If approved, the project will have the following characteristics. In total, the project will contain approximately 401 new apartments (209 apartments for Z.C. Case No. 12-14 and 192 apartments for Z.C. Case No. 12-14A) and approximately 2,940 square feet of ground-floor retail use. Two new buildings will be constructed to a height of 110 feet (one each for both Z.C. Case Nos. 12-14 and 12-14A), and one new building will have a height of 45 feet (Z.C. Case No. 12-14). The project will have an overall density of 4.43 FAR (4.02 FAR for Z.C. Case No. 12-14 and 5.24 FAR for Z.C. Case No. 12-14A), and it will contain approximately 289 parking spaces (176 spaces for Z.C. Case No. 12-14 and 113 spaces for Z.C. Case No. 12-14A).

¹ This case was previously scheduled for July 25, 2013.

Z.C. PUBLIC HEARING NOTICE
Z.C. CASE NOS. 12-14 & 12-14A
PAGE 2

This public hearing will be conducted in accordance with the contested case provisions of the Zoning Regulations, 11 DCMR § 3022.

How to participate as a witness.

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

How to participate as a party.

Any person who desires to participate as a party in this case must so request and must comply with the provisions of 11 DCMR § 3022.3.

A party has the right to cross-examine witnesses, to submit proposed findings of fact and conclusions of law, to receive a copy of the written decision of the Zoning Commission, and to exercise the other rights of parties as specified in the Zoning Regulations.

Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. Persons seeking party status **shall file with the Commission, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application, a copy of which may be downloaded from the Office of Zoning's website at: <http://dcoz.dc.gov/services/app.shtm>.** This form may also be obtained from the Office of Zoning at the address stated below.

To the extent that the information is not contained in the Applicant's prehearing submission as required by 11 DCMR § 3013.1, the Applicant shall also provide this information not less than 14 days prior to the date set for the hearing.

If an affected Advisory Neighborhood Commission (ANC) intends to participate at the hearing, the ANC shall submit the written report described in § 3012.5 no later than seven (7) days before the date of the hearing. The report shall contain the information indicated in § 3012.5 (a) through (i).

Time limits.

The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

**Z.C. PUBLIC HEARING NOTICE
Z.C. CASE NOS. 12-14 & 12-14A
PAGE 3**

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|----|----------------------------------|-------------------------|
| 1. | Applicant and parties in support | 60 minutes collectively |
| 2. | Parties in opposition | 60 minutes collectively |
| 3. | Organizations | 5 minutes each |
| 4. | Individuals | 3 minutes each |

Pursuant to § 3020.3, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

Information responsive to this notice should be forwarded to the Director, Office of Zoning, Suite 200-S, 441 4th Street, N.W., Washington, D.C. 20001. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

ANTHONY J. HOOD, MARCIE I. COHEN, ROBERT E. MILLER, PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING**

TIME AND PLACE: Thursday, October 17, 2013, 6:30 P.M.
Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220-South
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 12-21 (Covenant Baptist United Church of Christ)

THIS CASE IS OF INTEREST TO ANC 8C, ANC/SMD 8C05, ANC 8D, & AND/SMD 8D07

On November 26, 2012, the Office of Zoning received an application from the Covenant Baptist United Church of Christ (the "Applicant"). The Applicant is requesting approval of a planned unit development (PUD) with a PUD-related map amendment. The Office of Planning provided its report on March 29, 2013, and the case was set down for hearing on April 8, 2013. The Applicant provided its prehearing statement on May 28, 2013.

The property that is the subject of this application consists of approximately 44,966 square feet of land area and is located at 3845 South Capitol Street, S.W. (Square 6129, Lot 825). The subject property is zoned R-2, Residential. The R-2 Zone District consists of those areas that have been developed with one-family, semi-detached dwellings,

The Applicant proposes a PUD with related map amendment to rezone the site to R-5-A. The R-5-A Zone District is a low density general residence zone. The proposed project would retain and renovate the two-story Covenant Baptist United Church of Christ building, demolish the church annex building and construct a new three-story apartment building devoted to subsidized senior housing and support space. Overall, the development would have a density of 1.05 FAR and a height of three stories and 40 feet.

This public hearing will be conducted in accordance with the contested case provisions of the Zoning Regulations, 11 DCMR § 3022.

How to participate as a witness.

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

How to participate as a party.

Any person who desires to participate as a party in this case must so request and must comply with the provisions of 11 DCMR § 3022.3.

Z.C. PUBLIC HEARING NOTICE
Z.C. CASE NO. 12-21
PAGE 2

A party has the right to cross-examine witnesses, to submit proposed findings of fact and conclusions of law, to receive a copy of the written decision of the Zoning Commission, and to exercise the other rights of parties as specified in the Zoning Regulations.

Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. Persons seeking party status **shall file with the Commission, not less than 14 days prior to the hearing, a Form 140 - Party Status Application.** This form may be obtained from the Office of Zoning at the address stated below or downloaded from the Office of Zoning's website at: www.dcoz.dc.gov. **Any documents filed in this case must be submitted through the Interactive Zoning Information System (IZIS) found on the Office of Zoning website.**

To the extent that the information is not contained in the Applicant's prehearing submission as required by 11 DCMR § 3013.1, the Applicant shall also provide this information not less than 14 days prior to the date set for the hearing.

If an affected Advisory Neighborhood Commission (ANC) intends to participate at the hearing, the ANC shall submit the written report described in § 3012.5 no later than seven (7) days before the date of the hearing. The report shall contain the information indicated in § 3012.5 (a) through (i).

Time limits.

For each segment of the hearing conducted on the dates listed above, the following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

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|----|----------------------------------|-------------------------|
| 1. | Applicant and parties in support | 60 minutes collectively |
| 2. | Parties in opposition | 60 minutes collectively |
| 3. | Organizations | 5 minutes each |
| 4. | Individuals | 3 minutes each |

Pursuant to § 3020.3, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

Information responsive to this notice should be forwarded to the Director, Office of Zoning, Suite 200-S, 441 4th Street, N.W., Washington, D C. 20001.

FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.

ANTHONY J. HOOD, MARCIE I. COHEN, ROBERT E. MILLER, PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING**

TIME AND PLACE: **Thursday, September 19, 2013, 6:30 P.M.
Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220-South
Washington, D.C. 20001**

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 13-05 (Forest City Washington: First-Stage and Second-Stage PUD Approval and Related Map Amendment for Square 744S, part of Lot 805 and Square 744SS, part of Lot 801 (“Property”))

THIS CASE IS OF INTEREST TO ANC 6D

On February 27, 2013, the Office of Zoning received an application from Forest City Washington (the “Applicant”). The Applicant is requesting approval of a first-stage PUD and related map amendment for the Property as well as second-stage (consolidated) PUD approval for the first phase of development, the F1 Parcel. The Office of Planning provided its report on April 19, 2013, and the case was set down for hearing on April 29, 2013. The Applicant provided its prehearing statement on June 28, 2013.

The property that is the subject of this application consists of approximately 235,130 square feet of land area and is located across 1st Street, S.E. from Nationals Park. The Property is zoned CG/W-2 which allows a maximum height of sixty feet and a floor area ratio of 4.0. The Applicant requested PUD related rezoning of the Property to the CG/CR and CG/W-1 Zone Districts would permit heights of up to 130 through a PUD in the CR zone and 45 feet in the W-1 Zone District and a floor area ratio of 8.0 in the CR Zone District and 2.5 in the W-1 Zone Districts.

The Applicant proposes to redevelop the Property into four parcels with a new movie theater, two residential buildings with ground-floor retail, arts and entertainment uses, an expanded Diamond Teague Park and reintroduction of the street grid through private streets and the extension of Potomac Avenue. The second-stage PUD will permit the construction of a 16-screen movie theater on the northeastern parcel of the Property and is proposed at a height of 100 feet and a floor area ratio of 5.5.

This public hearing will be conducted in accordance with the contested case provisions of the Zoning Regulations, 11 DCMR § 3022.

Z.C. PUBLIC HEARING NOTICE
Z.C. CASE NO. 13-05
PAGE 2

How to participate as a witness.

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

How to participate as a party.

Any person who desires to participate as a party in this case must so request and must comply with the provisions of 11 DCMR § 3022.3.

A party has the right to cross-examine witnesses, to submit proposed findings of fact and conclusions of law, to receive a copy of the written decision of the Zoning Commission, and to exercise the other rights of parties as specified in the Zoning Regulations. If you are still unsure of what it means to participate as a party and would like more information on this, please contact the Office of Zoning at dcoz@dc.gov or at (202) 727-6311.

Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. Persons seeking party status **shall file with the Commission, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application, a copy of which may be downloaded from the Office of Zoning's website at: <http://dcoz.dc.gov/services/app.shtm>.** This form may also be obtained from the Office of Zoning at the address stated below.

To the extent that the information is not contained in the Applicant's prehearing submission as required by 11 DCMR § 3013.1, the Applicant shall also provide this information not less than 14 days prior to the date set for the hearing.

If an affected Advisory Neighborhood Commission (ANC) intends to participate at the hearing, the ANC shall submit the written report described in § 3012.5 no later than seven (7) days before the date of the hearing. The report shall contain the information indicated in § 3012.5 (a) through (i).

Time limits.

The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

**Z.C. PUBLIC HEARING NOTICE
Z.C. CASE NO. 13-05
PAGE 3**

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|----|----------------------------------|-------------------------|
| 1. | Applicant and parties in support | 60 minutes collectively |
| 2. | Parties in opposition | 60 minutes collectively |
| 3. | Organizations | 5 minutes each |
| 4. | Individuals | 3 minutes each |

Pursuant to § 3020.3, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

Information responsive to this notice should be forwarded to the Director, Office of Zoning, Suite 200-S, 441 4th Street, N.W., Washington, D.C. 20001. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

ANTHONY J. HOOD, MARCIE I. COHEN, ROBERT E. MILLER, PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

NOTICE OF FINAL RULEMAKING

Stormwater Management, and Soil Erosion and Sediment Control

The Director of the District Department of the Environment (Department or DDOE), under the authority identified below, hereby gives notice of the adoption as final of the following amendments to Chapter 5 (Water Quality and Pollution) of Title 21 (Water and Sanitation) of the District of Columbia Municipal Regulations (DCMR). This notice refers to these amendments as the “final rule.” Specifically, these amendments repeal and replace §§ 500 to 545 and 599, and add §§ 546, 547, and 552. The final rule appears below.

DDOE also gives notice of the adoption of a final version of the Stormwater Management Guidebook (SWMG), which provides guidance on compliance with the final rule. This notice refers to the final version of the SWMG as the “final SWMG.” The final SWMG includes design specifications for stormwater management practices that can be used to achieve compliance. The final SWMG is approximately six hundred (600) pages long and, therefore, is not published in the *D.C. Register*. It is available via ddoe.dc.gov/swregs.

The final rule and final SWMG shall take effect upon publication of this notice of final rulemaking. The final rule includes a transition section (Section 552).

DDOE’s adoption of the final rule and final SWMG comes after an extensive public process, which has included three rounds of public comment and numerous briefings and trainings for stakeholders. DDOE conducted a first formal public comment period, which lasted ninety (90) days, beginning with the publication of the proposed rule in the August 10, 2012 issue of the *D.C. Register* (59 DCR 009486). This document refers to the August 10, 2012 version of the rule as “the proposed rule” and the accompanying version of the SWMG as “the proposed SWMG.” Based on comments received during the first formal public comment period and its internal deliberations, DDOE revised the proposed rule and proposed SWMG and released the “revised rule” and the “revised SWMG” for a thirty (30) day informal comment period that ended on April 30, 2013. DDOE posted the revised rule and revised SWMG on its website and provided notification to an email list of members of the public who had requested such notifications, as described via ddoe.dc.gov/swregs. Based on comments on the revised rule and revised SWMG and its internal deliberations, DDOE made changes to the rule and SWMG and conducted a second formal public comment period on the “second proposed rule” and “second proposed SWMG,” beginning with publication of the second proposed rule in the June 7, 2013 issue of the *D.C. Register* (60 DCR 008493). Subsequently, DDOE published a Notice of Superseding Rulemaking in the June 28, 2013 issue of the *D.C. Register* (60 DCR 009738) to correct an error in Section 517.2 of the second proposed rule. The comment period on the second proposed rule and SWMG closed on Monday, July 8, 2013, and the comment period on the Notice of Superseding Rulemaking closed on Wednesday, July 10, 2013. DDOE held a public hearing on the second proposed rule and SWMG on Monday, July 8, 2013, after providing notice for the hearing in the June 21, 2013 issue of the *D.C. Register* (60 DCR 009325), on DDOE’s website, and through the email list noted above.

DDOE has closely reviewed all of the comments that it has received on the second proposed rule and second proposed SWMG and on the Notice of Superseding Rulemaking. This includes comments submitted in writing and comments submitted verbally at the hearing on July 8, 2013. These comments are available via ddoe.dc.gov/swregs.

Having carefully considered all of these comments, DDOE has determined that there are a few changes that should be made and has made those changes in the final rule and final SWMG. Since these changes are clarifying and not substantial, it is not necessary to conduct an additional public comment process for them. These changes are described below.

In addition, DDOE has determined that there are two issues that should be taken out of the rule and set aside for separate consideration: the exemption in Section 517.2(b) and the contaminated groundwater dewatering requirements in Section 542.13. As discussed below, these are relatively challenging issues that can be separately considered without jeopardizing the finalization of the larger stormwater regulations. DDOE has removed the exemption in Section 517.2(b) from the final rule and may seek additional input and/or issue a separate notice of proposed rulemaking. For the dewatering requirements, DDOE has removed Section 542.13 from the final rule and will address that issue separately, either by a separate notice of proposed rulemaking or an alternative permitting process.

DDOE greatly appreciates the many comments that the public submitted throughout the process. DDOE has thoroughly considered these comments and made changes accordingly. This has resulted in a more effective, clear, and practical final rule and SWMG.

DDOE will post a document responding to comments on the second proposed rule and a separate document responding to comments on the second proposed SWMG, which will be available via ddoe.dc.gov/swregs. DDOE posted similar documents in response to comments on the proposed rule and proposed SWMG.

For additional background, DDOE suggests that members of the public also review the preamble to the proposed rule, the preamble to the revised rule, the preamble to the second proposed rule, and DDOE responses to clarifying questions (all available via ddoe.dc.gov/swregs).

To make this preamble easier to read, DDOE has organized it into sections with headings, as follows:

- ❖ **Authority**
- ❖ **Background**
- ❖ **Summary**
- ❖ **Sections Removed from the Final Rule**
- ❖ **Clarifying Changes to the Final Rule**

Authority

The authority for the adoption of the final rule is set forth below:

- Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985, as amended (D.C. Law 6-42; D.C. Official Code §§ 2-1801.01 *et seq.* (2007 Repl. & 2012 Supp.));
- District Department of the Environment Establishment Act of 2005, §§ 101 *et seq.*, effective February 15, 2006, as amended (D.C. Law 16-51; D.C. Official Code §§ 8-151.01 *et seq.* (2008 Repl. & 2012 Supp.));
- National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008, effective March 26, 2008 (D.C. Law 17-138; 55 DCR 1689), as amended by the Anacostia Waterfront Environmental Standards Amendment Act of 2012, effective October 23, 2012 (D.C. Law 19-192; D.C. Official Code §§ 2-1226.31 *et seq.*) (2012 Supp.);
- The Soil Erosion and Sedimentation Control Act of 1977, effective September 28, 1977 (D.C. Law 2-23; 24 DCR 792), as amended by the Soil Erosion and Sedimentation Control Amendment Act of 1994, effective August 26, 1994, (D.C. Law 10-166; 41 DCR 4892; 21 DCMR §§ 500-15);
- Uniform Environmental Covenants Act of 2005, effective May 12, 2006, as amended (D.C. Law 16-95; D.C. Official Code §§ 8-671.01 *et seq.* (2008 Repl.));
- Water Pollution Control Act of 1984, effective March 16, 1985, as amended (D.C. Law 5-188; D.C. Official Code §§ 8-103.01 *et seq.* (2008 Repl. & 2012 Supp.)); and
- Mayor's Order 2006-61, dated June 14, 2006, and its delegations of authority.

Background

These amendments update Chapter 5 of Title 21 of the District of Columbia Municipal Regulations (DCMR) to reflect the current scientific, engineering, and practical understanding in the fields of stormwater management and soil erosion and sediment control. Knowledge and technology in these fields have changed considerably since 1977, when the majority of the soil erosion and sediment control requirements were put into place, and since 1988, when the District's existing stormwater management requirements were established.

In several decades of implementing the stormwater management and soil erosion and sediment control regulations of the District and undertaking numerous restoration projects, the Department has acquired substantial firsthand knowledge and experience of the damage to District waterbodies from impervious development and inadequately managed stormwater. Stormwater impacts District waterbodies with its powerfully erosive volume and the pollution it contains. See ddoe.dc.gov/swregs for a presentation with photographs that illustrate these impacts.

These amendments satisfy the requirements of the District's Municipal Separate Storm Sewer System (MS4) Permit, issued by the United States Environmental Protection Agency under the Clean Water Act (Permit No. DC0000221, available at www.epa.gov/reg3wapd/npdes/dcpermits.htm). The MS4 permit requires the District to implement a 1.2 inch stormwater retention standard for land-disturbing activities, a lesser retention standard for substantial improvement projects, and provisions for regulated sites to satisfy these standards off site.

DDOE has also designed these amendments to work in concert with other sustainability initiatives in the District, including the Office of Planning's development of Green Area Ratio requirements under the zoning code and Mayor Gray's Sustainable DC Plan (sustainable.dc.gov/).

In developing these amendments, DDOE drew on various sources of information. This included a review of the science, engineering, and practice of stormwater management and soil erosion and sediment control, as well as its own firsthand knowledge of the impact of stormwater on District waterbodies. DDOE evaluated its experience managing the installation, operation, and maintenance of the various types of Best Management Practices (BMPs) that can satisfy the requirements in these amendments. DDOE also considered the regulatory approaches taken in other urban jurisdictions.

Finally, DDOE appreciates the valuable input it has received from residents, engineers, scientists, land developers, environmentalists, and other governmental entities regarding the impacts of these amendments. This includes feedback from approximately two dozen training sessions and clarifying meetings with stakeholders during the first formal comment period, as well as the comments submitted on the proposed rule and Stormwater Management Guidebook (SWMG); comments received on the revised rule and SWMG; and comments received on the second proposed rule and SWMG and Notice of Superseding Rulemaking. (Training presentations, DDOE responses to clarifying questions, and public comments submitted during the first formal comment period are available via ddoe.dc.gov/swregs). DDOE recognizes that these amendments are significant for the regulated community, for environmental stakeholders, and for the public to whom the District's waterbodies ultimately belong. Accordingly, DDOE gave careful consideration to this input throughout the process and looks forward to continued input and dialogue as implementation of the final rule proceeds.

Summary

These amendments will provide greater protection for the Anacostia and Potomac Rivers, Rock Creek, and their tributaries. They will improve equity in the allocation of the burden of stormwater management, and they will promote sustainable development within the District.

The amendments will significantly improve protection for District waterbodies by effectuating a fundamental shift in the management of stormwater runoff within the District. Unlike the existing approach in which the fundamental goal of stormwater management is simply to manage the timing and quality of stormwater conveyed into the public sewer infrastructure, these

amendments require the retention of stormwater volume on site with a menu of stormwater management practices through which stormwater is absorbed by the soil, infiltrated into the ground, evapotranspired by plants, or stored (“harvested”) for use on site. This more closely approximates the “sponginess” of the natural environment, where rainwater is captured by foliage, absorbed into the soil, and infiltrated into groundwater reserves.

These amendments improve the equity of how the impacts of stormwater runoff and the burden of stormwater management are distributed in the District. Over the years, inadequate stormwater management has become a leading cause of the severe degradation of District waterbodies such as the Anacostia and Potomac Rivers and Rock Creek. This degradation diminishes the value of these public resources for residents, visitors, and businesses in the District of Columbia, and it necessitates the use of public resources to pay the costs of managing stormwater and remedying its impacts. These amendments more equitably allocate the costs of stormwater management by requiring properties undergoing major development or redevelopment to do more to reduce the stormwater runoff from their property. The idea that these costs should be reflected in the costs of developing properties is in keeping with the established principle of environmental policy and economics that external environmental costs should be internalized into the costs of a transaction. By making the shift to the retention-based approach in these amendments, regulated development will become a major driver behind the long-term effort to retrofit impervious surfaces in the District and, ultimately, to restore health to the District’s waterbodies.

Enhancing sustainability in the District is another important objective, and Mayor Vincent C. Gray has released a sustainability plan that will help the District achieve this vision (sustainable.dc.gov/). These amendments are designed to support that vision not only by improving protection for District waterbodies, but also by providing that protection while maximizing flexibility and cost-savings for regulated sites. Notably, these amendments allow regulated sites the option of achieving a portion of their stormwater retention requirement off site, but still within the District, without having to first prove that on-site retention is infeasible. Sites that opt to use off-site retention have two (2) off-site options: use of Stormwater Retention Credits (SRCs), which can be purchased from the private market, or payment of an in-lieu fee to DDOE.

In addition to the flexibility and cost-savings that these off-site provisions allow, they also enhance sustainability’s triple bottom line of social, economic, and environmental impacts via the installation of more retention BMPs in more parts of the District than would otherwise be achieved under a strict on-site retention approach. The preamble to the proposed rule provided an overview of the benefits to District waterbodies that may result from the increase in retention BMPs (available via ddoe.dc.gov/swregs). To summarize, this increase has the potential to significantly reduce the volume of stormwater runoff into District waterbodies and to capture a greater share of the dirtiest “first flush” volume carrying pollutants to our waterbodies. By shifting the installation of retention BMPs from areas draining into the tidal Anacostia and Potomac Rivers to areas draining into the District’s relatively vulnerable tributary waterbodies, these off-site retention provisions are also likely to result in more protection for the District’s most vulnerable waterbodies. Socioeconomically, an increase in retention BMPs should increase the number of green jobs in the District, including low-skill and moderately skilled installation, operation, and maintenance jobs, as well as relatively high-skilled design and engineering jobs.

The increase in retention BMPs also provides aesthetic, health, and ancillary environmental benefits to the District. Finally, it is worth pointing out that DDOE sees the off-site provisions in these amendments as having the potential to result in a relatively large amount of retention BMPs being installed in less affluent parts of the District, meaning that these amendments also have the potential to improve environmental justice outcomes in the District.

These amendments also contain other provisions to provide flexibility to regulated sites and promote sustainable development in the District. To facilitate retention on site, the amendments allow a regulated site to exceed the retention requirement in one area (“over-control”) in order to compensate for retention that falls short in another area on the site. Additionally, on-site retention can also be achieved via direct drainage to a Shared Best Management Practice (S-BMP) that may serve multiple sites. Finally, although a site draining into the combined sewer system must retain a minimum volume of stormwater from the entire site, it has the flexibility to over-control without having to meet minimum requirements for retention or treatment in individual drainage areas on the site.

Sections Removed from Final Rule

As noted above, DDOE has determined that there are two sections of the final rule that should be removed, without delaying the finalization of the larger rule. These two sections are the exemption in Section 517.2(b) and the contaminated groundwater dewatering requirements in Section 542.13.

Removal of Section 517.2(b)

As the result of an editorial error, the exemption in Section 517.2(b) did not appear in the second proposed rule when it was published on June 7, 2013 (60 DCR 008493), and DDOE corrected that error with a Notice of Superseding Rulemaking on June 28, 2013 (60 DCR 009738). Subsequently, DDOE received numerous comments objecting to this exemption, including comments from Region III of the EPA stating that the exemption is inconsistent with the MS4 Permit issued to the District by EPA. In addition to commenting on the MS4 permit requirements, other stakeholders also commented that it is important for the stormwater retention requirements to apply to projects in the Combined Sewer System (CSS), noting that this will help reduce Combined Sewer Overflows (CSOs) and help accommodate future population growth in the CSS, since reducing stormwater into the CSS means that more capacity will be available for the increased sanitary sewage in the CSS that will result from population growth.

From a neighborhood and community perspective, stakeholders also noted the health, aesthetic, and other benefits from Green Infrastructure (GI), and they commented on the particular importance of applying these amendments to projects in the Anacostia portion of the CSS in order to achieve GI in those communities. The two major drivers of GI installation in the District are expected to be these stormwater amendments and a potential GI solution to the CSO problem, referred to as the GI Performance Partnership Agreement (GIPPA). However, the GIPPA will generally not apply to the Anacostia portion of the CSS, where a “gray infrastructure” tunnel has already begun construction; instead it applies to the Rock Creek and Potomac River portions of the CSS. A stakeholder noted, “requiring utility projects to meet the

[stormwater retention] performance standards...would help ensure that neighborhoods in the Anacostia watershed also reap the environmental, economic, and social benefits of green infrastructure.”

After considering and weighing these comments, the arguments underlying the proposed exemption, and related matters, DDOE has concluded that the exemption should not be included in the final rule. DDOE may seek additional input and/or issue a separate notice of proposed rulemaking.

Removal of Provisions Related to Dewatering of Contaminated Groundwater

DDOE has noted repeatedly, including in the preamble to the second proposed rule, that the provisions in the stormwater rule related to dewatering of contaminated groundwater (Section 542.13 in the second proposed rule) were meant to be temporary, with the understanding that they would be superseded by a separate rule on groundwater.

At this point, it is clear from the stakeholder comments on Section 542.13 that numerous concerns and complex issues remain to be clarified and that the clarification of these issues goes beyond the intended scope of the stormwater rule. In addition, DDOE is currently considering this and related groundwater issues and has concluded that it would be more appropriate to address the dewatering requirements in that larger context. DDOE is evaluating two different mechanisms for addressing the dewatering requirements. One option is to proceed with them in a separate rule on groundwater. Alternatively, EPA Region III, which has the authority to issue Clean Water Act NPDES permits for the District, has been researching and considering the establishment of an additional general NPDES permit to address these requirements. Either of these options would avoid needlessly delaying the finalization of the stormwater amendments and allow the dewatering requirements to be located in a more appropriate context.

Consequently, DDOE has decided to remove Section 542.13 from the final rule to be addressed separately, and that section has been renumbered accordingly.

Clarifying Changes to the Final Rule

Section 500.9(b)

In the preamble to the second proposed rule, DDOE explained that it was clarifying what it meant by contaminated soil or groundwater, specifically that contamination would be determined as defined in the District of Columbia Brownfield Revitalization Amendment Act of 2000, effective June 13, 2001, as amended (D.C. Law 13-312; D.C. Official Code §§ 8-631 *et seq*) or the Underground Storage Tank regulations at 20 DCMR Chapter 62.

In applying this definition of contamination to Section 500.9(b) of the second proposed rule, DDOE inadvertently omitted the reference to the Underground Storage Tank regulations. Stakeholder comments brought this to DDOE’s attention and included a request for clarification.

DDOE's intention was for § 500.9(b) to include the reference to the Underground Storage Tank regulations. The final rule includes this clarifying change, as shown below in bold.

- 500.9 An infiltration test does not require Departmental approval for groundwater quality protection provided that:
- (a) No test shall go to a depth of greater than fifteen (15) feet below the ground surface;
 - (b) If a person conducting the testing smells or sees soil or groundwater contamination in the area of a test during or after the test, the boring or other hole made for the test shall be filled in accordance with best practices for wellhead protection, unless it is determined as a result of laboratory analysis that the groundwater or soil is not contaminated, as defined in the District of Columbia Brownfield Revitalization Amendment Act of 2000, effective June 13, 2001, as amended (D.C. Law 13-312; D.C. Official Code §§ 8-631 *et seq*) **or the Underground Storage Tank regulations at 20 DCMR Chapter 62;** and
 - (c) A Professional Engineer licensed in the District of Columbia shall certify the infiltration rate and that the test was carried out in compliance with this section and accepted professional standards.

Sections 552.2 and 552.3

EPA and numerous stakeholders commented on their concern that a regulated project may submit an incomplete “placeholder” Stormwater Management Plan (SWMP) in order to be regulated under Transition Period 1 (TP1) or Transition Period 2A or 2B (TP2A or TP2B). In response, DDOE notes that its intention in requiring a SWMP to be submitted in the context of the building permit application process was to prevent this from happening. Section 519.2 of the second proposed rule specifies that “a submitted SWMP and supporting documentation shall contain information sufficient for the Department to determine whether the SWMP complies with this chapter,” and it includes a list of required plan elements. Furthermore, Section 518.4 specifies that the Department will review an application, including a SWMP, to determine if it is complete and may consequently reject the application.

To avoid any ambiguity on this, EPA commented that the relevant provisions of the transition section (Section 552) should be clarified to specify that a submitted SWMP must be “complete...as required under Section 518.4...” For example, as shown in bold, Section 552.2(a) would state that “A major regulated project submitting a **complete** Stormwater Management Plan (SWMP), **as required under § 518.4**, in support of a building permit application before the end of Transition Period One (TP1), shall...”

EPA's suggested change is consistent with DDOE's intent and helps to ensure clarity. Consequently, DDOE has made this clarifying change in four (4) passages in Section 552.2(a) - (c) and in Section 552.3.

Section 599 (Definition of Public Right of Way) and Section 521.1

Stakeholders pointed out an inconsistency between the second proposed rule and the second proposed SWMG with respect to whether railway tracks are included in the Public Right of Way (PROW) and thereby subject to the Maximum Extent Practicable (MEP) process for achieving retention. Specifically, the definition of PROW in the second proposed rule does not list railways as being included, whereas Appendix B of the second proposed SWMG lists "railway tracks." DDOE's intent, as demonstrated in the second proposed SWMG, was that railway tracks should be included.

Public railway projects should be treated similarly to public roadway because regulated projects in an existing rail corridor face similar constraints as projects reconstructing existing roadway; they have similar importance for public safety and commerce; and the MEP exemption from having to use off-site retention is similarly justifiable for these public projects.

DDOE clarified its intent in the final rule by adding "railway track" to the definition of PROW, as shown below in bold.

Public Right of Way (PROW) - The surface, the air space above the surface (including air space immediately adjacent to a private structure located on public space or in a public right of way), and the area below the surface of any public street, bridge, tunnel, highway, **railway track**, lane, path, alley, sidewalk, or boulevard.

Likewise, to clarify this inconsistency between the second proposed rule and SWMG, DDOE added the word "railway" to Section 521.1, as shown below in bold and strikethrough:

- 521.1 This section applies only to the portion of a major regulated project that consists entirely of bridge, roadway, ~~or~~ streetscape, **or railway** work:
- (a) In the existing Public Right of Way (PROW); or
 - (b) In the existing PROW and in the public space associated with the PROW.

Section 599 Definition of Public Space

Prior to publishing the second proposed rule, it came to DDOE's attention that the definition of PROW might be interpreted as not including sidewalk, tree space, or parking lanes associated with the PROW. "Public space" is a term used by the District Department of Transportation (DDOT) and in the District of Columbia Municipal Regulations (DCMR) to refer to these spaces. To clarify its intent that these spaces are part of the PROW for the purposes of the MEP process, DDOE added this term to its list of definitions and also included it in Section 521.1 of

the second proposed rule. With the intent of ensuring that public space is not construed to mean adjacent or nearby parks or other public property, DDOE specifically referred in Section 521.1 to public space associated with the PROW.

EPA, in its comments on the second proposed rule, expressed the concern that public space might still be misconstrued as including parks and other public spaces for the purposes of the MEP process. To ensure that no such misunderstanding occurs, DDOE has further clarified this in the final rule by specifying in the definition of public space that adjacent parks and other public property that is not associated with the PROW is excluded, as shown below in bold and strikethrough.

Public Space - All the publicly owned property between the property lines on a street, park, or other public property as such property lines are shown on the records of the District, ~~and~~. **This** includes any roadway, tree space, sidewalk, or parking between such property lines, **but it excludes adjacent parks and other public property that is not associated with the public right of way.**

Chapter 5, Water Quality and Pollution, of Title 21, Water and Sanitation, of the District of Columbia Municipal Regulations is amended by repealing and replacing Sections 500 to 545 and 599 and adding Sections 546, 547 and 552 as follows:

The Table of Contents is amended as follows:

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- 552 TRANSITION
- 599 DEFINITIONS

500 GENERAL PROVISIONS

- 500.1 The provisions of this chapter shall be applicable to all sources of pollution affecting the Potomac River and its tributaries within the District of Columbia (the District) including pollution carried by stormwater runoff, discharges from barges and other vessels, and domestic and industrial waste.
- 500.2 An activity which this chapter regulates shall be consistent with the purposes of this chapter.
- 500.3 The purposes of this chapter are:
 - (a) To prevent and control the pollution of the Potomac River and its tributaries, and the waters of the District;
 - (b) To regulate land-disturbing activities for the protection of District waterbodies;
 - (c) To regulate major substantial improvement activities for the protection of District waterbodies;
 - (d) To prevent accelerated soil erosion and sedimentation;

- (e) To prevent sediment deposit in the Potomac River and its tributaries, including the District sewer system; and
 - (f) To control health hazards due to pollution of the Potomac River and its tributaries.
- 500.4 No person may commence an activity that this chapter regulates without obtaining an approval that this chapter requires.
- 500.5 A person's compliance with this chapter shall not relieve a person of responsibility for damage to a person or property.
- 500.6 No Department action under this chapter shall impose liability upon the District of Columbia for damage to a person or property.
- 500.7 A person who is regulated under this chapter may authorize an agent to act for that person; however, authorizing an agent does not change or eliminate that person's duty, responsibility, or liability.
- 500.8 The Department may approve alternative media, including electronic media, for a document that this chapter requires to be submitted in Mylar, paper, or other specific media:
 - (a) If the alternative method will likely be as reliable for the Department's use and less expensive for an applicant; or
 - (b) Upon good cause shown.
- 500.9 An infiltration test does not require Departmental approval for groundwater quality protection provided that:
 - (a) No test shall go to a depth of greater than fifteen (15) feet below the ground surface;
 - (b) If a person conducting the testing smells or sees soil or groundwater contamination in the area of a test during or after the test, the boring or other hole made for the test shall be filled in accordance with best practices for wellhead protection, unless it is determined as a result of laboratory analysis that the groundwater or soil is not contaminated, as defined in the District of Columbia Brownfield Revitalization Amendment Act of 2000, effective June 13, 2001, as amended (D.C. Law 13-312; D.C. Official Code §§ 8-631 *et seq*) or the Underground Storage Tank regulations at 20 DCMR Chapter 62; and

- (c) A Professional Engineer licensed in the District of Columbia shall certify the infiltration rate and that the test was carried out in compliance with this section and accepted professional standards.

501 FEES

501.1 The District Department of the Environment (Department) shall adjust the fees in this section for inflation annually, using the Urban Consumer Price Index published by the United States Bureau of Labor Statistics.

501.2 An applicant shall pay a supplemental review fee for each Department review after the review for the first resubmission of a plan, and the fee shall be paid before a building permit may be issued, except that a project or portion of a project entirely in the existing public right of way shall not be required to pay a supplemental review fee for a review specified for a design phase under the Maximum Extent Practicable (MEP) process described in the Department’s Stormwater Management Guidebook.

501.3 An applicant for Department approval of a soil erosion and sediment control plan shall pay the fees in Table 1 for Department services at the indicated time, as applicable:

Table 1. Fees for Soil Erosion and Sediment Control Plan Review

Payment Type	Payment Requirement	Fees by Land Disturbance Type		
		Residential	All Other	
		≥ 50 ft ² and < 500 ft ²	≥ 50ft ² and < 5,000 ft ²	≥ 5,000 ft ²
Initial	Due upon filing for building permit	\$50.00	\$435.00	\$1,070.00
Final • Clearing and grading > 5,000 ft ² • Excavation base fee • Excavation > 66 yd ³ • Filling > 66 yd ³	Due before building permit is issued	n/a		\$0.15 per 100 ft ²
		n/a	\$435.00	
		\$0.10 per yd ³		
		\$0.10 per yd ³		
Supplemental	Due before building permit is issued	\$100.00	\$100.00	\$1,000.00

501.4 An applicant for Department approval of a Stormwater Management Plan (SWMP) shall pay the fees in Table 2 for Department services at the indicated time, as applicable:

Table 2. Fees for Stormwater Management Plan Review

Payment Type	Payment Requirement	Fees by Land Disturbance Type	
		≥ 5,000 ft ² and ≤ 10,000 ft ²	> 10,000 ft ²
Initial	Due upon filing for building permit	\$3,300.00	\$6,100.00
Final	Due before building permit is issued	\$1,500.00	\$2,400.00
Supplemental	Due before building permit is issued	\$1,000.00	\$2,000.00

501.5 An applicant for Department approval of a plan and any other person requesting the services in Table 3 shall pay the additional fees in Table 3 for Department services before issuance of a building permit, except:

- (a) If a person is applying for relief from extraordinarily difficult site conditions, the person shall pay the fee upon applying for relief; and
- (b) If a person is not applying for a building permit, the person shall pay before receipt of a service.

501.6 An applicant shall be required to pay the fee for review of a Stormwater Pollution Prevention Plan only if the site is regulated under the Construction General Permit issued by Region III of the Environmental Protection Agency.

Table 3. Additional Fees

Review or Inspection Type	Fees by Land Disturbance Type	
	≤ 10,000 ft ²	> 10,000 ft ²
Soil characteristics inquiry	\$150.00	
Geotechnical report review	\$70.00 per hour	
Pre-development review meeting	No charge for first hour \$70.00 per additional hour	
After-hours inspection fee	\$50 per hour	
Stormwater pollution plan review	\$1,100.00	
Dewatering pollution reduction plan review	\$1,100.00	\$2,100.00
Application for relief from extraordinarily difficult site conditions	\$500.00	\$1,000.00

501.7 An applicant for Department approval of a SWMP for a project being conducted solely to install a Best Management Practice (BMP) or land cover for Department certification of a Stormwater Retention Credit (SRC) shall pay the fees in Table 4 for Department services at the indicated time, as applicable, except that:

- (a) A person who is paying a review fee in Table 2 for a major regulated project shall not be required to pay a review fee in Table 4 for the same project; and

- (b) A person who has paid each applicable fee to the Department for its review of a SWMP shall not be required to pay a review fee in Table 4 for the same project:

Table 4. Fees for Review of Stormwater Management Plan to Certify Stormwater Retention Credits

Payment Type	Payment Requirement	Fees by Land Disturbance Type	
		≤ 10,000 ft ²	> 10,000 ft ²
Initial	Due upon filing for building permit	\$575.00	\$850.00
Final	Due before building permit is issued	\$125.00	\$200.00
Supplemental	Due before building permit is issued	\$500.00	

- 501.8 A person who requires Departmental approval of an as-built SWMP for SRC certification for a BMP or land cover for which a plan review fee has not been paid to the Department shall pay each applicable fee for initial and final SWMP review in Table 4.
- 501.9 A person who requires the Department’s review of a proposed or as-built SWMP solely for the purpose of applying for a stormwater fee discount under this Chapter shall not be required to pay a plan review fee to the Department for that project, except that a person who subsequently applies for SRC certification for the same project shall pay each applicable fee for initial and final plan review before the Department will consider the application for SRC certification.
- 501.10 An applicant for Department approval of a Green Area Ratio plan shall pay the fees in Table 5 for Department services at the indicated time:

Table 5. Fees for Review of Green Area Ratio Plan

Payment Type	Payment Requirement	Fees by Land Disturbance Type	
		≤ 10,000 ft ²	> 10,000 ft ²
Initial	Due upon filing for building permit	\$575.00	\$850.00
Final	Due before building permit is issued	\$125.00	\$200.00
Supplemental	For reviews after first resubmission	\$500.00	

- 501.11 The in lieu fee shall be three dollars and fifty cents (\$3.50) per year for each gallon of Off-Site Retention Volume (Offv).
- 501.12 The administrative late fee for an in-lieu fee payment shall be ten percent (10%) of the late payment.
- 501.13 A person shall pay the fees in Table 6 for the indicated resource before receipt of the resource:

Table 6. Fees for Resources

Paper Copies of Documents	Cost
District Standards and Specifications for Soil Erosion and Sediment Control	\$50.00
District Stormwater Management Guidebook	\$50.00
District Erosion and Sediment Control Standard Notes and Details (24 in x 36 in)	\$25.00

502 DUTY TO COMPLY

- 502.1 A person who engages in an activity that this chapter regulates shall comply with the provisions of this chapter.
- 502.2 A person shall conduct all work in accordance with each submittal approved by the Department, including each plan and approved change.
- 502.3 Each provision of an approved plan shall be complied with as a distinct provision of this chapter.
- 502.4 A person shall promptly notify the Department of an actual or likely material change in the performance provided for in an approved SWMP, including a material change in the volume of stormwater flowing into a Best Management Practice (BMP), a shared BMP, or a land cover.
- 502.5 A person shall undertake a reasonable inquiry to confirm that the facts stated and calculations made are true and correct for each communication with the Department under this chapter.
- 502.6 No person shall negligently, recklessly, or knowingly make a false statement in a communication with the Department.

503 INSPECTIONS, NOTICES OF WORK, AND APPROVALS OF CHANGES

- 503.1 The Department may conduct an inspection of an activity regulated under this chapter, including emergency work that may otherwise be exempt, to ensure compliance with this chapter.
- 503.2 The Department may require a change to an approved plan if the Department determines that a discrepancy between site conditions and the approved plan makes the plan inadequate to comply with the requirements of this chapter.
- 503.3 A person may not change an approved plan or its implementation without Department approval, as follows:
 - (a) If the change is substantial, the person shall resubmit the revised plan to the Department for approval in accordance with this chapter; and

- (b) If the change is not substantial, the person may secure written approval from the Department in the field or at the Department's office.

503.4 For the purposes of this chapter, a substantial change in an approved plan is a change in design, specification, construction, operation, or maintenance that the Department determines:

- (a) May result in a failure to comply with a requirement of this chapter; or
- (b) Has a significant effect on the discharge of pollutants to the District's waters.

503.5 The Department may require an additional inspection at a particular stage of construction by specifying that requirement in:

- (a) The approved plan;
- (b) The preconstruction inspection report; or
- (c) The Department's report of the preconstruction meeting.

503.6 No person may proceed with work past a stage of construction that the Department has identified as requiring an inspection unless:

- (a) The Department's inspector has issued an "approved" or "passed" report;
- (b) The Department has approved a plan modification that eliminates the inspection requirement; or
- (c) The Department otherwise eliminates or modifies the inspection requirement in writing.

503.7 A person shall communicate with the Department:

- (a) In order to schedule a preconstruction meeting or field visit before commencement of a land-disturbing activity, contact the Department at least three (3) business days before the start of the land-disturbing activity;
- (b) In order to schedule a preconstruction inspection before beginning construction of a Best Management Practice (BMP), contact the Department at least three (3) business days before the start of the construction;

- (c) In order to schedule an inspection required for a stage of construction or other construction event, contact the Department at least three (3) business days before the anticipated inspection;
- (d) For the completion of a land-disturbing activity, give notice to the Department within two (2) weeks of completion of the activity; and
- (e) For the completion of a BMP, and to request a final construction inspection, give the Department one (1) week's notice.

503.8 The Department shall make reasonable efforts to accommodate a request for inspection outside of the Department's normal business hours if the request:

- (a) Is made during the Department's normal business hours;
- (b) Includes the information the Department requires, including the matters to be inspected, the location of the site work to be inspected, and details for site access; and
- (c) Includes payment or proof of payment of the after-hours inspection fee.

503.9 The Department shall determine whether work, construction, and maintenance complies with each approved plan, including conducting a final construction inspection and ongoing maintenance inspections of each BMP, land cover, and the site.

503.10 The Department may require inspections, on a periodic or as-needed basis, of a BMP, land cover, and the site to ensure that maintenance is sufficient to achieve performance or eligibility requirements and to avoid harm to the environment or public health.

503.11 A person shall allow the Department, upon presentation of Department credentials, to:

- (a) Enter premises where a practice, measure, or activity subject to this chapter is located or conducted, or where required records are kept, including locations where a retention BMP or land cover is voluntarily installed to generate a Stormwater Retention Credit or receive a stormwater fee discount;
- (b) Access and copy a required record;
- (c) Inspect a site, practice, measure, or activity subject to this chapter, including to verify sufficient maintenance; and
- (d) Conduct sampling, testing, monitoring, or analysis.

- 503.12 The Department may require as a precondition to its approval of an inspection that the applicant:
- (a) Make available to the Department for the purposes of the inspection on site, or at the Department's offices, the professional engineer responsible for certifying the "as-built" plans; and
 - (b) Secure the seal and signature of this professional engineer certifying that the as-built plans comply with this chapter.
- 503.13 Upon notice, a person shall promptly correct work which the Department has found fails to comply with an approved plan.
- 503.14 The Department shall not approve the issuance of a certificate of occupancy for a building until the Department has determined that the approved stormwater management plan for the building site has been implemented for:
- (a) On-site stormwater management; and
 - (b) Required off-site retention.

504 STOP WORK ORDERS

- 504.1 Upon notice from the Department that it has determined that one (1) or more of the following conditions exists, a person shall stop identified work immediately until the situation is corrected:
- (a) Noncompliance with a notice that requires corrective action;
 - (b) Material false statement or misrepresentation of fact in an application that the Department approved for the project;
 - (c) During the project, the license of a contractor or subcontractor is void, has expired, or has been suspended or revoked;
 - (d) Work involving an activity regulated under this chapter is being conducted:
 - (1) In violation of a provision of this chapter;
 - (2) In an unsafe manner; or
 - (3) In a manner that poses a threat to the public health or the environment.

- 504.2 A stop work order shall:
- (a) Have immediate effect;
 - (b) Be issued in writing; and
 - (c) Be provided to:
 - (1) The person who has received an approval under this chapter;
 - (2) The person doing the work; or
 - (3) The person on site who is responsible for the work.
- 504.3 The stop work order shall identify the:
- (a) Address and location of the work;
 - (b) Corrective action or cessation required;
 - (c) Time period required to complete corrective action;
 - (d) Reason for the order;
 - (e) Person issuing the order, including telephone contact, and, if available, email or other electronic means of address; and
 - (f) Steps to be taken to challenge or appeal the order.
- 504.4 The Department shall:
- (a) Post the stop work order at the property; and
 - (b) Send the stop work order in a manner likely to insure receipt, including first class mail, fax with return receipt, email with return read receipt, or hand-delivery with certification of service.
- 504.5 No person shall remove a stop work order posted at a site without the Department's written approval.
- 504.6 A person who continues work stopped by an order shall be in violation of this chapter for each day on which work is conducted, except for work:
- (a) Required immediately to stabilize the activity and place the property in a safe and secure condition;

- (b) That the Department orders; or
- (c) Required immediately to eliminate an unsafe condition or threat to the public health or the environment.

505 VIOLATIONS AND ENFORCEMENT PROCEDURES

505.1 Each instance or day of a violation of each provision of this chapter shall be a separate violation.

505.2 Each separate violation of each provision may be subject to:

- (a) A criminal fine and penalty, including imprisonment, and costs; and
- (b) Either:
 - (1) A judicial civil penalty, order for corrective action, and order for damages and related costs, expenses, and fees; or
 - (2) An administrative civil fine, penalty, suspension of an approval, suspension of a permit, corrective action, order to comply with this chapter, and order for related costs, expenses, and fees.

505.3 The District may seek criminal prosecution if a person violates a provision of this chapter pursuant to:

- (a) The Water Pollution Control Act of 1984 (WPCA), effective March 16, 1985, as amended (D.C. Law 5-188; D.C. Official Code § 8-103.16 (2008 Repl. & 2012 Supp.)); and
- (b) The Soil Erosion and Sedimentation Control Act of 1977, effective September 28, 1977 (D.C. Law 2-23; 24 DCR 792), as amended by the Soil Erosion and Sedimentation Control Amendment Act of 1994, effective August 26, 1994, as amended (D.C. Law 10-166; 41 DCR 4892; 21 DCMR §§ 500-15).

505.4 The District may bring a civil action in the Superior Court of the District of Columbia or any other court of competent jurisdiction, for civil penalties, damages, and injunctive or other appropriate relief pursuant to D.C. Official Code §§ 8-103.17(d) and 8-103.18.

505.5 As an alternative to a civil action, the Department may impose an administrative civil fine, penalty, fee, and order for costs and expenses by following the procedures of Titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985, as amended (D.C. Law 6-42; D.C. Official Code §§ 2-1801 *et seq.* (2007 Repl. & 2012 Supp.)) (Civil

Infractions Act), except that each reference in the Civil Infractions Act to an administrative law judge (ALJ) shall mean an ALJ of the Office of Administrative Hearings (OAH) established pursuant to the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002, as amended (D.C. Law 14-76; D.C. Official Code, §§ 2-1831.01 *et seq.* (2007 Repl. & 2012 Supp.)).

- 505.6 Except when otherwise required by statute, an administrative civil fine shall be calculated according to the schedule of fines for violations of this chapter that has been approved pursuant to the Civil Infractions Act, D.C. Official Code § 2-1801.04.
- 505.7 Administrative adjudication of a civil violation of a provision of this chapter shall be conducted by OAH, pursuant to its rules and procedures.
- 505.8 An administrative adjudicator of a civil violation of a provision of this Chapter shall have the same power, authority, and jurisdiction with respect to the matter before it as does the Department.
- 505.9 Neither a criminal prosecution nor the imposition of a civil fine or penalty shall preclude an administrative or judicial civil action for injunctive relief or damages, including an action to prevent unlawful construction or to restrain, correct, or abate a violation on or about any premises, or to recover costs, fees, or money damages, except that a person shall not, for the same violation of the WPCA, be assessed a civil fine and penalty through both the judicial and the administrative processes.
- 505.10 With respect to a violation of a provision of this chapter, the Department may also pursue and obtain an internal remedy by:
- (a) Advising a person of a violation through the use of a DDOE internal Notice of Violation; and
 - (b) Issuing and addressing a violation through the use of a DDOE internal Notice of Infraction.
- 505.11 If a term in a provision of this section conflicts with a provision in another section of this chapter, the term in the provision of this section controls.

506 ADMINISTRATIVE APPEALS AND JUDICIAL REVIEW

- 506.1 With respect to a matter governed by this chapter, a person adversely affected or aggrieved by an action of the Department shall exhaust administrative remedies by timely filing an administrative appeal with, and requesting a hearing before, the Office of Administrative Hearings (OAH), established pursuant to the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002,

as amended (D.C. Law 14-76; D.C. Official Code, §§ 2-1831.01 *et seq.* (2007 Repl. & 2012 Supp.)), or OAH's successor.

506.2 For the purposes of this chapter, an action of the Department taken with respect to a person shall include:

- (a) Signed settlement of an internal Notice of Infraction (NOI);
- (b) Approval;
- (c) Denial;
- (d) Compliance order;
- (e) NOI;
- (f) Determination;
- (g) Cease and desist order;
- (h) Stop work order;
- (i) Order to show cause; or
- (j) Other action of the Department which constitutes the consummation of the Department's decision-making process and is determinative of a person's rights or obligations.

506.3 For the purposes of this chapter, a DDOE internal Notice of Violation or NOI:

- (a) Shall not be an action of the Department that a person may appeal to OAH;
- (b) Shall be responded to within fifteen (15) calendar days of service of the notice, including a written statement containing the grounds, if any, for opposition; and
- (c) Shall not constitute a waiver of compliance or tolling of a period for a fine or penalty.

506.4 If a person fails to agree to or settle an internal NOI or otherwise denies a claim stated in an internal NOI:

- (a) The Department may cancel the internal NOI and file an NOI for adjudication with OAH; or

(b) The person may request adjudication by OAH.

506.5 A person aggrieved by an action of the Department shall file a written appeal with OAH within the following time period:

(a) Within fifteen (15) calendar days of service of the notice of the action; or

(b) Another period of time stated specifically in the section for an identified Department action.

506.6 Notwithstanding another provision of this section, the Department may toll a period for filing an administrative appeal with OAH if it does so explicitly in writing before the period expires.

506.7 OAH shall:

(a) Resolve an appeal or an NOI by:

(1) Affirming, modifying, or setting aside the Department's action complained of, in whole or in part;

(2) Remanding for Department action or further proceedings, consistent with OAH's order; or

(3) Providing such other relief as the governing statutes, regulations and rules support;

(b) Act with the same jurisdiction, power, and authority as the Department may have for the matter currently before OAH; and

(c) By its final decision render a final agency action which will be subject to judicial review.

506.8 The filing of an administrative appeal shall not in itself stay enforcement of an action; except that a person may request a stay according to the rules of OAH.

506.9 The burden of proof in an appeal of an action of the Department shall be allocated to the person who appeals the action, except the Department shall bear the ultimate burden of proof when it denies a right.

506.10 The burden of production in an appeal of an action of the Department shall be allocated to the person who appeals the action, except that it shall be allocated:

(a) To the Department when a party challenges the Department's suspension, revocation, or termination of a:

- (1) License;
- (2) Permit;
- (3) Continuation of an approval; or
- (4) Other right;

- (b) To the party who asserts an affirmative defense; and
- (c) To the party who asserts an exception to the requirements or prohibitions of a statute or rule.

506.11 The final OAH decision on an administrative appeal shall thereafter constitute the final, reviewable action of the Department, and shall be subject to the applicable statutes and rules of judicial review for OAH final orders.

506.12 An action for judicial review of a final OAH decision shall not be a de novo review, but shall be a review of the administrative record alone and not duplicate agency proceedings or hear additional evidence.

506.13 Nothing in this chapter shall be interpreted to:

- (a) Provide that a filing of a petition for judicial review stays enforcement of an action; or
- (b) Prohibit a person from requesting a stay according to the rules of the court.

506.14 If a term in a provision of this section conflicts with a provision in another section of this chapter, the term in the provision of this section controls.

507 PUBLIC HEALTH HAZARDS

507.1 The Mayor may post notice on the shores of a District waterbody of a related hazard to public health or safety.

507.2 Upon determination that a direct or indirect contact with a waterbody of the District, including immersion, fishing, or boating, poses a hazard to the public health or safety, the Department may take action deemed necessary to protect the public health until the hazard has ended, including a prohibition of all recreational activities on the affected waters of the District.

507.3 If the Department takes action to protect the public health from a hazard, the Department shall:

- (a) Notify the Council of the District of Columbia immediately of the action; and
- (b) Notify the public through media most likely to effectively advise of the hazard, including:
 - (1) Newspapers of general circulation in the District;
 - (2) Radio stations serving the District; and
 - (3) Electronic media.

507.4 An action taken by the Department to protect public health from a hazard shall remain in effect until rescinded, or for a period of two (2) weeks, whichever is shorter.

507.5 The Department may extend the life of an action taken to protect public health from a hazard beyond a two (2) week period, only if the Council of the District of Columbia, by resolution, so approves.

507.6 From District waters designated as a public health hazard, no person shall operate any pumping device or water vessel so as to generate a spray which falls upon the adjacent shore, except as authorized by the Mayor for good cause shown.

508 PREVENTION OF POLLUTION BY WATERCRAFT

508.1 The discharge into the Potomac River or its tributaries of any waste, whether liquid or solid, treated or untreated, from any vessel berthed at a marina, dock, or basin, is prohibited.

508.2 Each marina, dock, or basin where a vessel or other watercraft is berthed, except for facilities that are owned by the United States Department of Defense and not generally open to the public, shall be provided with water closets, urinals, and lavatories which are separate for each sex, readily available, and in sufficient numbers to meet the needs of persons using the marina facilities.

508.3 Each marina, dock, or basin where vessels or other watercraft suitable for overnight accommodations are berthed shall be equipped with suitable bathing facilities.

508.4 The Department shall approve the facilities required under this section to be acceptable for the purposes set forth.

508.5 New or existing marinas within the Anacostia Waterfront Development Zone shall comply with the program elements outlined in the current version of the Clean Marina Guidebook issued by the National Park Service, and the owner of

the marina shall submit a copy of its Clean Marina Checklist and any supporting documentation to the Department.

509 CORRECTION OF CURRENT EROSION PROBLEMS

509.1 In instances where erosion is occurring as the result of natural forces or past land-disturbing activities, but in the absence of current land-disturbing activities, the Department shall have the authority to inspect the site and to order the property owner to correct the erosion problem.

509.2 Each order to correct existing problems shall specify the general corrective measures to be applied.

509.3 The Department shall maintain and provide to homeowners who are required to correct erosion problems information relating to possible sources of financial assistance for the project.

510-515 [RESERVED]

516 STORMWATER MANAGEMENT: APPLICABILITY

516.1 No person shall engage in a major regulated project unless the Department has issued an approved stormwater management plan (SWMP) for the project.

516.2 Application for Department approval of a SWMP for a major regulated project shall be made by at least one (1) of the following persons:

- (a) The owner of a property on which a major regulated project is planned;
- (b) The lessee who undertakes a major regulated project, with the owner's permission, on a property that the lessee has leased; or
- (c) The agent of the owner or lessee.

516.3 In preparing and implementing a SWMP, or a part of a SWMP, a person must comply with:

- (a) This chapter;
- (b) The terms and conditions of the SWMP once approved; and
- (c) The Department's orders and directions to achieve compliance with the approved SWMP.

516.4 A major regulated project shall comply with the requirements and procedures of this chapter unless a provision exempts compliance.

- 516.5 The owner of a site on which a major regulated project occurs and each person to whom the owner has designated responsibility for management of the site shall ensure that the site complies with the approved SWMP for the site until site redevelopment that follows a Department-approved SWMP occurs.
- 516.6 Responsibility for compliance with an approved SWMP for a site shall pass to a subsequent owner of the site and each person to whom that owner designates responsibility for the management of the site until site redevelopment that follows a Department-approved SWMP occurs.
- 516.7 No person shall engage in a project for the generation of a Stormwater Retention Credit unless the Department has issued an approved SWMP for the project, except as otherwise provided in this chapter.

517 STORMWATER MANAGEMENT: EXEMPTIONS

- 517.1 If a major substantial improvement activity demonstrates that it is not part of a common plan of development with a major land-disturbing activity, then it is exempt from § 520 (Stormwater Management: Performance Requirements For Major Land-Disturbing Activity).
- 517.2 A land-disturbing activity shall be exempt from the requirements of Section 520 (Stormwater Management: Performance Requirements For Major Land-Disturbing Activity), Section 522 (Stormwater Management: Performance Requirements For Major Substantial Improvement Activity) and Section 529 (Stormwater Management: Covenants and Easements) if the Department determines that it is conducted solely to install a best management practice or land cover that retains stormwater for one or more of the following purposes:
- (a) To generate a Stormwater Retention Credit;
 - (b) To earn a stormwater fee discount under the provisions of this chapter;
 - (c) To provide for off-site retention through in-lieu fee payments;
 - (d) To comply with a Watershed Implementation Plan established under a Total Maximum Daily Load for the Chesapeake Bay; or
 - (e) To reduce Combined Sewer Overflows (CSOs) in compliance with a court-approved consent decree, including court-approved modifications, for reducing CSOs in the District of Columbia, or in compliance with a National Pollutant Discharge Elimination System permit.

- 517.3 A land-disturbing activity that consists solely of cutting a trench for utility work and related replacement of sidewalks and ramps is exempt from the stormwater management requirements of this chapter if it does not involve the reconstruction of a roadway from curb to curb or curb to centerline of roadway.
- 517.4 Land disturbance conducted solely to respond to an emergency need to protect life, limb, or property or conduct emergency repairs shall be exempt from the requirement to comply with the stormwater management provisions of this chapter, §§ 516-34.
- 517.5 For the purposes of calculating the cost of a major substantial improvement to a building or structure, an applicant may exclude the cost of replacing manufacturing and industrial equipment, including pumps, valve chambers, and wastewater treatment facilities, but may not exclude the cost of replacing boilers, furnaces, and other equipment that is part of the heating and cooling system or other infrastructure commonly found in a building or structure.
- 517.6 A land-disturbing activity in the existing Public Right of Way is exempt from the requirements in Section 520 (Performance Requirements for Major Land-Disturbing Activity) for maintaining post-development peak discharge rates.

518 STORMWATER MANAGEMENT: PLAN REVIEW PROCESS

- 518.1 In order for the Department to approve a person's proposed stormwater management plan (SWMP), the person and the Department shall undertake the process described in this section.
- 518.2 The Department shall notify an applicant of each determination in the plan review process.
- 518.3 The owner of a site shall submit an initial application for the Department's approval of a major regulated project, including:
- (a) Two (2) sets of the SWMP, certified by a professional engineer licensed in the District of Columbia; and
 - (b) Each supporting document specified in the Department's Stormwater Management Guidebook (SWMG).
- 518.4 The Department shall make an initial determination if an application is complete and:
- (a) Accept the application for review;
 - (b) Accept the application for review, with conditions; or
 - (c) Reject the application for review, without prejudice to re-submission.

- 518.5 Upon accepting an application for review, the Department shall determine if:
- (a) The application requires additional information to determine whether or not it meets the requirements for approval;
 - (b) The application meets the requirements for approval;
 - (c) The application meets the requirements for approval, with conditions; or
 - (d) The application does not meet the requirements for approval and shall be disapproved, without prejudice to re-submission.
- 518.6 If the applicant resubmits a SWMP after making changes, the re-submission shall contain a list of the changes made.
- 518.7 The Department may conduct one (1) or more supplemental reviews of a re-submitted application.
- 518.8 After receiving notification that an application meets the requirements for the Department's approval, the applicant shall submit a final preconstruction application including:
- (a) One (1) Mylar copy of the SWMP, certified by a professional engineer licensed in the District of Columbia;
 - (b) Seven (7) paper copies of the SWMP, certified by a professional engineer licensed in the District of Columbia; and
 - (c) Each supporting document specified in the Department's SWMG.
- 518.9 After the applicant submits a final preconstruction application that meets the requirements for the Department's approval, the Department shall approve the plan, and provide the applicant with one (1) approved copy of the SWMP for the applicant to file at the Recorder of Deeds with the declaration of covenants and, if applicable, to record an easement.
- 518.10 The Department shall issue the remaining approved paper copies of the approved SWMP to the applicant after the applicant submits proof to the Department:
- (a) That the declaration of covenants and each applicable easement has been filed at the Recorder of Deeds; and
 - (b) That each applicable fee for Department services has been paid.

- 518.11 The Department may issue the remaining approved paper copies of the approved SWMP to the applicant before the declaration of covenants is filed if:
- (a) The Government of the District of Columbia has conditioned transfer of the property upon the successful acquisition of an approved SWMP or building permit; and
 - (b) The declaration is to be filed at closing.
- 518.12 Within twenty-one (21) days of the Department's final construction inspection, the applicant shall submit an as-built package, including:
- (a) One (1) Mylar copy of the as-built SWMP certified by a professional engineer licensed in the District of Columbia; and
 - (b) Each supporting document specified in the Department's SWMG.
- 518.13 For a project consisting entirely of work in the public right of way, the requirement to submit an as-built SWMP can be met by the submission of a Record Drawing that:
- (a) Documents the as-built construction of best management practices and related stormwater infrastructure; and
 - (b) Is certified by an officer of the contracting company for the project.

519 STORMWATER MANAGEMENT: PLAN

- 519.1 A Department-approved stormwater management plan (SWMP) shall:
- (a) Govern all construction for which stormwater management is required;
 - (b) Govern all applicable maintenance activities; and
 - (c) Demonstrate compliance with this chapter.
- 519.2 A submitted SWMP and supporting documentation shall contain information sufficient for the Department to determine whether the SWMP complies with this chapter including:
- (a) Existing site conditions, including the identification and location of each existing Best Management Practice (BMP) and whether it will remain on the site and in use or will be removed;
 - (b) Proposed site design;

- (c) Each land use proposed for the site;
- (d) Identification and location of each proposed BMP, including geographic coordinates;
- (e) Design and performance of each BMP for stormwater retention, detention, and treatment;
- (f) Conveyance capacity of stormwater infrastructure;
- (g) Environmental characteristics of the site;
- (h) Pre- and post-development hydrologic computations, including:
 - (1) Calculation of required stormwater management volume for:
 - (A) The entire site; and
 - (B) Each individual drainage area; and
 - (2) On-site and off-site retention volumes;
- (i) Maintenance plan and schedule for each proposed BMP;
- (j) Monitoring plan for each BMP that captures stormwater for use;
- (k) For each proposed BMP not included in the Department's Stormwater Management Guidebook (SWMG):
 - (1) Separate identification and description; and
 - (2) Documentation of performance and effectiveness;
- (l) Construction sequence for:
 - (1) Each BMP; and
 - (2) The related development or improvement project, if any.
- (m) A list of the construction and waste material to be stored on site and a description of the material and each pollution control measure that will be implemented to minimize exposure to stormwater discharge, including:
 - (1) Each storage practice;
 - (2) A spill prevention response;

- (3) The United States Environmental Protection Agency (EPA) identification number, or copy of application to EPA for identification number, for each hazardous waste that will be stored on site; and
 - (4) Proof of payment of each applicable fee.
- 519.3 The retention capacity of each BMP in a SWMP shall be calculated using the applicable equations for calculating retention value in Chapter three (3) of the Department's Stormwater Management Guidebook.
- 519.4 The pollutant removal efficiency of each BMP in a SWMP shall be calculated using the applicable equation in Chapter three (3) of the Department's SWMG.
- 519.5 The Department may require for each area that a project proposes for use to meet the requirements of this chapter, including a contiguous area or an area with a shared BMP:
 - (a) Information listed in this section; or
 - (b) A SWMP.
- 519.6 A submitted SWMP shall use:
 - (a) A standard drawing size of twenty-four inches by thirty-six inches (24 in. x 36 in);
 - (b) One (1) of the following horizontal scales of profile, unless otherwise approved:
 - (1) One inch equals ten feet (1 in. = 10 ft.);
 - (2) One inch equals twenty feet (1 in. = 20 ft.);
 - (3) One inch equals thirty feet (1 in. = 30 ft.);
 - (4) One inch equals forty feet (1 in. = 40 ft.);
 - (5) One inch equals fifty feet (1 in. = 50 ft.); or
 - (6) One inch equals eighty feet (1 in. = 80 ft.);
 - (c) One (1) of the following vertical scales of profile, unless otherwise approved:

- (1) One inch equals two feet (1 in. = 2 ft.);
 - (2) One inch equals four feet (1 in. = 4 ft.);
 - (3) One inch equals five feet (1 in. = 5 ft.); or
 - (4) One inch equals ten feet (1 in = 10 ft.); and
- (d) Drafting media that yield first or second generation reproducible drawings with a minimum letter size of No. 4 (1/8 inch).

519.7 A SWMP shall not be approved without the signature and seal of the Director or the Director's designee on the plan.

519.8 For each as-built SWMP that an applicant submits to the Department, an applicant shall provide that a professional engineer licensed in the District of Columbia, certifies with seal and signature that:

- (a) The design, and installation for an as-built plan:
 - (1) Conforms to engineering principles applicable to stormwater management; and
 - (2) Complies with the requirements of this chapter; and
- (b) A set of instructions for operation and maintenance of each BMP has been provided to the applicant.

519.9 A SWMP for a project shall be consistent with each other project submittal, including:

- (a) An erosion and sediment control plan; and
- (b) A floodplain management plan.

519.10 The approved SWMP for a major regulated project shall be available on site for Department review for the entire period of construction during ordinary business hours.

520 STORMWATER MANAGEMENT: PERFORMANCE REQUIREMENTS FOR MAJOR LAND-DISTURBING ACTIVITY

520.1 A site that undergoes a major land-disturbing activity shall employ each Best Management Practice (BMP) and land cover necessary to meet the requirements of this section until site redevelopment that follows a Department-approved Stormwater Management Plan (SWMP) occurs.

520.2 A site that undergoes a major land-disturbing activity, except the area of a site that is in the existing Public Right of Way (PROW), shall maintain the following:

- (a) Post-development peak discharge rate for a twenty-four (24) hour, two (2)-year frequency storm event at a level that is equal to or less than the storm event's pre-development peak discharge rate unless the site's discharge:
 - (1) Flows directly or through the separate sewer system to the main stem of the tidal Potomac or Anacostia Rivers, the Washington Channel, or the Chesapeake and Ohio Canal;
 - (2) Does not flow into or through a tributary to those waterbodies that runs above ground or that the Department expects to be daylighted to run above ground; and
 - (3) Will not cause erosion of land or transport of sediment.
- (b) Post-development peak discharge rate for a twenty-four (24) hour, fifteen (15)-year frequency storm event at a level that is equal to or less than the storm event's pre-project peak discharge rate; and
- (c) Post-development peak discharge rate from a twenty-four (24) hour, one hundred (100)-year storm event at a level that is equal to or less than the storm event's pre-project peak discharge rate if the site:
 - (1) Increases the size of Special Flood Hazard Area as delineated on the effective Flood Insurance Rate Map; or
 - (2) Meets the following two conditions:
 - (A) Does not discharge to the sewer system and
 - (B) Has a post-development peak discharge rate for a one hundred (100)-year storm event that will cause flooding to a building.

520.3 A site that undergoes a major land-disturbing activity shall achieve retention of the rainfall from the ninetieth (90th) percentile rainfall event for the District of Columbia, measured for a twenty-four (24)-hour rainfall event with a seventy-two (72)-hour antecedent dry period (1.2 inch rainfall event) by:

- (a) Employing each BMP necessary to retain the 1.2 inch Stormwater Retention Volume (SWRV), calculated as follows:

$$SWR_v = [P \times [(R_{vI} \times \%I) + (R_{vC} \times \%C) + (R_{vN} \times \%N)] \times SA] \times 7.48 / 12$$

- SWR_v = volume, in gallons, required to be retained
- P = 90th percentile rainfall event for the District (1.2 inches)
- R_{vI} = 0.95 (runoff coefficient for impervious cover)
- R_{vC} = 0.25 (runoff coefficient for compacted cover)
- R_{vN} = 0.00 (runoff coefficient for natural cover)
- %I = post-development percent of site in impervious cover
- %C = post-development percent of site in compacted cover
- %N = post-development percent of site in natural cover
- SA = surface area, in square feet, of land-disturbing activity

where the surface area under a BMP shall be calculated as part of the impervious cover (%I);

- (b) Employing each post-development land cover factored into the SWR_v; and
- (c) Calculating separately and achieving the SWR_v, with P equal to 1.2 inches, for the portion of land-disturbing activity that is in the existing Public Right of Way (PROW), in compliance with the section of this chapter pertaining to performance requirements in the existing PROW.

520.4 A site that undergoes a major land-disturbing activity may achieve the 1.2 inch SWR_v on site or through a combination of on-site retention and off-site retention, under the following conditions:

- (a) The site shall retain on site a minimum of fifty percent (50%) of the 1.2 inch SWR_v, calculated for the entire site, unless the Department approves an application for relief from extraordinarily difficult site conditions; and
- (b) The site shall use off-site retention for the portion of the SWR_v that is not retained on site.

520.5 A site that undergoes a major land-disturbing activity may achieve on-site retention by retaining more than the 1.2 inch SWR_v for an area of the site, subject to the following conditions:

- (a) At least fifty percent (50%) of the 1.2 inch SWR_v from each Site Drainage Area (SDA), unless it drains into the combined sewer system, shall be:
 - (1) Retained; or
 - (2) Treated to remove eighty percent (80%) of total suspended solids; and

- (3) The entirety of an area intended for use or storage of motor vehicles shall drain to each necessary BMP so that at least fifty percent (50%) of the 1.2 inch SWRv flowing from that entire area is retained or treated;
- (b) Retention in excess of a 1.2 inch SWRv for one area of the site may be applied to the volume required for another area of the site;
- (c) The requirement for retention of a minimum of fifty percent (50%) of the 1.2 inch SWRv for the entire site shall be achieved, unless the Department approves an application for relief from extraordinarily difficult site conditions; and
- (d) Retention of volume greater than that from a 1.7 inch rainfall event, calculated using the SWRv equation with a P equal to 1.7 inches, shall not be counted toward on-site retention.

520.6 A major land-disturbing activity may achieve on-site retention by directly conveying volume from the regulated site to a shared BMP with available retention capacity.

521 STORMWATER MANAGEMENT: PERFORMANCE REQUIREMENTS FOR MAJOR LAND-DISTURBING ACTIVITY CONSISTING OF BRIDGE, ROADWAY, AND STREETScape PROJECTS IN THE EXISTING PUBLIC RIGHT OF WAY

521.1 This section applies only to the portion of a major regulated project that consists entirely of bridge, roadway, streetscape, or railway work:

- (a) In the existing Public Right of Way (PROW); or
- (b) In the existing PROW and in the public space associated with the PROW.

521.2 A project in the existing PROW may comply with a requirement in this chapter to retain a Stormwater Retention Volume (SWRv) by:

- (a) Retaining fifty percent (50%) of the SWRv on site and using off-site retention for the remaining volume;
- (b) Achieving the SWRv; or
- (c) Retaining on site the SWRv to the Maximum Extent Practicable (MEP), after proving that each opportunity for installing retention capacity has been exhausted in compliance with the MEP process for existing PROW detailed in the Department's Stormwater Management Guidebook (SWMG).

- 521.3 A project in the existing PROW shall:
- (a) Prioritize, to the MEP, the management of stormwater from the roadway, including stormwater draining from roadway beyond the area of land-disturbing activity; and
 - (b) Not be required to install a Best Management Practice (BMP) or landcover:
 - (1) That provides retention capacity greater than that required to achieve the SWRv that is calculated for the area of land-disturbing activity; or
 - (2) That is outside the area of land-disturbing activity.
- 521.4 An existing PROW project on an Anacostia Waterfront Development Zone (AWDZ) site may comply with a requirement in this chapter to achieve a Water Quality Treatment Volume (WQTV) by:
- (a) Achieving the WQTV; or
 - (b) Achieving the WQTV to the MEP, after proving that each opportunity for installing retention and treatment capacity has been exhausted in compliance with the MEP process for existing PROW detailed in the SWMG.
- 521.5 A project in the existing PROW that elects to comply with the SWMG's MEP process for maximizing retention or treatment shall provide the following information demonstrating technical infeasibility or environmental harm:
- (a) Detailed explanation of each opportunity for on-site installation of a BMP that was considered and rejected, and the reasons for each rejection, including each opportunity that could be created by reducing roadway width in order to create an expanded area for retention of the SWRv or treatment of the WQTV between the curb line and private property; and
 - (b) Evidence of site conditions limiting each opportunity for a BMP, including, as applicable:
 - (1) Data on soil and groundwater contamination;
 - (2) Data from percolation testing;
 - (3) Documentation of the presence of utilities requiring impermeable protection or a setback;

- (4) Documentation of structural requirements that would not be satisfied by a BMP;
- (5) Evidence of the applicability of a statute, regulation, court order, pre-existing covenant, or other restriction having the force of law; and
- (6) Evidence of a District-approved use for the safe and effective transport of goods or people

521.6 A major regulated project in the existing PROW may achieve on-site retention by retaining more than the 1.2 inch SWR_v for an area of the site or for an area that drains to the site, subject to the following conditions:

- (a) At least fifty percent (50%) of the 1.2 inch SWR_v from each Site Drainage Area (SDA), unless it drains into the combined sewer system, shall be:
 - (1) Retained; or
 - (2) Treated to remove eighty percent (80%) of total suspended solids to the MEP; and
 - (3) The entirety of an area intended for use or storage of motor vehicles shall drain to each necessary BMP so that at least fifty percent (50%) of the 1.2 inch SWR_v flowing from that entire area is retained or treated;
- (b) Retention in excess of a 1.2 inch SWR_v for one area of the site or an area that drains to the site may be applied to the volume required for another area of the site;
- (c) The requirement for retention of a minimum of fifty percent (50%) of the 1.2 inch SWR_v for the entire site shall be achieved, unless the project achieves retention of the SWR_v to the MEP; and
- (d) Retention of volume greater than that from a 1.7 inch rainfall event, calculated using the SWR_v equation with a P equal to 1.7 inches, shall not be counted toward on-site retention.

521.7 If a project in the existing PROW that is retaining the SWR_v to the MEP is not able to achieve retention of fifty percent (50%) of the SWR_v for the entirety of an area intended for use or storage of motor vehicles, the Department may waive a requirement to provide treatment for that volume if the Department:

- (a) Determines that a treatment BMP would displace or reduce the size of retention capacity to be installed; and
- (b) Concludes that the displaced or reduced retention capacity would be as protective or more protective for District waterbodies than the alternative treatment BMP.

521.8 An existing PROW project that is retaining the SWRV or the WQTV to the MEP shall not be required to use off-site retention for the difference between the required volume and the achieved volume.

522 STORMWATER MANAGEMENT: PERFORMANCE REQUIREMENTS FOR MAJOR SUBSTANTIAL IMPROVEMENT ACTIVITY

522.1 If a major substantial improvement activity demonstrates that it is not part of a common plan of development with a major land-disturbing activity, then it shall comply with the provisions of this section; otherwise, it shall comply with the requirements for a major land-disturbing activity.

522.2 For the purposes of calculating the cost of a major substantial improvement to a building or structure, an applicant may exclude the cost of replacing manufacturing and industrial equipment, including pumps, valve chambers, and wastewater treatment facilities, but may not exclude the cost of replacing boilers, furnaces, and other equipment that is part of the heating and cooling system or other infrastructure commonly found in a building or structure.

522.3 A site that undergoes a major substantial improvement activity shall employ each Best Management Practice (BMP) and land cover necessary to meet the requirements of this section until the property is redeveloped in compliance with these regulations.

522.4 A site that undergoes a major substantial improvement activity shall achieve retention of the rainfall from the eightieth (80th) percentile rainfall event for the District of Columbia, measured for a twenty-four (24)-hour storm with a seventy-two (72)-hour antecedent dry period (0.8 inch rainfall event) by:

- (a) Employing each BMP necessary to retain the 0.8 inch Stormwater Retention Volume (SWRV), calculated as follows:

$$SWRV = [P \times [(RV_I \times \%I) + (RV_C \times \%C) + (RV_N \times \%N)] \times SA] \times 7.48 / 12$$

- SWRV = volume, in gallons, required to be retained
- P = 80th percentile rainfall event for the District (0.8 inches)
- RV_I = 0.95 (runoff coefficient for impervious cover)
- RV_C = 0.25 (runoff coefficient for compacted cover)
- RV_N = 0.00 (runoff coefficient for natural cover)
- %I = post-development percent of site in impervious cover

- %C = post-development percent of site in compacted cover
 %N = post-development percent of site in natural cover
 SA = surface area, in square feet, of substantially improved building footprint plus land disturbance

where the surface area under a BMP shall be calculated as part of the impervious cover (%I); and

- (b) Employing each post-development land cover factored into the SWRv.
- (c) Calculating separately and achieving the SWRv, with P equal to 1.2 inches, for the portion of land-disturbing activity that is in the existing Public Right of Way (PROW), in compliance with the section of this Chapter pertaining to performance requirements in the existing PROW.

522.5 A site that undergoes a major substantial improvement activity may achieve the 0.8 inch SWRv on site or through a combination of on-site retention and off-site retention, under the following conditions:

- (a) The site shall retain on site a minimum of fifty percent (50%) of the 0.8 inch SWRv, calculated for the entire site, unless the Department approves an application for relief from extraordinarily difficult site conditions; and
- (b) The site shall use off-site retention for the portion of the SWRv that is not retained on site.

522.6 A site that undergoes a major substantial improvement activity may achieve on-site retention by retaining more than the 0.8 inch SWRv for an area of the site, subject to the following conditions:

- (a) At least fifty percent (50%) of the 0.8 inch SWRv from each Site Drainage Area (SDA), unless it drains into the combined sewer system, shall be:
 - (1) Retained; or
 - (2) Treated to remove eighty percent (80%) of total suspended solids; and
 - (3) The entirety of an area intended for use or storage of motor vehicles shall drain to each necessary BMP so that at least fifty percent (50%) of the 0.8 inch SWRv flowing from that entire area is retained or treated;
- (b) Retention in excess of a 0.8 inch SWRv for one area of the site may be applied to the volume required for another area of the site;

- (c) The requirement for retention of a minimum of fifty percent (50%) of the 0.8 inch SWRv for the entire site shall be achieved, unless the Department approves an application for relief from extraordinarily difficult site conditions; and
- (d) Retention of volume greater than that from a 1.7 inch rainfall event, calculated using the SWRv equation with a P equal to 1.7 inches, shall not be counted toward on-site retention.

522.7 A major substantial improvement activity may achieve on-site retention by directly conveying volume from the regulated site to a shared BMP with available retention capacity.

523 STORMWATER MANAGEMENT: RESTRICTIONS

523.1 The Department may restrict use of an infiltration Best Management Practice (BMP) to prevent contamination of soil or groundwater and require submittal of and compliance with a Stormwater Pollution Prevention Plan if:

- (a) An applicant proposes to engage in a land use activity that has the potential to pollute stormwater runoff, as specified in the Department's Stormwater Management Guidebook (SWMG); or
- (b) Surface contamination is present at the site.

523.2 To prevent stormwater migration in underlying soil or groundwater in an area determined to have sub-surface contamination of soil or groundwater, the Department may:

- (a) Prohibit use of an infiltration BMP; or
- (b) Limit use of an infiltration BMP, including by requiring that an impermeable liner be used.

523.3 The Department may require a BMP that receives runoff from a stormwater hotspot designated in the Department's SWMG to include pollution control measures, including, as applicable, a baffle, skimmer, oil separator, grease trap, or other mechanism which prevents release of oil and grease in concentrations exceeding ten milligrams per Liter (10 mg/L).

523.4 The Department may require a BMP that receives runoff from an animal confinement area to:

- (a) Connect to a combined sewer, if DC Water approves the connection as not exceeding available capacity; or

- (b) Include pollution control measures necessary to protect water quality standards of the receiving waterbody, if the runoff discharges directly to a waterbody or through the separate sewer system.

523.5 No person shall use a coal tar product, or other toxic material, to seal a BMP.

524 STORMWATER MANAGEMENT: PERFORMANCE REQUIREMENTS FOR MAJOR REGULATED PROJECTS IN THE ANACOSTIA WATERFRONT DEVELOPMENT ZONE

524.1 An Anacostia Waterfront Development Zone site (AWDZ site) is a site within the Anacostia Waterfront Development Zone (AWDZ) that undergoes a major regulated project that is publicly owned or publicly financed.

524.2 An AWDZ site shall employ each Best Management Practice (BMP) and land cover necessary to meet the requirements of this section until site redevelopment that follows a Department-approved Stormwater Management Plan occurs.

524.3 Except for activities exempted under this chapter, if a provision of this section conflicts with any other provision of this chapter, an AWDZ site shall be subject to the more stringent provision.

524.4 An AWDZ site that undergoes a major land-disturbing activity shall achieve treatment of the rainfall from the ninety-fifth (95th) percentile rainfall event for the District of Columbia, measured for a twenty-four (24)-hour rainfall event with a seventy-two (72)-hour antecedent dry period (1.7 inch rainfall event) by:

- (a) Employing each BMP necessary to treat the 1.7 inch Water Quality Treatment Volume (WQTV) equal to the difference between:
 - (1) The post-development runoff from the 1.7 inch rainfall event; and
 - (2) The 1.2 inch Stormwater Retention Volume (SWRV);
- (b) Calculating the WQTV in subsection (a) as follows:

$$WQTV = ([P \times [(Rv_I \times \%I) + (Rv_C \times \%C) + (Rv_N \times \%N)] \times SA] \times 7.48 / 12) - SWRV$$

- WQTV = volume, in gallons, required to be retained or treated, above and beyond the SWRV
- SWRV = volume, in gallons, required to be retained
- P = 95th percentile rainfall event for the District (1.7 inches)
- Rv_I = 0.95 (runoff coefficient for impervious cover)
- Rv_C = 0.25 (runoff coefficient for compacted cover)
- Rv_N = 0.00 (runoff coefficient for natural cover)

- %I = post-development percent of site in impervious cover
- %C = post-development percent of site in compacted cover
- %N = post-development percent of site in natural cover
- SA = surface area in square feet, of land-disturbing activity

where the surface area under a BMP shall be calculated as part of the impervious cover (%I); and

- (c) Employing each post-development land cover factored into the WQTV.

524.5

An AWDZ site that undergoes a major substantial improvement activity and does not undergo a major land-disturbing activity shall:

- (a) Comply with the performance requirements for major substantial improvement activity, except that the Stormwater Retention Volume (SWRV) shall be equal to the post-development runoff from the eighty-fifth (85th) percentile rainfall event for the District of Columbia, measured for a twenty-four (24)-hour rainfall event with a seventy-two (72)-hour antecedent dry period (1.0 inch rainfall event);
- (b) Achieve treatment of the rainfall from the ninety-fifth (95th) percentile rainfall event for the District of Columbia, measured for a twenty-four (24)-hour rainfall event with a seventy-two (72)-hour antecedent dry period (1.7 inch rainfall event) by:
 - (1) Employing each BMP necessary to treat the 1.7 inch Water Quality Treatment Volume (WQTV) equal to the difference between:
 - (A) The post-development runoff from the 1.7 inch rainfall event; and
 - (B) The 1.0 inch SWRV;
 - (2) Calculating the WQTV in subsection (b) as follows:

$$WQTV = ([P \times [(Rv_I \times \%I) + (Rv_C \times \%C) + (Rv_N \times \%N)] \times SA] \times 7.48 / 12) - SWRV$$

- WQTV = volume, in gallons, required to be retained or treated, above and beyond the SWRV
- SWRV = volume, in gallons, required to be retained
- P = 95th percentile rainfall event for the District (1.7 inches)
- Rv_I = 0.95 (runoff coefficient for impervious cover)
- Rv_C = 0.25 (runoff coefficient for compacted cover)
- Rv_N = 0.00 (runoff coefficient for natural cover)

- %I = post-development percent of site in impervious cover
 %C = post-development percent of site in compacted cover
 %N = post-development percent of site in natural cover
 SA = surface area in square feet,

where, the surface area under a BMP shall be calculated as part of the impervious cover (%I); and

- (3) Employing each post-development land cover factored into the WQTV.

524.6 A major regulated project in the AWDZ may achieve on-site treatment for WQTV with:

- (a) On-site treatment designed to remove eighty percent (80%) of Total Suspended Solids;
 (b) On-site retention; or
 (c) Direct conveyance of stormwater from the site to an approved shared BMP with sufficient available treatment or retention capacity.

524.7 An AWDZ site may achieve part of the WQTV by using off-site retention if:

- (a) Site conditions make compliance technically infeasible, environmentally harmful, or of limited appropriateness in terms of impact on surrounding landowners or overall benefit to District waterbodies; and
 (b) The Department approves an application for relief from extraordinarily difficult site conditions.

524.8 An AWDZ site that achieves a gallon of Off-Site Retention Volume (Offv) by using Stormwater Retention Credits (SRCs) certified for retention capacity located outside of the Anacostia watershed shall use 1.25 SRCs for that gallon of Offv.

524.9 An AWDZ site shall obtain Department approval of an integrated pesticide management plan meeting the requirements of the Department's Stormwater Management Guidebook.

524.10 A major regulated project in the AWDZ shall achieve the required level of stormwater management using one or more of the following methods, in the following order of preference:

- (a) Vegetated BMPs and land covers designed to retain and beneficially use stormwater;
- (b) Where compatible with groundwater protection, non-vegetated infiltration BMPs;
- (c) Other low impact development practices;
- (d) Collection and use of stormwater for on-site irrigation and other purposes; and
- (e) Other on-site BMPs or design methods approved by the Department.

525 STORMWATER MANAGEMENT: SHARED BEST MANAGEMENT PRACTICE

525.1 A Shared Best Management Practice (S-BMP) may, upon approval by the Department:

- (a) Provide stormwater management for a major regulated project in satisfaction of an on-site stormwater management requirement of that project; and
- (b) Be eligible for Department certification of a Stormwater Retention Credit (SRC).

525.2 A Department-approved S-BMP may provide stormwater management for a nearby property if:

- (a) Stormwater flow from the nearby property is directly conveyed to the S-BMP; and
- (b) The S-BMP has sufficient capacity.

525.3 To obtain Department approval of the use of an existing S-BMP, a major regulated project shall show how each requirement of the project will be met by the S-BMP, including:

- (a) Submit an as-built Stormwater Management Plan (SWMP) for the S-BMP that is accurate as of the time of submittal;
- (b) Prove sufficient capacity of the S-BMP;
- (c) Demonstrate the adequacy of each stormwater conveyance from the major regulated project to the S-BMP; and

- (d) Show each drainage area conveying stormwater into the S-BMP from the major regulated project.
- 525.4 To obtain Department approval of the use of a proposed S-BMP, a major regulated project shall show how each requirement of the project will be met by the S-BMP, including:
 - (a) Submit a Department-approved SWMP for the S-BMP;
 - (b) Prove sufficient capacity of the S-BMP;
 - (c) Demonstrate the adequacy of each stormwater conveyance from the major regulated project to the S-BMP; and
 - (d) Show each drainage area conveying stormwater into the S-BMP from the major regulated project.
- 525.5 A major regulated project that uses a S-BMP to meet a requirement shall not pass the Department's final inspection until the S-BMP passes the Department's final inspection and is operational.
- 525.6 After an alteration to a S-BMP to provide stormwater management for another site, the site with the S-BMP shall:
 - (a) Pass the Department's inspection; and
 - (b) Submit an as-built SWMP, showing each area draining into the S-BMP and the means of conveyance.
- 525.7 The Department may certify a SRC for a S-BMP if the S-BMP meets each requirement for certification.
- 525.8 A site with a S-BMP that provides a volume of stormwater management to satisfy an on-site requirement of a major regulated project shall be responsible for maintenance of the S-BMP capacity to manage that volume and shall record that responsibility in a declaration of covenants.
- 525.9 If the Department determines that a S-BMP has ceased satisfying an on-site retention requirement for a site that underwent a major regulated project, the site shall be responsible for retaining the required volume on site or via use of off-site retention.

**526 STORMWATER MANAGEMENT: RELIEF FROM
EXTRAORDINARILY DIFFICULT SITE CONDITIONS**

526.1 The applicant may apply for relief from extraordinarily difficult site conditions if it is technically infeasible or environmentally harmful:

- (a) For a site to comply with the minimum on-site retention requirement (50% of Stormwater Retention Volume (SWR_v)); or
- (b) For an Anacostia Waterfront Development Zone (AWDZ) site to comply with any portion of its Water Quality Treatment Volume or SWR_v on site, except that AWDZ sites may also apply based on the limited appropriateness of on-site stormwater management.

526.2 The Department shall not provide relief unless the applicant proves that on-site compliance is technically infeasible or environmentally harmful, except that, for an AWDZ site, the Department may also consider the appropriateness of on-site compliance in terms of impact on surrounding landowners or overall benefit to District waterbodies.

526.3 In order to support its case for relief, the applicant shall provide the following information demonstrating technical infeasibility or environmental harm:

- (a) Detailed explanation of each opportunity for on-site installation of a Best Management Practice (BMP) that was considered and rejected, and the reasons for each rejection; and
- (b) Evidence of site conditions limiting each opportunity for a BMP, including, as applicable:
 - (1) Data on soil and groundwater contamination;
 - (2) Data from percolation testing;
 - (3) Documentation of the presence of utilities requiring impermeable protection or a setback;
 - (4) Evidence of the applicability of a statute, regulation, court order, pre-existing covenant, or other restriction having the force of law;
 - (5) Evidence that the installation of a retention BMP would conflict with the terms of a non-expired approval, applied for prior to the end of Transition Period Two A for a major land-disturbing activity or before the end of Transition Period Two B for a major substantial improvement activity, of a:

- (A) Concept review by the Historic Preservation Review Board;
 - (B) Concept review by the Commission on Fine Arts;
 - (C) Preliminary or final design submission by the National Capital Planning Commission;
 - (D) Variance or special exception from the Board of Zoning Adjustment; or
 - (E) Large Tract Review by the District Office of Planning; and
- (6) For a utility, evidence that a property owner on or under whose land the utility is conducting work objects to the installation of a BMP; and
 - (7) For a major substantial improvement activity, evidence that the structure cannot accommodate a BMP without significant alteration, because of a lack of available interior or exterior space or limited load-bearing capacity.

526.4 An applicant for relief shall submit:

- (a) A complete application; and
- (b) Proof of payment of the applicable fee.

526.5 The Department shall not consider an incomplete application for relief; except that if an application is substantially complete, the Department may begin consideration.

526.6 In determining whether to grant relief, the Department may consider:

- (a) The applicant's submittal;
- (b) Other site-related information;
- (c) An alternative design;
- (d) The Department's Stormwater Management Guidebook;
- (e) Another BMP that complies with the requirements of this chapter; and
- (f) Relevant scientific and technical literature, reports, guidance, and standards.

- 526.7 After considering whether an application meets the requirements of this section, the Department may:
- (a) Require additional information;
 - (b) Grant relief;
 - (c) Grant relief, with conditions;
 - (d) Deny relief; or
 - (e) Deny relief in part.
- 526.8 No relief shall be granted unless, for the volume of relief granted, the Stormwater Management Plan (SWMP) for the project provides for:
- (a) Use of off-site retention, with the Off-Site Retention Volume documented on the approved SWMP; and
 - (b) If the relief is from a minimum on-site retention requirement, treatment to remove eighty percent (80%) of total suspended solids.

527 STORMWATER MANAGEMENT: USE OF OFF-SITE RETENTION THROUGH THE IN-LIEU FEE OR STORMWATER RETENTION CREDITS

- 527.1 A site that undergoes a major regulated project shall use off-site retention to achieve each gallon of its Off-Site Retention Volume (Offv).
- 527.2 No person shall allow a portion of their Offv obligation to be unfulfilled for any period of time.
- 527.3 A person shall achieve each gallon of Offv for each year by:
- (a) Using one (1) Stormwater Retention Credit (SRC); or
 - (b) Paying the in-lieu fee to the Department.
- 527.4 An obligation to use off-site retention for a gallon of Offv shall end if:
- (a) On-site retention of the gallon is achieved in compliance with a Department-approved Stormwater Management Plan (SWMP); or
 - (b) Site redevelopment that follows a Department-approved SWMP occurs.

- 527.5 No person shall use a SRC to achieve an Offv without obtaining the Department's approval.
- 527.6 Only the owner of a SRC may apply to the Department for approval to use a SRC to achieve an Offv.
- 527.7 The Department shall track the use of off-site retention to achieve an Offv.
- 527.8 An application to use a SRC to achieve an Offv shall be on a form that the Department provides and shall include:
- (a) The unique serial number of the SRC; and
 - (b) Information about the site applying to use the SRC, including property location and stormwater management on the property.
- 527.9 A person may use a Department-certified SRC without regard to the location within the District of the best management practice or land cover that generated the SRC, except as specified for an Anacostia Waterfront Development Zone site.
- 527.10 The Department shall not approve an application to use a SRC to achieve an Offv if:
- (a) The SRC has already been used to achieve one (1) year of Offv; or
 - (b) The Department has retired the SRC.
- 527.11 The one (1)-year lifespan of a SRC and of the in-lieu fee begins on the date that it is used to achieve an Offv.
- 527.12 A site's obligation to use off-site retention to achieve its Offv shall begin on the date of successful completion of the Department's final construction inspection.
- 527.13 For each gallon of required Offv, the property owner shall provide the Department at least four (4) weeks before the proposed usage date:
- (a) For use of a SRC, a completed application to use the SRC; and
 - (b) For use of an in-lieu fee:
 - (1) Notification of intent to use an in-lieu fee; and
 - (2) Proof of payment of the fee.
- 527.14 If a lapse in satisfaction of the obligation to achieve an Offv occurs, the Department shall declare the property owner out of compliance and:

- (a) Assess the property owner the in-lieu fee annually for each gallon of Offv;
- (b) Pro-rate the assessment to the period of lapsed compliance if the property owner comes into compliance; and
- (c) Assess an administrative late fee.

527.15 Upon receipt of a notice related to noncompliance with an obligation to achieve an Offv, the property owner shall immediately:

- (a) Comply; and
- (b) Pay fees and charges assessed.

527.16 For a property owner who does not come into compliance within thirty (30) days after the date of the Department's notice of a lapse in satisfaction of an Offv obligation and who owns an SRC that has not been used to achieve the Offv for another property, the Department may apply that SRC to the Offv obligation that is out of compliance.

527.17 If the Department finds that an obligation has terminated or that its administration of payments would be improved, it may:

- (a) Pro-rate the amount of SRCs used and adjust accordingly in the Department's tracking system; and
- (b) Pro-rate the in-lieu fee and refund.

528 STORMWATER MANAGEMENT: MAINTENANCE

528.1 Each owner or designee of each lot and parcel that is part of a site that undertook a major regulated project shall be responsible for maintenance required by the Stormwater Management Plan (SWMP) approved by the Department and shall record that responsibility in a declaration of covenants.

528.2 The Department may assign maintenance responsibility for a Shared Best Management Practice (S-BMP) in an approved SWMP after considering:

- (a) How maintenance will be achieved;
- (b) Each lot and parcel's responsibility relative to its reliance on each S-BMP and land cover to comply with this chapter;
- (c) Administrative feasibility; and

(d) Accountability and enforceability.

528.3 The owner, governmental agency, or other person with maintenance responsibility shall ensure that a Best Management Practice (BMP) and a land cover on a lot or parcel is maintained in good working order if:

- (a) The BMP or land cover was installed to meet the requirements of this chapter for a major regulated project; or
- (b) The Department certified a Stormwater Retention Credit for a gallon of retention capacity created by the BMP or land cover.

528.4 Natural land cover employed to comply with a retention requirement in this chapter shall not be converted to compacted or impervious land cover, unless the loss of retention capacity associated with the land conversion will be:

- (a) Offset by a corresponding increase in retention capacity elsewhere on the site that complies with the requirements of this chapter; or
- (b) Offset by a corresponding increase in use of off-site retention that complies with the requirements of this chapter; and
- (c) The Department approves a change to the previously approved SWMP for the site, showing how the loss of retention capacity will be offset.

528.5 Compacted land cover employed to comply with a retention requirement in this chapter shall not be converted to impervious land cover, unless the loss of retention capacity associated with the land conversion will be:

- (a) Offset by a corresponding increase in retention capacity elsewhere on the site that complies with the requirements of this chapter; or
- (b) Offset by a corresponding increase in use of off-site retention that complies with the requirements of this chapter; and
- (c) The Department approves a change to the previously approved SWMP for the site, showing how the loss of retention capacity will be offset.

528.6 Maintenance of each BMP and land cover shall comply with the applicable Department-approved SWMP, including promptly repairing and restoring each:

- (a) Grade surface;
- (b) Wall;
- (c) Drain;

- (d) Structure;
- (e) Foundation;
- (f) Sign;
- (g) Plant; and
- (h) Erosion or sediment control measure.

528.7 If the Department finds that a BMP or land cover is not being properly maintained:

- (a) The Department may require that the condition be corrected; and
- (b) The governmental agency, owner, or other person charged with maintenance responsibility shall correct the condition.

528.8 If an owner or other person charged with maintenance responsibility fails or refuses to correct a condition as the Department directs, the Department may:

- (a) Declare the owner or person out of compliance;
- (b) Take corrective action itself or through its contractor;
- (c) Assess the cost incurred and fees; and
- (d) Assess a fine or penalty.

528.9 If the Department determines that the condition of a BMP or land cover presents an actual or imminent harm to the environment or the public health, the Department may:

- (a) Declare the owner or other person charged with maintenance responsibility to be out of compliance;
- (b) Take protective and corrective action itself or through its contractor without prior notice to the owner;
- (c) Assess the cost incurred and fees; and
- (d) Assess a fine or penalty.

528.10 Used soil media removed from a BMP receiving drainage from an area intended for use or storage of motor vehicles shall not be re-used for planting or as fill

material and shall be disposed of in a landfill or at a transfer station for transport to a landfill.

- 528.11 Non-vegetative waste material from cleaning, maintaining, repairing, and replacing a BMP shall be disposed of in a landfill, trash transfer station, or other facility for processing these materials in accordance with District and Federal law.

529 STORMWATER MANAGEMENT: COVENANTS AND EASEMENTS

- 529.1 The owner of each lot and parcel that is part of a site that undertook a major regulated project shall record with the Recorder of Deeds:

- (a) A declaration of covenants that includes the on-site and off-site responsibilities in the Department-approved Stormwater Management Plan (SWMP); and
- (b) An easement that the Department requires to ensure access for inspection and maintenance of a Best Management Practice (BMP) or land cover employed to comply with this chapter.

- 529.2 An agency of the federal government or District government shall not be required to make or record a declaration of covenants, except that, if a District-owned property is sold to a private owner or leased for more than three (3) years, the property's SWMP must be incorporated in a declaration of covenants and recorded as a burden on the property or the leasehold.

- 529.3 The declaration of covenants and easement shall:

- (a) Be determined legally sufficient by the Attorney General or the Department's designee;
- (b) Be binding on each subsequent owner;
- (c) Include an agreement to indemnify the District of Columbia, its officers, agents, and employees from and against all claims or liability that may arise out of or in connection with, either directly or indirectly, any of the owner's actions or omissions with regard to the construction, operation, maintenance or restoration of the BMP or land cover; and
- (d) Provide for inspection of and access to the BMP or land cover at reasonable times by the Department or its authorized representative.

- 529.4 If the Department determines that a change to an approved SWMP for a site affects the terms of a declaration of covenants or an easement required by this chapter, the owner of each affected lot or parcel of that site shall revise as the Department approves and record the declaration of covenants or easement accordingly.

530 STORMWATER MANAGEMENT: IN-LIEU FEE

- 530.1 The base in-lieu fee established by the Department for a purpose of this chapter shall represent the full life-cycle cost for the Department to retain one gallon (1 gal.) of stormwater for one (1) year, including the following costs:
- (a) Project planning;
 - (b) Project design;
 - (c) Project management;
 - (d) Construction and installation;
 - (e) Operations and maintenance;
 - (f) Project financing;
 - (g) Land acquisition;
 - (h) Administration of the in-lieu fee program; and
 - (i) Legal support for the in-lieu fee program.
- 530.2 The Department shall annually adjust the base in-lieu fee to account for inflation, using the Urban Consumer Price Index published by the United States Bureau of Labor Statistics.
- 530.3 The Department may re-evaluate the costs underlying the in-lieu fee and re-base the in-lieu fee as the Department determines necessary.
- 530.4 The Department shall provide notice in the *D.C. Register* prior to re-basing the in-lieu fee.
- 530.5 An in-lieu fee payment shall be based on the in-lieu fee in effect at the time payment is made.
- 530.6 An in-lieu fee payment shall:
- (a) Be used solely to achieve increased retention in the District of Columbia;
 - (b) Be used to achieve increased retention in the Anacostia watershed, if the payment achieves Off-Site Retention Volume for an Anacostia Waterfront Development Zone site.

- (c) Be deposited in the Stormwater In-Lieu Fee Payment Special Purpose Revenue Fund, established by The Water Pollution Control Act of 1984, effective March 16, 1985, as amended (D.C. Law 5-188; D.C. Official Code § 8-103.01 *et seq.*).

531 STORMWATER MANAGEMENT: CERTIFICATION OF STORMWATER RETENTION CREDITS

531.1 Only the Department shall certify a Stormwater Retention Credit (SRC); and no SRC shall be valid and usable for the purposes of this chapter unless the Department certifies it.

531.2 The Department shall:

- (a) Assign a unique serial number to each SRC; and
- (b) Retain and track information about each SRC, including final sale price.

531.3 A gallon of retention capacity in a Best Management Practice (BMP) or land cover is eligible for SRC certification if it meets the following eligibility requirements:

- (a) The gallon retained by the BMP or land cover shall:
 - (1) Be in excess of the Stormwater Retention Volume (SWR_v) for a major regulated project or, for a site that is not regulated, in excess of pre-project retention;
 - (2) Be no more than the SRC ceiling; and
 - (3) Not be installed to comply with a stormwater management requirement of a statute, regulation, or court order, including for:
 - (A) Reduction of Combined Sewer Overflows (CSOs) in compliance with the court-approved consent decree, including court-approved modifications, for reducing CSOs in the District of Columbia, except that retention capacity installed on an experimental basis as a requirement of the consent decree shall be eligible if a subsequent modification of the consent decree ends the requirement to maintain that retention capacity; or
 - (B) Compliance with a Watershed Implementation Plan established under a Total Maximum Daily Load for the Chesapeake Bay.

- (b) Design, installation, and operation shall comply with a Department-approved Stormwater Management Plan (SWMP);
- (c) The Department's final construction inspection shall be successfully completed;
- (d) A Department inspection shall be successfully completed within six (6) months before the Department decides to certify an SRC; and
- (e) An executed maintenance contract or a signed promise to follow a maintenance plan for the period of time for which the certification of SRCs is requested, in compliance with the Department-approved SWMP for the BMP or land cover, shall be in place.

531.4 The SRC-eligible retention capacity described in Subsection 531.3(a) shall be calculated using the formulas in Chapter seven (7) of the Department's Stormwater Management Guidebook.

531.5 The Department shall begin accepting applications for SRC certification after this section is published as final in the *D.C. Register*.

531.6 A person submitting an application for SRC certification shall be the owner of the land with the SRC-eligible BMP or land cover or shall have been assigned the right to a SRC that is certified.

531.7 The Department may reject as premature an application for SRC certification if it is submitted more than three (3) months before the end of the preceding period of time for which the Department had certified a SRC for the retention capacity.

531.8 The Department shall not consider an incomplete application for SRC certification.

531.9 A complete application for SRC certification shall include:

- (a) A completed Department application form;
- (b) Documentation of the right to the SRC that would be certified;
- (c) A copy of the Department-approved SWMP for the BMP or land cover with SRC-eligible retention capacity and the area draining into it;
- (d) A copy of the as-built SWMP or the BMP or land cover with SRC-eligible retention capacity and the area draining into it, certified by a professional engineer licensed in the District of Columbia and meeting the requirements of this chapter;

- (e) An executed maintenance contract or a signed promise to follow a maintenance plan for the period of time for which the certification of the SRC is requested;
- (f) Other documentation that the Department requires to determine that the eligibility requirements are satisfied, including documentation that a maintenance provider has the expertise and capacity to provide required maintenance for the time period of SRC certification; and
- (g) A signed promise from the owner of the property on which the BMP or land cover is located to notify the Department if, during the period of time for which a SRC is certified, the property is sold or otherwise transferred to another person.

531.10 If the Department determines that a complete application meets the eligibility requirements, it shall certify up to three (3) years' worth of SRCs for each gallon of SRC-eligible retention capacity.

531.11 The Department shall not certify an SRC:

- (a) For a period of time that overlaps with the period of time for which the Department has already certified an SRC for the same retention capacity;
- (b) For a period that begins earlier than the date of the submittal of a complete application; or
- (c) For ineligible retention capacity.

531.12 The Department may waive submittal of documentation required for a complete application if the Department has the documentation on file that reflects current conditions, except that the Department shall not waive submittal of a current maintenance agreement or maintenance contract for the BMP or land cover.

531.13 The Department may conduct an inspection of a BMP or land cover for the purposes of this section before certification of an SRC and after certification.

531.14 The Department may refuse to certify an SRC for a person:

- (a) Who is currently lapsed in compliance with an obligation to fulfill an Off-Site Retention Volume for a property; or
- (b) Who is an original SRC owner for another SRC and who is currently not maintaining the associated BMP or land cover as promised for the period of time for which the Department certified that SRC.

- 531.15 At the Director's discretion and to allow for the aggregation of SRCs, the Department may approve a SWMP that proposes aggregation of retention from small sites under a common design and that:
- (a) Would not otherwise trigger a stormwater management performance requirement in this chapter;
 - (b) Proposes the use of a common design for multiple installations of a BMP;
 - (c) Specifies well-defined technical criteria for location and placement of each BMP;
 - (d) Specifies details for how multiple installations will be constructed, operated, and maintained;
 - (e) Contains requirements for inspection by the Department or a Department-approved third party;
 - (f) Demonstrates the technical capacity to locate, design, install, and maintain each BMP; and
 - (g) Demonstrates that the requirements of this chapter will be met.

532 STORMWATER MANAGEMENT: LIFESPAN OF STORMWATER RETENTION CREDITS

- 532.1 A Stormwater Retention Credit (SRC) may be banked indefinitely, until:
- (a) It is used to achieve a gallon of Off-Site Retention Volume (Offv) for one (1) year; or
 - (b) The Department retires it.
- 532.2 The Department shall retire an SRC if:
- (a) An SRC owner submits a complete Department-provided application for retirement and the Department approves it; or
 - (b) A final determination to retire a SRC is made pursuant to this section.
- 532.3 Only the owner of an SRC may submit to the Department an application for retirement of that SRC.
- 532.4 An original SRC owner with an obligation to maintain a Best Management Practice (BMP) or land cover for a year for which the Department has certified an

SRC may quit that obligation by submitting and receiving the Department's approval of a:

- (a) Request that the Department retire the SRC corresponding to the year for which maintenance is required, if that SRC has not been used or sold;
- (b) Request that the Department retire another SRC; or
- (c) Payment of the in-lieu fee to the Department.

532.5 If the Department determines that there is a retention failure associated with a certified SRC, the Department may:

- (a) If the SRC has not been sold or used:
 - (1) Deny use of the SRC to achieve an Offv;
 - (2) Deny an application for transfer of ownership of the SRC;
 - (3) Retire the SRC; and
 - (4) Give notice to the owner of the SRC of the right to contest the denial or retirement through the administrative appeals process pursuant to Section 506 of this chapter, and give public notice of the denial or retirement on the Department's website for fifteen (15) days;
- (b) If the SRC has been sold or used:
 - (1) Order the original SRC owner to replace the SRC with another SRC; or
 - (2) Assess on the original SRC owner the in-lieu fee corresponding to the SRC; and
 - (3) Give notice to the original SRC owner of the right to contest the determination through the administrative appeals process pursuant to Section 506 of this chapter.

532.6 If a person fails to comply with the Department's order to replace an SRC or pay the in-lieu fee within sixty (60) days, the Department may assess an administrative late fee of ten percent (10%) of the corresponding in-lieu fee payment.

532.7 If a retention failure associated with a SRC occurs, the Department may calculate compensatory SRCs and the in-lieu fee to reflect the time period for which the retention failure occurred.

532.8 If a retention failure associated with an SRC occurs or a SRC owner requests that the Department retire an SRC, the Department may pro-rate a SRC or an in-lieu fee payment accordingly.

533 STORMWATER MANAGEMENT: OWNERSHIP OF STORMWATER RETENTION CREDITS

533.1 A Stormwater Retention Credit (SRC) may be bought and sold.

533.2 No person may sell a SRC that:

- (a) Has already been used to achieve an Off-Site Retention Volume (Offv); or
- (b) The person does not own.

533.3 No person may complete a transfer of SRC ownership without receiving the Department's approval.

533.4 A complete application for transfer of SRC ownership shall be in writing on a Department-provided form that includes:

- (a) The unique serial number of each SRC;
- (b) Identification of the seller and the buyer, including contact information; and
- (c) The purchase price.

533.5 Only the existing owner of an SRC (the seller) and the proposed SRC owner (the buyer) shall apply to transfer SRC ownership.

533.6 Before approving a transfer of SRC ownership, the Department shall verify the ownership and status of each SRC.

533.7 The Department shall undertake efforts to publicly share information of the price, purchase, sale, value, time, certification, and use of an SRC that is not personal, proprietary, a trade secret, or otherwise confidential.

534 STORMWATER MANAGEMENT: CERTIFICATION OF STORMWATER RETENTION CREDITS FOR A BEST MANAGEMENT PRACTICE OR LAND COVER INSTALLED BEFORE EFFECTIVE DATE OF STORMWATER RETENTION PERFORMANCE REQUIREMENTS

534.1 A person may apply for certification of a Stormwater Retention Credit (SRC) for a gallon of retention capacity in a Best Management Practice (BMP) or land cover installed before the end of Transition Period One (TP1) or in compliance with a Stormwater Management Plan approved by the Department before the end of TP1 if:

- (a) The BMP or land cover was installed after May 1, 2009; and
- (b) The retention capacity meets the requirements for certification of a SRC, with the modifications in this section.

534.2 A gallon of retention capacity in an existing BMP or land cover is eligible for SRC certification if it meets the following eligibility requirements:

- (a) The gallon retained by the BMP or land cover shall:
 - (1) Be in excess of the water quality treatment requirements in the Department's stormwater management regulations in place at the time the project was approved, or, for a site that was not regulated, in excess of pre-project retention;
 - (2) Be no more than the SRC ceiling; and
 - (3) Not be installed to comply with a stormwater management requirement of a statute, regulation, or court order, including for:
 - (A) Reduction of Combined Sewer Overflows (CSOs) in compliance with the court-approved consent decree, including court-approved modifications, for reducing CSOs in the District of Columbia, except that retention capacity installed on an experimental basis as a requirement of the consent decree shall be eligible if a subsequent modification of the consent decree ends the requirement to maintain that retention capacity; or
 - (B) Compliance with a Watershed Implementation Plan established under a Total Maximum Daily Load for the Chesapeake Bay.

- (b) An as-built Stormwater Management Plan (SWMP) shall document the design, installation, and operation of the BMP or land cover in sufficient detail for the Department to determine its retention capacity in compliance with the specifications and calculations in the Department's Stormwater Management Guidebook (SWMG);
- (c) A Department inspection shall be successfully completed within six (6) months before the Department decides to certify an SRC; and
- (d) An executed maintenance contract or a signed promise to follow the Department-approved maintenance plan for the period of time for which the certification of SRCs is requested.

534.3

For the purposes of certifying an SRC for a BMP or land cover installed before the end of TP1 or in compliance with a SWMP approved by the Department before the end of TP1, a person shall submit the following as a complete application:

- (a) A completed, Department-provided application form;
- (b) If applicable, a copy of the Department-approved SWMP for the BMP or land cover and the area draining into it, certified by a professional engineer licensed in the District of Columbia that the SWMP meets the requirements of this chapter;
- (c) A copy of the as-built SWMP for the BMP or land cover and the area draining into it, certified by a professional engineer licensed in the District of Columbia that the SWMP meets the requirements of this chapter;
- (d) Documentation of pre-project site conditions;
- (e) An executed maintenance contract or a signed promise to follow a maintenance plan for the period of time for which the certification of SRCs is requested;
- (f) A signed promise from the owner of the property on which the BMP or land cover is located to notify the Department if, during the period of time for which SRCs are certified, the property is sold or otherwise transferred to another person; and
- (g) Other documentation that the Department requires to determine that the eligibility requirements for certification of SRCs are satisfied.

535-539

[RESERVED]

540 SOIL EROSION AND SEDIMENT CONTROL: APPLICABILITY

- 540.1 No person shall engage in razing or land-disturbing activity, including stripping, clearing, grading, grubbing, excavating, and filling of land, without obtaining the Department's approval of a soil erosion and sediment control plan, unless exempted in this chapter.
- 540.2 Notwithstanding any exemptions provided in this chapter, a person who engages in a demolition project that results in debris, dust, or sediment leaving the site shall apply each necessary control measure, upon receiving instruction to do so by the Department.
- 540.3 Notwithstanding any exemptions provided in this chapter, a person who exposes erodible material and causes erosion shall apply each necessary control measure, upon receiving instruction to do so by the Department.
- 540.4 A person who applies for Department approval of a soil erosion and sediment control plan shall be the owner of the property where the activity is to take place.
- 540.5 The approved soil erosion and sediment control plan shall govern all construction work requiring the control of soil erosion and sediment.
- 540.6 At the Director's discretion, the Department may establish conditions for a general or blanket approval of soil erosion and sediment control plans that are solely covering specified activities carried out under and complying with specifications approved by the Department. These conditions may include requirements for an applicant to provide notice to the Department and comply with inspections as would normally be required under this chapter. The Department shall establish and revise any such conditions as necessary and publish them on its website as updates to the District of Columbia Standards and Specifications for Soil Erosion and Sediment Control.

541 SOIL EROSION AND SEDIMENT CONTROL: EXEMPTIONS

- 541.1 The following land-disturbing activities are exempt from the requirement to comply with the soil erosion and sediment control provisions of this chapter, except as noted below and in Section 540 (Soil Erosion and Sediment Control: Applicability):
- (a) For an individual house, townhouse, or rowhouse:
 - (1) Gardening;
 - (2) Landscaping;
 - (3) Repairs;

- (4) Maintenance;
- (5) Stormwater retrofits, provided that:
 - (A) The soil allows for percolation; and
 - (B) The retrofit location is no closer than ten feet (10 ft.) from a building foundation;
- (6) Utility service connection, repair, or upgrade;
- (b) A project for which the total cost is less than nine thousand dollars (\$9,000);
- (c) Tilling, planting, or harvesting of agricultural or horticultural crops;
- (d) Installation of fencing, a gate, signpost, or a pole;
- (e) Emergency work to protect life, limb or property, and emergency repairs, except that the following is not exempted to the extent described:
 - (1) The land disturbed must still be shaped and stabilized in accordance with the requirements of this chapter;
 - (2) Generally applicable control measures shall be used; and
 - (3) A plan shall be submitted within three (3) weeks after beginning the emergency work; and
- (f) Activities that disturb less than fifty square feet (50 ft²).

542 SOIL EROSION AND SEDIMENT CONTROL: PLAN

- 542.1 The soil erosion and sediment control plan shall not be approved without the date and signature of the Director or the Director's designee stamped on the plan.
- 542.2 The approved soil erosion and sediment control plan for a project shall be available on site for Department review for the entire period of construction during ordinary business hours.
- 542.3 The Department shall approve a soil erosion and sediment control plan only if the Department determines the following:
- (a) The plan meets the requirements of this chapter and of the Department's Standards and Specifications for Soil Erosion and Sediment Control;

- (b) The applicant has paid each applicable fee; and
- (c) The applicant has certified, in writing, that he or she will implement each control measure specified in the plan.

542.4 The Department may, with respect to a soil erosion and sediment control plan:

- (a) Reject a submission as incomplete;
- (b) Approve;
- (c) Deny;
- (d) Approve or deny in part; and
- (e) Require conditions or modifications.

542.5 If a plan is disapproved, the Department shall notify the applicant in writing, providing the specific reasons for the disapproval of the plan.

542.6 The Department may suggest modifications, terms, and conditions necessary to comply with the requirements of this chapter.

542.7 A soil erosion and sediment control plan may cover multiple phases of a project.

542.8 The applicant shall submit two (2) sets of prints of the soil erosion and sediment control plan to the Department for review.

542.9 The applicant shall, at a minimum, provide the following information on the soil erosion and sediment control plan:

- (a) A title that indicates the plan is a soil erosion and sediment control plan;
- (b) A project narrative;
- (c) The address of the property;
- (d) The lot, square, or parcel numbers;
- (e) The name, address, and telephone number of:
 - (1) The property owner;
 - (2) The developer; and

- (3) The plan designer;
- (f) For sites where work will be done on slopes in excess of fifteen percent (15%), the seal and signature of a professional engineer, licensed in the District of Columbia;
- (g) A vicinity sketch indicating north arrow, scale, and other information necessary to locate the property;
- (h) One of the following horizontal scales of profile, unless otherwise approved:
 - (1) One inch equals ten feet (1 in. = 10 ft);
 - (2) One inch equals twenty feet (1 in. = 20 ft);
 - (3) One inch equals thirty feet (1 in. = 30 ft);
 - (4) One inch equals forty feet (1 in. = 40 ft);
 - (5) One inch equals fifty feet (1 in. = 50 ft); or
 - (6) One inch equals eighty feet (1 in. = 80 ft);
- (i) One of the following vertical scales of profile, unless otherwise approved:
 - (1) One inch equals two feet (1 in. = 2 ft);
 - (2) One inch equals four feet (1 in. = 4 ft);
 - (3) One inch equals five feet (1 in. = 5 ft); or
 - (4) One inch equals ten feet (1 in. = 10 ft);
- (j) Existing features that may be relevant factors in the development of an erosion prevention plan, such as vegetation, wildlife habitat, water areas, and topsoil conditions;
- (k) The existing and proposed topography, including clear identification of all areas of slope greater than fifteen percent (15%);
- (l) The proposed grading and earth disturbance including:
 - (1) Surface area involved;
 - (2) Volume of spoil material;

- (3) Volume of borrow material; and
 - (4) Limits of clearing and grading including limitation of mass clearing and grading whenever possible;
- (m) Storm drainage provisions, including:
- (1) Velocities and quantities of flow from a sediment control measure to an approved point of discharge; and
 - (2) Site conditions around each point of surface water discharge from the site;
- (n) Erosion and sediment control provisions to minimize on-site erosion and prevent off-site sedimentation including:
- (1) Provisions specified to ensure land disturbance does not extend beyond the proposed area of disturbance;
 - (2) Details of grading practices that will be used on the site;
 - (3) Methods to minimize, to the extent practicable, off-site vehicle tracking of sediment and generation of dust; and
 - (4) Design details for structural control measures, including size and location of each erosion and sediment control measure, including:
 - (A) Use of a crushed stone dike on each access road that is above grade; and
 - (B) Use of a stabilized construction entrance for a construction project on each access road;
- (o) Details of each interim and permanent stabilization measure, including statement of intent to adhere to the following, by placing the statement on the soil erosion and sediment control plan:

“Following initial land disturbance or re-disturbance, permanent or interim stabilization shall be completed within seven (7) calendar days for the surface of all perimeter controls, dikes, swales, ditches, perimeter slopes, and all slopes greater than three (3) horizontal to one (1) vertical (3:1); and fourteen (14) days for all other disturbed or graded areas on the project site. The requirements of this paragraph do not apply to those areas which are shown on the plan and are being used for material storage other than stockpiling, or for those areas on which actual construction activities are

being performed. Maintenance shall be performed as necessary so that stabilized areas continuously meet the appropriate requirements of the District of Columbia Standards and Specifications for Soil Erosion and Sediment Control;”

- (p) The sequence of construction, including:
 - (1) A description of the relationship between the implementation and maintenance of controls, including permanent and interim stabilization and the various stages or phases of earth disturbance and construction; and
 - (2) A sequence for each of the following activities:
 - (A) Clearing and grubbing for those areas necessary for installation of perimeter controls;
 - (B) Construction of perimeter controls;
 - (C) Remaining clearing and grubbing;
 - (D) Road grading;
 - (E) Grading for the remainder of the site;
 - (F) Utility installation, including the use or blocking of storm drains after construction;
 - (G) Final grading, landscaping, or stabilization; and
 - (H) Removal of controls;
- (q) A general description of the predominant soil types on the site, as described by the appropriate soil survey information available from the United States Department of Agriculture National Resources Conservation Service;
- (r) Recommendations for areas with unstable soils from a professional engineer licensed in the District of Columbia; and
- (s) A statement placed on the soil erosion and sediment control plan stating that the applicant shall contact the Department to schedule a preconstruction meeting before the commencement of a land-disturbing activity.

- 542.10 After receiving notification that a soil erosion and sediment control plan meets the requirements for the Department's approval, the applicant shall submit a final preconstruction application including:
- (a) One (1) Mylar copy of the plan, except for a site that disturbs less than five thousand square feet (5,000 ft²) of land;
 - (b) Seven (7) paper copies of the plan, except a site that disturbs less than five thousand square feet (5,000 ft²) of land shall submit four (4) paper copies; and
 - (c) Proof that each applicable fee for Department services has been paid.
- 542.11 The Department shall issue the approved copies of the soil erosion and sediment control plan after the applicant has submitted proof that each applicable fee for Department services has been paid.
- 542.12 Following approval of the plan, the applicant shall request the Department's approval at each of the following stages of construction:
- (a) Installation of perimeter erosion and sediment controls, but before proceeding with any other earth disturbance or grading; and
 - (b) Final stabilization of the site before the removal of erosion and sediment controls. Final stabilization means that all land-disturbing activities at the site have been completed and either of the following two (2) criteria are met:
 - (1) A uniform (for example, evenly distributed, without large bare areas) perennial vegetative cover with a density of seventy percent (70%) of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or
 - (2) Equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.
- 542.13 A soil erosion and sediment control plan shall be designed in compliance with this chapter by a District-licensed:
- (a) Professional engineer;
 - (b) Land surveyor; or
 - (c) Architect.

- 542.14 In support of a plan which it submits for approval, the applicant shall provide additional available information that the Department considers necessary to demonstrate compliance with erosion and sediment control requirements in this chapter.
- 542.15 A copy of each approved plan shall be at the construction site from the date of commencement of the construction activities to the date of final stabilization and shall be made available for the Department's inspection.

543 SOIL EROSION AND SEDIMENT CONTROL: REQUIREMENTS

- 543.1 Erosion and sediment control measures shall be those the Department approves.
- 543.2 The Department shall maintain a copy of its Standards and Specifications for Soil Erosion and Sediment Control on its website and make a hard copy available for review at its offices.
- 543.3 Soil erosion and sediment control measures shall prevent transportation of sediment from the site.
- 543.4 Waterway crossing and stream bank protection measures designed and installed in compliance with the Department's Standards and Specifications for Soil Erosion and Sediment Control shall be assumed to be adequate for that purpose.
- 543.5 A best management practice shall be protected from sedimentation and other damage during construction to ensure proper post-construction operation.
- 543.6 Erosion and sediment control measures shall be in place before and during land disturbance, except as otherwise specifically stated.
- 543.7 Erosion and sediment control measures shall be in place to stabilize an exposed area as soon as practicable after construction activity has temporarily or permanently ceased but no later than fourteen (14) days following cessation, except that temporary or permanent stabilization shall be in place at the end of each day of underground utility work that is not contained within a larger development site.
- 543.8 Permanent stabilization of streets and parking areas shall be with base course crushed stone or other Department-approved measures.
- 543.9 Measures shall be implemented and corrective action taken, including as specified by the Department, to prevent the discharge to District sewers or District waterbodies of erodible material or waste material including those materials that have been transported off site.
- 543.10 A site disturbing greater than five thousand square feet (5,000 ft²) of land shall:

- (a) Adhere to a Stormwater Pollution Prevention Plan (SWPPP) that:
 - (1) The Department provides in its Stormwater Management Guidebook,
 - (2) The Department approves as including the minimum measures in the Department-provided SWPPP; or
 - (3) Is required under the Construction General Permit issued by Region III of the United States Environmental Protection Agency; and
- (b) Post a legible copy of the SWPPP on site.

543.11 A person shall avoid work on a slope in excess of fifteen percent (15%), to the maximum extent practicable. Where avoidance is not practicable, the Soil Erosion and Sediment Control Plan for the site shall be designed, signed, and sealed by a professional engineer, licensed in the District of Columbia, and the applicant shall incorporate additional protection strategies which the Department may require in order to prevent erosion or transportation of sediments from the site.

543.12 Except on an area that is undergoing construction, perimeter controls that disturb land, including dikes, swales, ditches, and perimeter slopes, shall be stabilized within one (1) week of initial land disturbance or redisturbance:

- (a) On the surface of each disturbed area; and
- (b) On each associated slope greater than three (3) horizontal to one (1) vertical (3:1).

543.13 Runoff from the site shall be controlled by either diverting or conveying the runoff through areas with erosion and sediment control measures, such as through the installation of lined conveyance ditches, channels, or checkdams.

543.14 Critical area stabilization shall be applied to each cut and fill slope:

- (a) That is equal to or steeper than 3:1;
- (b) That is flatter than 3:1 if the Department determines that the soil characteristics require it; and
- (c) To every cut and fill slope when construction is out-of-season for planting and until permanent protection can be provided.

- 543.15 If the Department determines that a cut and fill slope is likely to result in erosion by stormwater of sediment from the site onto adjacent property or a nearby waterbody, then the cut and fill slope shall be protected against erosion by the use of structural diversions that are protected by vegetation or matting, in a frequency and manner that a geotechnical or civil engineer licensed in the District of Columbia has determined, based on site conditions, is sufficient to prevent erosion.
- 543.16 Stockpiled material:
- (a) That is actively being used during a phase of construction shall be protected against erosion by establishing and maintaining perimeter controls around the stockpile; and
 - (b) That is not being actively used or added to shall be stabilized with mulch, temporary vegetation, hydro-seed or plastic within fifteen (15) calendar days after its last use or addition.
- 543.17 Sediment traps or basins and other erosion and sediment controls shall be:
- (a) Installed no later than the first phase of land grading;
 - (b) Installed as soon as new site-related runoff is detected; and
 - (c) Employed at all times to protect inlets or storm sewers below silt-producing areas.
- 543.18 Debris basins, diversions, waterways, and related structures shall be seeded and mulched, or have sod or a stabilization blanket installed immediately after they are built.
- 543.19 Construction site access measures to minimize off-site vehicle tracking shall:
- (a) Be installed no later than the first day of construction;
 - (b) Stabilize each construction entrance;
 - (c) Include each additional measure required to keep sediment from being:
 - (1) Tracked, or otherwise carried, onto public streets by construction vehicles; and
 - (2) Washed into a storm drain or waterway; and
 - (d) Comply with all other Department requirements.

- 543.20 Off-site accumulations of sediment:
- (a) Shall be removed daily during construction; and
 - (b) Shall be removed immediately if the Department so requires after an inspection.
- 543.21 Maintenance shall be performed to prevent stabilized areas from becoming unstabilized.
- 543.22 A sign that notifies the public to contact the Department in the event of erosion or other pollution shall be prominently posted on every site subject to this chapter, and the sign shall:
- (a) Be in plain view of and readable by the public at a distance of twelve feet (12 ft);
 - (b) Be placed at each entrance to the site or as directed by the Department; and
 - (c) Provide contact information identified by the Department, including telephone numbers and email address.

544 SOIL EROSION AND SEDIMENT CONTROL: ROADWAY PROJECTS

- 544.1 Rough graded rights-of-way awaiting installation of utilities or pavement shall be protected by the installation of:
- (a) Interceptor dikes across rights-of-way so located as to limit roadway grade to a length between dikes of not more than five hundred feet (500 ft); or
 - (b) Alternative controls that are recommended by a Professional Engineer (PE) licensed in the District of Columbia and that are approved by the Department.
- 544.2 Temporary diversion dikes and flumes, or alternative controls that are recommended by a PE licensed in the District of Columbia and that are approved by the Department, shall be used to carry runoff down cut-and-fill slopes to an outlet approved by the Department as part of the soil erosion and sediment control plan.
- 544.3 A permanent drainage structure, including diversions at top-of-slope cuts and diversions to lead runoff to a storm sewer or other suitable outlet, shall be installed at the completion of rough grading, unless the Department approves an alternative that has been recommended by a PE licensed in the District of Columbia.

**545 SOIL EROSION AND SEDIMENT CONTROL: BUILDINGS,
DEMOLITION, RAZING, AND SITE DEVELOPMENT**

- 545.1 Erosion shall be controlled by the installation of gutters and downspouts as soon as practicable.
- 545.2 Measures shall be taken to achieve a non-eroding velocity for stormwater exiting from a roof or downspout or to temporarily pipe that stormwater directly to a storm drain.
- 545.3 The site work shall maximize the preservation of natural vegetation and limit the removal of vegetation to that which is necessary for construction or landscaping activity.
- 545.4 If site conditions preclude employment of other means of erosion control, the Department may approve installation of small dikes constructed along a low-lying perimeter area of a job site.
- 545.5 In an area along a waterbody, a buffer must be established:
- (a) By not disturbing the land immediately adjacent to the waterbody, except to restore native vegetation;
 - (b) Of at least twenty-five feet (25 ft) on both sides of the water body, measured perpendicular to and horizontally from the top of bank; and
 - (a) With vegetation or other measure required by the Department to insure that the buffer acts as a filter to trap sediment and keep it onsite.
- 545.6 The Department may approve an exception to or modification of the requirement for a project to establish a buffer if:
- (a) During construction, the project employs the control measures specified in the Department-approved Soil Erosion and Sediment Control Plan for the project; and
 - (b) By the end of construction and thereafter, the project:
 - (1) Achieves a 1.7 inch Stormwater Retention Volume (SWR_v) for the area of land disturbance within the buffer, calculated using the SWR_v formula in Section 520 of this chapter, with a P equal to 1.7 inches;
 - (2) Applies for relief from extraordinarily difficult site conditions for a portion of the 1.7 inch SWR_v and achieves the treatment and off-site retention requirements for the volume of relief granted; or

- (3) Receives a Department determination to grant relief for a portion of a the 1.7 inch SWRV, on-site treatment is not feasible, and the Department approves alternatives to on-site treatment that will help to protect or restore the waterbody for which the buffer is intended; and
- (c) The land disturbance is:
 - (1) Required to construct, install, or repair a:
 - (A) Public trail for walking, biking, and similar purposes;
 - (B) Public point of access for boating, fishing, or viewing a waterbody; or
 - (C) Stormwater outfall or other utility line; or
 - (2) Required to enable development of the rest of the site in a manner that is similar to the proposed project.

546 SOIL EROSION AND SEDIMENT CONTROL: UNDERGROUND UTILITIES

- 546.1 If the land-disturbing activity involves work on an underground utility, the site shall comply with the following requirements:
- (a) No more than five hundred linear feet (500 ft) of trench shall be open at any one time;
 - (b) All excavated material shall be placed on the uphill side of a trench;
 - (c) Interim or permanent stabilization shall be installed upon completion of refilling; and
 - (d) When natural or artificial grass filter strips are used to collect sediment from excavated material, mulches and matting shall be used in order to minimize erosion of these materials.

547 SOIL EROSION AND SEDIMENT CONTROL: RESPONSIBLE PERSONNEL

- 547.1 If a site involves a land disturbance of five thousand square feet (5,000 ft²) or more, the owner of the site and the site manager shall ensure that a responsible person is present or available as this section requires.

- 547.2 A responsible person shall, while the site is in a phase involving land-disturbing activity, ensure that the activity complies with this chapter by:
- (a) Inspecting the site and its erosion and sediment control measures at least once biweekly and after a rainfall event to identify and remedy each potential or actual erosion problem;
 - (b) Being available to respond to each potential or actual erosion problem identified by construction personnel; and
 - (c) Being available to speak on site with the Department to remedy each potential or actual erosion problem.
- 547.3 A responsible person shall be:
- (a) Licensed in the District of Columbia as a civil or geotechnical engineer, a land surveyor, or architect; or
 - (b) Certified through a training program that the Department approves, including a course on erosion control provided by another jurisdiction or professional association.
- 547.4 During construction, the responsible person shall have available on site proof of professional licensing or of successful completion of a Department-approved training program.
- 547.5 A Department-approved training program shall cover the following topics, as demonstrated in the training syllabus:
- (a) The detrimental effects of sediment pollution to waterbodies;
 - (b) The benefits of proper and effective erosion and sediment control implementation and maintenance;
 - (c) The purpose and provisions of the District of Columbia erosion and sediment control laws, rules, and regulations;
 - (d) A description of sediment as a pollutant;
 - (e) The process of:
 - (1) Erosion;
 - (2) Sediment transport; and
 - (3) Sediment deposition;

- (f) Proper implementation of erosion and sediment control;
- (g) Recognition and correction of improperly implemented erosion and sediment controls;
- (h) Proper maintenance of erosion and sediment controls; and
- (i) Responsibilities of supervisory and enforcement personnel.

548-551 [RESERVED]

552 TRANSITION

552.1 Sections 500 through 545, 546, 547, and 599 of this chapter shall be enforced immediately upon publication as final, except as described below.

552.2 The Department shall enforce a transition to the stormwater management performance requirements in §§ 520 through 522, as follows:

- (a) A major regulated project submitting a complete Stormwater Management Plan (SWMP), as required under § 518.4, in support of a building permit application before the end of Transition Period One (TP1), shall:
 - (1) Be exempt from the requirements of §§ 520 through 522;
 - (2) Comply with the preceding stormwater management requirements for water quality treatment and detention, in 21 DCMR §§ 529-30 (as published at 35 DCR 21 (January 1, 1988)), as amended and effective through June 30, 2013; and
 - (3) Have the right to generate each applicable Stormwater Retention Credit for each gallon of eligible retention capacity in excess of the water quality treatment requirements in subparagraph (2).
- (b) A major land-disturbing activity submitting a complete SWMP, as required under § 518.4, in support of a building permit application after TP1 and before the end of Transition Period Two A (TP2A) and a major substantial improvement activity submitting a complete SWMP, as required under § 518.4, in support of a building permit application after TP1 and before the end of Transition Period Two B (TP2B) shall comply with this chapter, except that:
 - (1) The requirement in § 520 to achieve a minimum of fifty percent (50%) of the 1.2 inch Stormwater Retention Volume (SWR_v) on site shall be waived; and

- (2) The entire SWRv may be achieved off-site, in accordance with § 527.
- (c) A major regulated project submitting a complete SWMP, as required under § 518.4, in support of a building permit application, for an area that was described explicitly in an Advanced Design (AD) and for which the approval of the AD reviewing body has not expired, shall comply with:
 - (1) Paragraph (a) of this subsection, if the AD was submitted before the end of TP1; and
 - (2) Paragraph (b) of this subsection, if the AD was submitted after TP1 and before the end of TP2A, for a major land-disturbing activity or before the end of TP2B, for a major substantial improvement activity.
- (d) An area of a multi-phased major land-disturbing activity for which each stormwater infrastructure and best management practice required in a Department-approved SWMP was installed during a preceding phase of construction shall be deemed to have achieved compliance with the stormwater management requirements of this chapter and shall not be required to submit a separate SWMP to support a building permit application.

552.3 A major regulated project shall comply with the stormwater management requirements of §§ 552.1 and 552.2 that are enforced at the time it submits a complete SWMP, as required under § 518.4, if:

- (a) The project must re-apply for a building permit because the preceding permit has expired under 12A DCMR § 105.5 or the permit application had been abandoned under 12A DCMR § 105.3.2; or
- (b) The project applies for a building permit after the approving body's approval of an AD has expired.

552.4 This section shall be narrowly construed, and nothing in this section shall be interpreted to otherwise affect the enforcement of the other requirements and procedures in this chapter.

Section 599 is amended to delete the section and replace it with the following:

599 DEFINITIONS

599.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

Advanced Design (AD) - Detailed design for an area of a project described explicitly in a:

- (a) Stage Two (2) Planned Unit Development (PUD) application to the District Zoning Commission;
- (b) Application for design review under the Capitol Gateway Overlay District to the District Zoning Commission; and
- (c) Final design submission to the National Capital Planning Commission (NCPC).

Anacostia Waterfront Development Zone (AWDZ) - the following areas of the District of Columbia, as delineated on a map in the Department's Stormwater Management Guidebook:

- (a) Interstate 395 and all rights-of-way of Interstate 395, within the District, except for the portion of Interstate 395 that is north of E Street, S.W., or S.E.;
- (b) All land between that portion of Interstate 395 that is south of E Street, S.W., or S.E., and the Anacostia River or Washington Channel;
- (c) All land between that portion of Interstate 695, and all rights of way, that are south of E Street, S.W. or S.E., and the Anacostia River;
- (d) The portion of Interstate 295 that is north of the Anacostia River, within the District, and all rights-of-way of that portion of Interstate 295;
- (e) All land between that portion of Interstate 295 that is north of the Anacostia River and the Anacostia River;
- (f) The portions of:
 - (1) The Anacostia Freeway that are north or east of the intersection of the Anacostia Freeway and Defense Boulevard and all rights-of-way of that portion of the Anacostia Freeway;
 - (2) Kenilworth Avenue that extend to the northeast from the Anacostia Freeway to Eastern Ave; and
 - (3) Interstate 295, including its rights-of-way that are east of the Anacostia River and that extends to the southwest from the Anacostia Freeway to Defense Boulevard.

- (g) All land between those portions of the Anacostia Freeway, Kenilworth Avenue, and Interstate 295 described in paragraph (6) of this section and the Anacostia River;
- (h) All land that is adjacent to the Anacostia River and designated as parks, recreation, and open space on the District of Columbia Generalized Land Use Map, dated January 2002, except for the land that is:
 - (1) North of New York Avenue, N.E.;
 - (2) East of the Anacostia Freeway, including rights-of-way of the Anacostia Freeway;
 - (3) East of the portion of Kenilworth Avenue that extends to the northeast from the Anacostia Freeway to Eastern Avenue;
 - (4) East of the portion of Interstate 295, including its rights-of-way, that is east of the Anacostia River and that extends to the southwest from the Anacostia Freeway to Defense Boulevard, but excluding the portion of 295 and its rights-of-way that go to the northwest across the Anacostia River;
 - (5) Contiguous to that portion of the Suitland Parkway that is south of Martin Luther King, Jr. Avenue; or
 - (6) South of a line drawn along, and as a continuation both east and west of the center line of the portion of Defense Boulevard between Brookley Avenue, S.W., and Mitscher Road, S.W.;
- (i) All land, excluding Eastern High School, that is:
 - (1) Adjacent to the land described in paragraph (8) of this section;
 - (2) West of the Anacostia River; and
 - (3) Designated as a local public facility on the District of Columbia Generalized Land Use Map, dated January 2002;
- (j) All land that is:
 - (1) South or east of that portion of Potomac Avenue, S.E., between Interstate 295 and 19th Street, S.E.; and
 - (2) West or north of the Anacostia River;
- (k) The portion of the Anacostia River within the District; and

- (1) The Washington Channel.

Anacostia Waterfront Development Zone Site (AWDZ site) - A site within the Anacostia Waterfront Development Zone that undergoes a major regulated project that is publicly owned or publicly financed.

Animal confinement area - An area, including a structure, used to stable, kennel, enclose, or otherwise confine animals, not including confinement of a domestic animal on a residential property.

Applicant - A person or their agent who applies for approval pursuant to this chapter.

As-built plan - A set of architectural, engineering, or site drawings, sometimes including specifications that certifies, describes, delineates, and presents details of a completed construction project.

Best Management Practice (BMP) - Structural or nonstructural practice that minimizes the impact of stormwater runoff on receiving waterbodies and other environmental resources, especially by reducing runoff volume and the pollutant loads carried in that runoff.

Buffer - An area along a stream, river, or other natural feature that provides protection for that feature.

Building permit - Authorization for construction activity issued by the District of Columbia Department of Consumer and Regulatory Affairs.

Clearing - The removal of trees and brush from the land excluding the ordinary mowing of grass, pruning of trees or other forms of long-term landscape maintenance.

Common plan of development - Multiple, separate, and distinct land-disturbing, substantial improvement, or other construction activities taking place under, or to further, a single, larger plan, although they may be taking place at different times on different schedules.

Compacted cover - An area of land that is functionally permeable, but where permeability is impeded by increased soil bulk density as compared to natural cover, such as through grading, construction, or other activity and will require regular human inputs such as periodic planting, irrigation, mowing, or fertilization. Examples include landscaped planting beds, lawns, or managed turf.

Control measure - Technique, method, device, or material used to prevent, reduce, or limit discharge.

Construction - Activity conducted for the:

- (a) Building, renovation, modification, or razing of a structure; or
- (b) Movement or shaping of earth, sediment, or a natural or built feature.

Critical area stabilization - Stabilization of areas highly susceptible to erosion, including down-slopes and side-slopes, through the use of brick bats, straw, erosion control blanket mats, gabions, vegetation, and other control measures.

Cut - An act by which soil or rock is dug into, quarried, uncovered, removed, displaced, or relocated and the conditions resulting from those actions.

Demolition - The removal of part or all of a building, structure, or built land cover.

Department - The District Department of the Environment or its agent.

Detention - Controlling the peak discharge rate of stormwater from a site.

Dewatering - Removing water from an area or the environment using an approved technology or method, such as pumping.

Director - The Director of the District Department of the Environment.

District - The District of Columbia.

Drainage area - Area contributing runoff to a single point.

Easement - A right acquired by a person to use another person's land for a special purpose.

Electronic media - Means of communication via electronic equipment, including the internet.

Erosion - The process by which the ground surface, including soil and deposited material, is worn away by the action of wind, water, ice, or gravity.

Excavation - An act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated and the conditions resulting from those actions.

Exposed area - Land that has been disturbed or land over which unstabilized soil or other erodible material is placed.

Grading - Causing disturbance of the earth, including excavating, filling, stockpiling of earth materials, grubbing, root mat or topsoil disturbance, or any combination of them.

Impervious cover - A surface area which has been compacted or covered with a layer of material that impedes or prevents the infiltration of water into the ground, examples include conventional streets, parking lots, rooftops, sidewalks, pathways with compacted sub-base, and any concrete, asphalt, or compacted gravel surface and other similar surfaces.

Infiltration - The passage or movement of surface water through the soil profile.

Land cover - Surface of land that is impervious, compacted, or natural.

Land cover change - Conversion of land cover from one type to another, typically in order to comply with a requirement of this chapter or to earn certification of a Stormwater Retention Credit.

Land-disturbing activity - Movement of earth, land, or sediment that disturbs the land surface and the related use of pervious land to support that movement. Land-disturbing activity includes stripping, grading, grubbing, trenching, excavating, transporting, and filling of land, as well as the use of pervious adjacent land for movement and storage of construction vehicles and materials. Land-disturbing activity does not include repaving or remilling that does not expose the underlying soil.

Low Impact Development (LID) - A land planning and engineering design approach to manage stormwater runoff within a development footprint. It emphasizes conservation, the use of on-site natural features, and structural best management practices to store, infiltrate, evapotranspire, retain, and detain rainfall as close to its source as possible with the goal of mimicking the runoff characteristics of natural cover.

Major land-disturbing activity - Activity that disturbs, or is part of a common plan of development that disturbs, five thousand square feet (5,000 ft²) or greater of land area, except that multiple distinct areas that each disturb less than 5,000 ft² of land and that are in separate, non-adjacent sites do not constitute a major land-disturbing activity.

Major regulated project - A major land-disturbing activity or a major substantial improvement activity.

Major substantial improvement activity - Substantial improvement activity and associated land-disturbing activity, including such activities that are part of a common plan of development, for which the combined footprint of improved building and land-disturbing activity is five thousand square feet (5,000 ft²) or greater. A major substantial improvement activity may include a substantial improvement activity that is not associated with land disturbance.

Market value of a structure - Assessed value of the structure for the most recent year, as recorded in the real property assessment database maintained by the District of Columbia's Office of Tax and Revenue.

Natural cover - Land area that is dominated by vegetation and does not require regular human inputs such as irrigation, mowing, or fertilization to persist in a healthy condition. Examples include forest, meadow, or pasture.

Nonstructural Best Management Practice (BMP) - A land use, development, or management strategy to minimize the impact of stormwater runoff including conservation of natural cover or disconnection of impervious surface.

Off-site retention - Use of a stormwater retention credit or payment of in-lieu fee in order to achieve an off-site retention volume under these regulations.

Off-Site Retention Volume (Offv) - A portion of a required stormwater retention volume or required Water Quality Treatment Volume that is not retained on site.

On-site retention - Retention of a site's stormwater on that site or via conveyance to a shared best management practice on another site.

On-site stormwater management - Retention, detention, or treatment of stormwater on site or via conveyance to a shared best management practice.

Original Stormwater Retention Credit (SRC) owner - A person who is indicated as the proposed SRC owner in an application to the Department for the certification of an SRC. The proposed SRC owner becomes the original SRC owner upon the Department's certification of the SRC.

Owner - The person who owns real estate or other property, or that person's agent.

Peak discharge - The maximum rate of flow of water at a given point and time resulting from a storm event.

Person - A legal entity, including an individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, cooperative, the District government and its agencies, and the federal government and its agencies.

Post-development - Describing conditions that may be reasonably expected to exist after completion of land development activity on a site.

Practice - A system, device, material, technique, process, or procedure that is used to control, reduce, or eliminate an impact from stormwater; except where the context indicates its more typical use as a term describing a custom, application, or usual way of doing something.

Pre-development - Describing conditions of meadow land and its relationship to stormwater before human disturbance of the land.

Pre-project - Describing conditions, including land covers, on a site that exist before the construction described in a stormwater management plan has begun.

Publicly-owned or publicly-financed project – A project:

- (a) That is District-owned or District-instrumentality owned;
- (b) Where at least fifteen percent (15%) of a project's total cost is District-financed or District-instrumentality financed; or
- (c) That includes a gift, lease, or sale from District-owned or District instrumentality-owned property to a private entity.

Public Right of Way (PROW) - The surface, the air space above the surface (including air space immediately adjacent to a private structure located on public space or in a public right of way), and the area below the surface of any public street, bridge, tunnel, highway, railway track, lane, path, alley, sidewalk, or boulevard.

Public Space - All the publicly owned property between the property lines on a street, park, or other public property as such property lines are shown on the records of the District. This includes any roadway, tree space, sidewalk, or parking between such property lines, but it excludes adjacent parks and other public property that is not associated with the public right of way

Raze - The complete removal of a building or other structure down to the ground or to its foundation.

Record drawing - The final annotated set of engineering drawings for a construction project, which includes all deviations, field changes, approved changes, constructed depths of footing and structural elements, and horizontal and vertical locations of utility facilities referenced to survey data.

Responsible person - Construction personnel knowledgeable in the principles and practices of erosion and sediment control and certified by a Department-approved soil erosion and sedimentation control training program to assess conditions at the construction site that would impact the effectiveness of a soil erosion or sediment control measure on the site.

Retention - Keeping a volume of stormwater runoff on site through infiltration, evapo-transpiration, storage for non-potable use, or some combination of these.

Retention capacity - The volume of stormwater that can be retained by a best management practice or land cover.

Retention failure - Failure to retain a volume of stormwater for which there is an obligation to achieve retention, including retention that an applicant promises to achieve in order to receive Department-certified Stormwater Retention Credits. Retention failure may result from a failure in construction, operation, or maintenance; a change in stormwater flow; or a fraud, misrepresentation, or error in an underlying premise in an application.

Retrofit - A best management practice or land cover installed in a previously developed area to improve stormwater quality or reduce stormwater quantity relative to current conditions.

Runoff - That portion of precipitation (including snow-melt) which travels over the land surface, and also from rooftops, either as sheetflow or as channel flow, in small trickles and streams, into the main water courses.

Sediment - Soil, including soil transported or deposited by human activity or the action of wind, water, ice, or gravity.

Sedimentation - The deposition or transportation of soil or other surface materials from one place to another as a result of an erosion process.

Shared Best Management Practice (S-BMP) - A Best Management Practice (BMP), or combination of BMPs, providing stormwater management for stormwater conveyed from another site or sites.

Site - A tract, lot or parcel of land, or a combination of tracts, lots, or parcels of land for which development is undertaken as part of a unit, sub-division, or project. The mere divestiture of ownership or control does not remove a property from inclusion in a site.

Site Drainage Area (SDA) - The area that drains to a point on a site from which stormwater discharges.

Soil - All earth material of whatever origin that overlies bedrock and may include the decomposed zone of bedrock which can be readily excavated by mechanical equipment.

Soil Erosion and Sediment Control Plan - A set of drawings, calculations, specifications, details, and supporting documents related to minimizing or eliminating erosion and off-site sedimentation caused by stormwater on a construction site. It includes information on construction, installation, operation, and maintenance.

Soils report - A geotechnical report addressing all erosion and sediment control-related soil attributes, including but not limited to site soil drainage and stability.

Storm sewer - A system of pipes or other conduits which carries or stores intercepted surface runoff, street water, and other wash waters, or drainage, but excludes domestic sewage and industrial wastes.

Stormwater - Flow of water that results from runoff, snow melt runoff, and surface runoff and drainage.

Stormwater management - A system to control stormwater runoff with structural and nonstructural best management practices, including: (a) quantitative control of volume and rate of surface runoff and (b) qualitative control to reduce or eliminate pollutants in runoff.

Stormwater Management Guidebook (SWMG) - The current manual published by the Department containing design criteria, specifications, and equations to be used for planning, design, and construction, operations, and maintenance of a site and each best management practice on the site.

Stormwater Management Plan (SWMP) - A set of drawings, calculations, specifications, details, and supporting documents related to the management of stormwater for a site. A SWMP includes information on construction, installation, operation, and maintenance.

Stormwater Pollution Prevention Plan (SWPPP) - A document that identifies potential sources of stormwater pollution at a construction site, describes

practices to reduce pollutants in stormwater discharge from the site, and may identify procedures to achieve compliance.

Stormwater Retention Credit (SRC) - One gallon (1 gal.) of retention for one (1) year, as certified by the Department. May also be referred to as a RainReC.

Stormwater Retention Credit Ceiling - Maximum retention for which the Department will certify a Stormwater Retention Credit, calculated using the Stormwater Retention Volume (SWRv) equation with P equal to 1.7 inches.

Stormwater Retention Volume (SWRv) - Volume of stormwater from a site for which the site is required to achieve retention.

Stripping - An activity which removes or significantly disturbs the vegetative surface cover including clearing, grubbing of stumps and rock mat, and top soil removal.

Substantial improvement - A repair, alteration, addition, or improvement of a building or structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the improvement or repair is started.

Structural best management practice - A practice engineered to minimize the impact of stormwater runoff, including a bioretention, green roof, permeable paving system, system to capture stormwater for non-potable uses, etc.

Supplemental review - A review that the Department conducts after the review it conducts for a first re-submission of a plan.

Swale - A narrow low-lying stretch of land which gathers or carries surface water runoff.

Transition Period One (TP1) – The one hundred and eighty (180) day period of time starting upon publication of the notice of adoption as final in the *D.C. Register* of the stormwater retention rulemaking. TP1 ends at the close of business on January 15, 2014.

Transition Period Two A (TP2A) – For a major land-disturbing activity, the three hundred and sixty-five (365) day period of time starting at the completion of Transition Period One. TP2A ends at the close of business on January 15, 2015.

Transition Period Two B (TP2B) – For a major substantial improvement activity, the five hundred and forty-five (545) day period of time starting at the completion of Transition Period One. TP2B ends at the close of business on July 14, 2015.

Waste material - Construction debris, dredged spoils, solid waste, sewage, garbage, sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial or municipal waste.

DISTRICT DEPARTMENT OF THE ENVIRONMENT**NOTICE OF FINAL RULEMAKING****Stormwater Fee Discount Program**

The Acting Director of the District Department of the Environment (DDOE or the Department), hereby gives notice of the amendment of Title 21 (Water and Sanitation), Chapter 5 (Water Quality and Pollution), of the District of Columbia Municipal Regulations (DCMR) to establish a stormwater fee discount program by the adoption of final rules.

The authority for the rulemaking is set forth in the District Department of the Environment Establishment Act of 2005, effective February 15, 2006, as amended (D.C. Law 16-51; D.C. Official Code §§ 8-151.01 *et seq.* (2008 Repl. & 2012 Supp.)); the Comprehensive Stormwater Management Enhancement Amendment Act of 2008, effective March 25, 2009, as amended (D.C. Law 17-371; D.C. Official Code §§ 8-152.01 *et seq.* (2008 Repl. & 2012 Supp.)); the Water Pollution Control Act of 1984, effective March 16, 1985, as amended (D.C. Law 5-188; D.C. Official Code §§ 8-103.01 *et seq.* (2008 Repl. & 2012 Supp.)); and Mayor's Order 2006-61, dated June 14, 2006.

The rules, which follow, are final and are effective immediately on the date of publication of this notice in the *D.C. Register*. As Section 4 of D.C. Law 17-371 requires, prior to the issuance of a Notice of Final Rulemaking, this rulemaking was submitted to the Council of the District of Columbia (Council) for a review period of up to forty-five (45) days, excluding weekends, holidays, and days of Council recess. No Council comments affecting adoption as final were received.

Summary of the Final Rulemaking

The final rules amend 21 DCMR (Water and Sanitation), Chapter 5 (Water Quality and Pollution) by adding Sections 557 through 563 and changing and adding definitions to Section 599.

The Department initially proposed rules to establish a stormwater fee discount program in the *D.C. Register* at 58 DCR 6428 (July 29, 2011). The Department received detailed comments from eleven (11) stakeholder organizations and individuals. In response to comments, the Department changed the rules and proposed them for comment a second time in the *D.C. Register* at 59 DCR 11569 (October 5, 2012). For the second proposed rules, the Department extended the comment period, upon request, until November 19, 2012 (59 DCR 12895 (November 9, 2012)).

In response to the second proposed rulemaking, the Department received comments from seven (7) stakeholder organizations and individuals. The Department reviewed and carefully considered all of the submitted comments.

No substantial changes were made to the second proposed rulemaking. However, based on the comments received, the Department has made seven (7) clarifying changes. In addition to the clarifying changes, the Department has made some edits to the rulemaking to conform to the style of the District of Columbia's publisher of the *D.C. Register*, the Office of Documents and Administrative Issuances (ODAI). The edits include inserting parentheticals in each section to indicate acronyms or shorter terms, as well as adding and removing commas. The Department has determined to adopt the following rules as final without a further comment period.

Clarifying Changes and Response to Comments for the Final Rules

DDOE received seven (7) comments during the public review and comment period. Several of the comments addressed changes that would clarify the Department's original intent or eliminate redundancy in the rulemaking. A copy of the written comments and the Department's responses is available for review at the Department's headquarters and on the Department's website as follows: Go to <http://ddoe.dc.gov/>; click on "Regulation & Law"; and then choose from the pull-down menu "Water Quality Regulations."

Each of the seven (7) changes responds to the comments directly or comes from the careful review that the comments occasioned. In each case, the change clarifies DDOE's original intent. These changes, and the Department's rationale for them, are described in the following paragraphs:

Change 1 [Adds 558.7(a)]: This change eliminates an ambiguity. DDOE thought that the regulatory scheme presented was logically obvious – a person would seek approval for a discount, and then, if the compliant Best Management Practice (BMP) had been in place before these rules became effective, the person could also seek a discount for the period of time the BMP had been in place (retroactive discount). DDOE had placed the retroactivity section before the general compliance section because it seemed to make sense from a chronological perspective.

However, DDOE received a comment which reads the two provisions as potentially independent of each other – that a person might establish retroactive eligibility without showing that a BMP was, in general, the type of BMP eligible for a discount. This interpretation would read the rule as grandfathering otherwise ineligible installations. Such grandfathering is not uncommon in rulemaking.

But, such grandfathering was not DDOE's intent. Rather, DDOE's intent, and the careful reading of the rules, requires any BMP to first demonstrate eligibility for a discount. Only upon such a demonstration can retroactivity be assessed. The change simply clarifies this issue.

Therefore, DDOE has added a phrase to clarify that, in order to receive a *retroactive* discount, a customer must have been eligible for a discount pursuant to Subsection 558.9. DDOE's intent has always been that a person must show eligibility for a discount and, only thereafter, eligibility to secure the discount retroactively.

The change is indicated by underlining for additions:

558.7 To receive a Retroactive Discount, the customer must:

- (a) Be otherwise eligible to receive a discount;
- (b) Provide documentation verifying the date of installation;
- (c) Prove that the practice installed is still functional;
- (d) Allow the Department to inspect each BMP identified on the application;
and
- (e) Apply no later than one (1) year from the date on which the customer has the right to apply.

Changes 2 and 3 [Edits to 558.9]:

Change 2 [Edits to 558.9(c)]: This change eliminates a misunderstanding. A comment asked what evidence DDOE will require of property owners to demonstrate construction code approval. It seemed, said a comment, that DDOE was setting itself up as building code enforcer in addition to the District of Columbia Department of Consumer and Regulatory Affairs (DCRA).

This was not DDOE's intent. Rather, DDOE simply wanted to communicate that construction work required for a BMP should comply with the construction code. There are many ways for the agency administratively to determine this. One option, presently under consideration, is simply to ask the applicant to verify compliance with the construction code by signing a form.

DDOE's intent has always been to streamline the process; not to add layers of certifications.

Therefore, DDOE has reworded subparagraph "(c)" to require a BMP to meet construction codes. This clarifies that DDOE is not *requiring* a person to apply for construction permits and submit them to DDOE. A person can obtain a construction permit at DCRA's Permit Center. The reason for the change is to avoid confusion in the discount process that would come from repeated and potentially unnecessary DCRA applications.

Change 3 [Edits to 558.9(e)(2)]: This change clarifies the word "guidelines." A commenter asked DDOE what set of guidelines it had in mind as the reference for BMP construction. Because there is only one such set of Department guidelines specifically for stormwater management, DDOE has clarified the term by substituting the name of the guidelines that it originally intended to reference, the Department's Stormwater Management Guidebook (Guidebook). The Guidebook can be found at DDOE's website, <http://ddoe.dc.gov> by typing the term "Stormwater Guidebook" into the search box. DDOE's proposed update of the Guidebook, addressed in another rulemaking, is found at <http://ddoe.dc.gov/draftstormwaterguidebook>.

Changes 2 and 3 are shown by strikethrough for deletions and underlining for additions:

558.9 A BMP shall, in order to be eligible for the discount:

- (a) Be fully installed and functioning;
- (b) Retain or infiltrate stormwater runoff;
- (c) ~~Have received required construction codes approval~~ Comply with all applicable construction codes;
- (d) Be properly sized and located;
- (e) Be designed and functioning in accordance with:
 - (1) Applicable industry and professional standards and specifications in effect at the time of installation; and
 - (2) ~~Department guidelines~~ The Department's Stormwater Management Guidebook; and
- (f) Be subject to inspection by the Department.

Changes 4 and 5 [Edits to 558.11(c)]:

Change 4: This change corrects confusing language. A commenter proposed that DDOE strike the line “The property is sold or transferred to a new owner” and asked what was meant by “transferred.” On reflection, DDOE has determined that the sentence is confusing, because a sale is but one means to transfer property. DDOE’s intent was to address transfers in general and, because the bulk of them are sales, refer to sales specifically.

Therefore, DDOE has inserted the word “otherwise” as a clarification of the sentence’s original wording. Now the phrase recognizes that a sale is but one method of a transfer to a new owner.

Change 5: This change affirms DDOE’s intent for a streamlined new property owner application process. The same commenter that initiated Change 4 also suggested that DDOE change the subsection so that new owners could automatically continue to use the earlier owner’s discount. The commenter offered that DDOE’s inspection rights allowed it to ensure that a new owner would understand and maintain a BMP in such a way as to continue to qualify for the discount.

While, per Change 4, DDOE is clarifying the transfer/sale wording, DDOE has declined to remove the proposed rules’ new application requirement for the new owner. DDOE’s intent was to put the burden on the new owner to promise compliance and show the compliance; not to put the burden on DDOE inspectors to learn of the transfer, find the new owner or management staff, and inspect. On the other hand, DDOE did not intend the new application to be cumbersome.

DDOE intended to make relatively simple the process for securing a new owner's discount. The change, which embodies that intent, explains that the new owner may incorporate by reference documents already in DDOE's files and direct the Department to use the technical information from the earlier approved application in support of the new discount.

Changes 4 and 5 are indicated by underlining for the additions:

- 558.11 An approved discount shall expire on the first of:
- (a) The end of the stormwater fee discount period provided in this chapter;
 - (b) The property or BMP is no longer eligible for the discount; or
 - (c) The property is sold or otherwise transferred to a new owner, except that the new owner may direct the Department to use the technical information from the earlier approved application in support of the new discount.

Change 6 [Deleted 559.7]: This change eliminates surplus wording. In its proofreading, DDOE found that Subsection 559.7 required the same thing as had an earlier Subsection, 559.6 – that the simplified application calculation be consistent with the more rigorous standard application calculation of Subsection 559.2. But, this is clear from reading the steps to be taken for Subsection 559.6, which details the simplified calculation. The Subsection 559.6 wording makes Section 559.7 redundant. Therefore, DDOE has deleted as redundant Subsection 559.7.

Change 7 [Edits to 560.2]: This change clarifies a vague term and formats it properly. A commenter proposed that DDOE remove from Subsection 560.2 the terms “customer”, “tenant”, and “manager” from the list of people who can provide an inspector access to the property. This change, if adopted, could present substantial uncertainty, confusion, and unnecessary friction when inspecting BMPs. DDOE is not accepting the commenter's proposal, but it is clarifying what was intended in the proposed rules: that persons onsite who have authority in fact to allow entry, or whose position provides a reasonable appearance of that authority, could allow entry.

Therefore, DDOE has clarified the list of persons who can permit an inspector to enter the site by rewriting a phrase and structuring it into the outline format that ODAI urges as more readable. The reason for the change is that (1) the structure of the relevant phrase, in a single, non-outlined sentence, was confusing, and (2) the term “appropriate person” was vague and confusing, inadequately communicating the intended concept of an owner or owner's agent who could give permission to enter.

The change is shown by strikethrough for deletions and underlining for additions:

- 560.2 In order to secure access to a property to inspect a BMP, the Department shall seek permission from ~~an appropriate person, including the owner, a customer, a tenant, or a manager~~ the owner, or the owner's agent, including:

- (a) The customer identified in the District of Columbia Water and Sewer Authority's records;
- (b) A tenant; or
- (c) The property manager.

Final Action

The Department analyzed all comments received and determined that no substantial changes were needed to the proposed rules. The Department is making only clarifications and a few typographical edits. Consequently, the Department is taking the action stated in the instant Notice and adopting the following as final rules:

Title 21, WATER AND SANITATION, Chapter 5, WATER QUALITY AND POLLUTION, of the DCMR is amended by adding Sections 557 through 563, as follows:

557 STORMWATER FEE DISCOUNT PROGRAM: PURPOSE

557.1 The purposes of Sections 557 through 563 are to:

- (a) Implement the District Department of the Environment's stormwater fee discount program;
- (b) Reduce the volume of stormwater runoff from properties in the District of Columbia; and
- (c) Comply with the requirements of the Comprehensive Stormwater Management Enhancement Amendment Act of 2008, effective March 25, 2009, as amended (D.C. Law 17-371; D.C. Official Code §§ 8-152.01 *et seq.*).

558 STORMWATER FEE DISCOUNT PROGRAM: ELIGIBILITY

558.1 The stormwater fee discount program shall apply to each retail District of Columbia Water and Sewer Authority (DC Water) customer that pays the stormwater fee described in § 556 of this chapter.

558.2 The District Department of the Environment (Department) shall grant a stormwater fee discount to a customer that has installed an eligible Best Management Practice (BMP) on its property.

558.3 A customer shall have the right to apply for the stormwater fee discount beginning on the effective date of this section; except that, for a Simplified

Application, the customer shall have the right to apply no earlier than one (1) year after the effective date of this section.

558.4 The Department shall calculate the discount to be applied to the customer's DC Water bill:

- (a) As a recurring credit to the stormwater fee billed pursuant to § 556;
- (b) Beginning to accrue with the billing period that follows the Department's receipt of a complete discount application; and
- (c) For the stormwater fee discount period which this chapter sets.

558.5 Notwithstanding any other provision of this section, if the customer installed an eligible BMP on its property before the effective date of this section, the discount shall begin to accrue as a Retroactive Discount on the later of:

- (a) The eligible BMP's installation date; or
- (b) May 1, 2009.

558.6 The Department shall calculate the Retroactive Discount that is to be applied to the customer's DC Water bill as an offset to the stormwater fee until the Retroactive Discount is zero (0).

558.7 To receive a Retroactive Discount, the customer must:

- (a) Be otherwise eligible to receive a discount;
- (b) Provide documentation verifying the date of installation;
- (c) Prove that the practice installed is still functional;
- (d) Allow the Department to inspect each BMP identified on the application; and
- (e) Apply no later than one (1) year from the date on which the customer has the right to apply.

558.8 A customer seeking a stormwater fee discount shall, in order to be eligible for the discount:

- (a) Be current on all billed stormwater fee payments;

- (b) Submit a complete application to the Department, in a manner prescribed by the Department; and
- (c) Unless applying via a Simplified Application, accurately describe in the application the design and performance of the BMP by referencing or submitting:
 - (1) The final stormwater management plan approval notice issued by the Department; or
 - (2) All of the following:
 - (A) Designs;
 - (B) Technical specifications; and
 - (C) Calculation of stormwater retention volume.

558.9 A BMP shall, in order to be eligible for the discount:

- (a) Be fully installed and functioning;
- (b) Retain or infiltrate stormwater runoff;
- (c) Comply with all applicable construction codes;
- (d) Be properly sized and located;
- (e) Be designed and functioning in accordance with:
 - (1) Applicable industry and professional standards and specifications in effect at the time of installation; and
 - (2) The Department's Stormwater Management Guidebook; and
- (f) Be subject to inspection by the Department.

558.10 As a requirement of continued eligibility, the customer shall:

- (a) Properly maintain the BMP so that it continues to function as designed and approved; and
- (b) Continue to allow the Department access to the property to inspect the BMP.

558.11 An approved discount shall expire on the first of:

- (a) The end of the stormwater fee discount period provided in this chapter;
- (b) The property or BMP is no longer eligible for the discount; or
- (c) The property is sold or otherwise transferred to a new owner; except that the new owner may direct the Department to use the technical information from the earlier approved application in support of the new discount.

559 STORMWATER FEE DISCOUNT PROGRAM: DISCOUNT CALCULATION

- 559.1 No stormwater fee discount shall exceed the maximum allowable discount, which shall be fifty-five percent (55%) of the otherwise chargeable stormwater fee.
- 559.2 The stormwater fee discount shall be calculated as follows:
- (a) Determine, in gallons, the maximum volume of stormwater runoff retained by the eligible Best Management Practice (BMP) during a one and two-tenths-inch (1.2 in.) rainfall event;
 - (b) Divide the step “(a)” result by seven hundred ten and seventy-five hundredths gallons (710.75 gal.) per Equivalent Residential Unit (ERU) (the number of gallons of stormwater runoff per ERU that would be generated by a one and two-tenths-inch (1.2 in.) rainfall event);
 - (c) Multiply the step “(b)” result by the maximum allowable discount percentage; and
 - (d) Multiply the step “(c)” result by the stormwater charge per ERU specified in § 556.
- 559.3 The calculated stormwater fee discount shall be applied to each month’s obligation of the stormwater fee.
- 559.4 The stormwater fee discount will appear on the customer’s District of Columbia Water and Sewer Authority bill beginning with the billing period that follows the District Department of the Environment’s (Department’s) receipt and processing of a complete application, which processing will include transmittal to DC Water to incorporate the discount in the customer’s billing calculation.
- 559.5 A customer shall have the right to apply with a Simplified Application for a property with a BMP, or multiple BMPs, that manages a cumulative impervious area of two thousand square feet (2,000 sq. ft.) or less.

- 559.6 The Department shall calculate the discount eligible for use of the Simplified Application as follows:
- (a) Determine the total area that the BMP(s) manages, in square feet;
 - (b) Divide the step “(a)” result by the original total area of impervious surface, and express the quotient as a percentage;
 - (c) Multiply the step “(b)” result by the maximum allowable discount;
 - (d) Multiply the percentage result from step “(c)” by the stormwater charge per ERU specified in § 556; and
 - (e) Add the product of 0.13 ERU per rain barrel installed multiplied by the stormwater charge per ERU specified in § 556.

560 STORMWATER FEE DISCOUNT PROGRAM: INSPECTION

560.1 The District Department of the Environment (Department) shall have the right to inspect a property, for which a customer has applied or is receiving a stormwater fee discount, in order for the Department to determine whether the Best Management Practice (BMP) retains the stormwater runoff volume:

- (a) Described on the discount application; or
- (b) Previously approved for a discount.

560.2 In order to secure access to a property to inspect a BMP, the Department shall seek permission from the owner, or the owner’s agent, including:

- (a) The customer identified in the District of Columbia Water and Sewer Authority’s records;
- (b) A tenant; or
- (c) The property manager.

560.3 A customer’s refusal or knowing failure to provide the Department with access to inspect the BMP shall constitute grounds to deny or revoke the discount, effective the date of the unsuccessful inspection attempt.

**561 STORMWATER FEE DISCOUNT PROGRAM: APPROVAL PERIOD;
REAPPROVAL**

- 561.1 A stormwater fee discount shall be approved for a discount period of three (3) years, running ordinarily from the date of approval.
- 561.2 In order to receive approval for an additional stormwater fee discount period, a customer must submit an application to the District Department of the Environment (Department).
- 561.3 In order to avoid a lapse in a discount while the Department reviews an application for approval of an additional discount period, a customer must submit the application by sixty (60) days before the expiration of the current stormwater fee discount period.
- 561.4 The application shall be submitted on such forms, and in hard copy or electronically, as the Department may designate.
- 561.5 Upon receipt of an application for approval of an additional discount period, the Department may perform an inspection to verify that the Best Management Practice (BMP) remains eligible for the discount.
- 561.6 The Department may deny or approve an application for approval of an additional discount period, in whole or in part.
- 561.7 If the Department approves the application, the stormwater fee discount shall be approved for an additional discount period running from the earlier of:
- (a) The date of the approval; or
 - (b) The expiration of the preceding approval period.
- 561.8 An eligible BMP may be approved for more than one (1) period.

**562 STORMWATER FEE DISCOUNT PROGRAM: DENIAL, REDUCTION,
OR REVOCATION OF STORMWATER FEE DISCOUNT**

- 562.1 The District Department of the Environment (Department) may make a decision to:
- (a) Deny an application for a discount or discount period, in whole or in part; and
 - (b) Reduce or revoke a discount for a Best Management Practice's nonperformance, its failure to retain the stormwater runoff volume for which a discount was approved.

562.2 The Department shall provide to the customer a notice of a decision, stating the basis for the decision and the customer's right to dispute the Department's decision, which may include a statement of:

- (a) Each deficiency;
- (b) Corrective action necessary;
- (c) Deadline, if any;
- (d) The proposed denial, reduction, or revocation of a discount;
- (e) The requirement, if any, for an inspection or re-inspection; and
- (f) The customer's right to appeal, as provided in this chapter.

562.3 The Department may extend the period for corrective action for good cause shown.

563 ADMINISTRATIVE APPEALS AND JUDICIAL REVIEW

563.1 With respect to a matter governed by Sections 557 through 562 of this chapter, a person adversely affected or aggrieved by an action of the District Department of the Environment (Department) shall exhaust administrative remedies by timely filing an administrative appeal with, and requesting a hearing before, the Office of Administrative Hearings (OAH), established pursuant to the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002, as amended (D.C. Law 14-76; D.C. Official Code, §§ 2-1831.01 *et seq.*), or OAH's successor.

563.2 For the purposes of Sections 557 through 562 of this chapter, an action of the Department taken with respect to a person shall include:

- (a) Signed settlement of a decision;
- (b) Approval;
- (c) Denial;
- (d) Determination; or
- (e) Other action of the Department which constitutes the consummation of the Department's decision-making process and is determinative of a person's rights.

- 563.3 A person aggrieved by an action of the Department shall file a written appeal with OAH within the following time period:
- (a) Fifteen (15) calendar days of service of the notice of the action; or
 - (b) Another period of time stated specifically in this section for an identified Department action.
- 563.4 An action of the Department identified in this section shall become the final, unappealable, and unreviewable action of the Department unless a person has filed a timely administrative appeal with OAH within fifteen (15) days of the action.
- 563.5 Notwithstanding another provision of this section, the Department may, for good cause shown, extend a period for filing an administrative appeal with OAH if it does so explicitly in writing before the period expires.
- 563.6 OAH shall:
- (a) Resolve an appeal by:
 - (1) Affirming, modifying, or setting aside the Department's action complained of, in whole or in part;
 - (2) Remanding for Department action or further proceedings, consistent with OAH's order; or
 - (3) Providing such other relief as the governing statutes, regulations, and rules support;
 - (b) Act with the same jurisdiction, power, and authority as the Department may have for the matter currently before OAH; and
 - (c) By its final decision render a final agency action that will be subject to judicial review.
- 563.7 The filing of an administrative appeal shall not in itself stay enforcement of an action, except that a person may request a stay according to the rules of OAH.
- 563.8 The burden of proof in an appeal of an action of the Department shall be allocated to the person who appeals the action, except the Department shall bear the ultimate burden of proof when it denies a right.
- 563.9 The burden of production in an appeal of an action of the Department shall be allocated to the person who appeals the action, except that it shall be allocated:

- (a) To the Department when a party challenges the Department's suspension, revocation, or termination of a:
 - (1) License;
 - (2) Permit;
 - (3) Continuation of an approval; or
 - (4) Other right;
- (b) To the party who asserts an affirmative defense; and
- (c) To the party who asserts an exception to the requirements or prohibitions of a statute or rule.

563.10 The final OAH decision on an administrative appeal shall thereafter constitute the final, reviewable action of the Department and shall be subject to the applicable statutes and rules of judicial review for OAH final orders.

563.11 An action for judicial review of a final OAH decision shall not be a de novo review but shall be a review of the administrative record alone and not duplicate agency proceedings or hear additional evidence.

563.12 Nothing in this chapter shall be interpreted to:

- (a) Provide that a filing of a petition for judicial review stays enforcement of an action; or
- (b) Prohibit a person from requesting a stay according to the rules of the court.

563.13 If a term in a provision of this section conflicts with a provision in another section of this chapter, the term in the provision of this section controls.

SECTION 599, DEFINITIONS, is amended to change and add the following definitions, and these additional definitions shall be inserted in the correct alphabetical order:

Best Management Practice (BMP) – Structural or nonstructural practice that minimizes the impact of stormwater runoff on receiving water bodies and other environmental resources, especially by reducing runoff volume and the pollutant loads carried in that runoff.

Construction Codes – The District of Columbia's Construction Codes administered by the District of Columbia Department of Consumer and Regulatory Affairs, and ordinarily consisting of the Building Code, Residential Code, Electrical Code, Fuel Gas Code, Mechanical Code,

Plumbing Code, Property Maintenance Code, Fire Safety Code, Energy Conservation Code, and waivers thereto authorized and duly granted by the District of Columbia's code official.

DC Water – The District of Columbia Water and Sewer Authority.

Department – The District Department of the Environment, except that the term “department” shall simply mean the word “department” when the context clearly shows that the term is so used in the title of a statute or a publication.

Department of Consumer and Regulatory Affairs (DCRA) – The District of Columbia Department of Consumer and Regulatory Affairs.

Stormwater – Flow of water that results from runoff, snow melt runoff, and surface runoff and drainage.

Stormwater Management – A system to control stormwater runoff with structural and nonstructural Best Management Practices, including: (a) quantitative control of volume and rate of surface runoff; and (b) qualitative control to reduce or eliminate pollutants in runoff.

DEPARTMENT OF HEALTH

NOTICE OF THIRD PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in Section 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (Act), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2007 Repl.)), the Audiology and Speech-Language Pathology Amendment Act of 2006, effective March 6, 2007 (D.C. Law 16-219; D.C. Official Code § 3-1208.41 (2007 Repl.)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of the intent to adopt the following amendments to Chapter 79 (Speech-Language Pathology) of Title 17 (Business, Occupations, and Professions) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

This rulemaking will establish continuing education requirements for the profession of speech-language pathology.

These rules were previously published in the *D.C. Register* as a proposed rulemaking on September 16, 2011, at 58 DCR 8074. Written comments were received from the American Speech-Language Hearing Association in connection with this publication during the 30-day comment period. The comments suggested language revisions to clarify the criteria for approved continuing education as well as credits allowed for approved activities. None of the suggested revisions were substantive. Based upon the review of the comments and further consideration by the Board of Audiology and Speech-Language Pathology, additional changes were made to the proposed rulemaking.

The rulemaking was then republished for an additional comment period in the *D.C. Register* on May 25, 2012, at 59 DCR 5753. Written comments were received from Kaiser Permanente suggesting an addition of the International Hearing Society as an approved continuing education provider and an addition of a rule requiring an individual with dual licensure in both audiology and speech-language pathology to complete a total of thirty (30) hours of continuing education instead of a combined total of forty (40). The Board agreed with the suggestions, which are included in this proposed rulemaking. The commenter also suggested permitting computer-based trainings; however, the current proposed language includes continuing education that meets the requirement without regard to the mode of delivery.

Chapter 79, SPEECH-LANGUAGE PATHOLOGY, of Title 17, BUSINESS, OCCUPATIONS, AND PROFESSIONS, of the DCMR is amended as follows:

Section 7906 is amended as follows:

7906 CONTINUING EDUCATION REQUIREMENTS

7906.1 This section shall apply to renewal, reactivation, or reinstatement of a license.

- 7906.2 This section shall not apply to applicants for an initial license by examination, reciprocity, or endorsement, nor shall it apply to applicants for the first renewal of a license granted by examination.
- 7906.3 An applicant for renewal of a license, who is not subject to Subsection 7906.4, shall submit proof of having completed twenty (20) hours of approved continuing education hours during the two (2) year period preceding the date the license expires, including one (1) hour of ethics. The hours must be related to speech-language pathology.
- 7906.4 An applicant for dual licensure renewal shall submit proof of having completed thirty (30) hours of approved continuing education hours during the two year period preceding the date the license expires, including one (1) hour in ethics. Of the thirty (30) hours, the applicant shall have completed at least five (5) hours in both the audiology and speech-language pathology disciplines. The intent of this paragraph is likewise shared by, and may be cross-referenced with, Subsection 7808.4 of Chapter 78 of Title 17 of the District of Columbia Municipal Regulations, which govern the continuing education requirements of audiologists.
- 7906.5 An applicant for reinstatement of a license shall submit proof of having completed ten (10) hours of continuing education for each year during which the license was not valid, provided that:
- (a) If an applicant seeks to be licensed more than five (5) years after the date that the applicant's license expires, the applicant shall meet the requirements for obtaining an initial license; and
 - (b) In order to reinstate a license, an applicant for reinstatement must have met all continuing education requirements for the licensure period immediately prior to the expiration of the license in addition to ten (10) hours for each year the applicant was unlicensed.
- 7906.6 An applicant for reactivation of a license shall submit proof of having completed twenty (20) hours of continuing education per renewal period.
- 7906.7 A license is not valid until it is renewed or reinstated.
- 7906.8 A holder of an expired or sanctioned license shall only be eligible to apply for renewal or reinstatement of the sanctioned or expired license by meeting any legal and regulatory requirements applicable to the expired license in addition to the requirements set forth in any applicable order of the Board.
- 7906.9 The Board shall periodically conduct a random audit of at least ten percent (10%) of its active licensees to determine continuing education compliance. Any licensee selected for the audit shall return the completed continuing education compliance audit form and all supporting documentation to the Board within

thirty (30) days of receiving notification of the audit. Failure to comply with the continuing education requirements may subject the licensee to disciplinary action by the Board.

Section 7907 is repealed and replaced with:

7907 CONTINUING EDUCATION PROGRAMS AND ACTIVITIES

7907.1 A continuing education hour shall be valid only if it is part of a program or activity approved by the Board.

7907.2 The Board may approve a continuing education program if it meets the following criteria:

- (a) It is current in its subject matter;
- (b) It has been developed and will be taught by qualified individuals; and
- (c) The program provider submits for the Board's review, no less than thirty (30) days prior to the date of the presentation, the following documentation:
 - (1) A copy of the official program or syllabus;
 - (2) The presentation title;
 - (3) The date of the presentation;
 - (4) The contact hours or credits awarded for the presentation; and
 - (5) The type of audience for which the program is intended.

7907.3 The Board shall accept for credit, programs or activities conducted by the following organizations (provided that the applicant submits verification of attendance):

- (a) The Speech-Language Hearing Association of the District of Columbia or similar speech-language hearing association of another state;
- (b) The American Academy of Audiology;
- (c) The American Speech-Language Hearing Association (ASHA) and its approved continuing education providers;

- (d) An accredited provider of The Accreditation Council on Continuing Medical Education of the American Medical Association offering Category I continuing medical education;
- (e) The International Association of Continuing Education and Training (IACET) and its authorized providers;
- (f) A health care organization accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or
- (g) The International Hearing Society.

7907.4 The Board may accept for credit the following activities:

- (a) A course given at an accredited college or university;
- (b) A seminar or workshop;
- (c) An educational program given at a conference;
- (d) In-service training;
- (e) Serving as a presenter or speaker at a conference, seminar, workshop, or in-service training; or
- (f) Publishing an article in a professional journal or publication of a book or a chapter in a book or publication of a book review in a professional journal related to audiology or speech-language pathology.

7907.5 The Board may, in its discretion, approve additional continuing education programs and activities that contribute to the growth of professional competence in the practice of audiology or speech-language pathology and meet the other requirements of this section.

7907.6 The Board shall not grant credit for work done in the course of a renewal, reinstatement, or reactivation applicant's normal occupation or incident to the performance of his or her regular duties, such as teaching courses, research, or course preparation in the case of a teacher or professor.

7907.7 A renewal, reinstatement, or reactivation applicant shall have the burden of verifying whether a program is approved by the Board.

7907.8 A renewal, reinstatement, or reactivation applicant shall prove completion of required continuing education hours by submitting upon request the following information with respect to each program:

- (a) The name and address of the provider of the program;
- (b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;
- (c) The dates on which the applicant attended the program;
- (d) The hours of credit claimed; and
- (e) Verification by the course provider or accreditor of completion, by signature, stamp, or official transcript in the case of accreditors.

Section 7908 is amended as follows:

7908 CONTINUING EDUCATION CREDITS

- 7908.1 For the purposes of this chapter, one (1) credit hour shall mean sixty (60) minutes of learning time.
- 7908.2 The Board may grant credit for Board-approved activities as specified below:
- (a) The Board shall grant credit for a course given at an accredited college or university provided that:
 - (1) Each three (3)-credit-hour academic course constitutes thirty (30) hours of continuing education; and
 - (2) For each approved three (3)-credit-hour academic course that is audited, two (2) continuing education hours shall be granted.
 - (b) The Board may grant a maximum of six (6) continuing education hours per renewal period to an applicant who attends a pre-approved in-service education program.
- 7908.3 The Board may grant credit for serving as a presenter or speaker at a conference, seminar, workshop, or in-service training, or electronic or web-based course subject to the following restrictions:
- (a) Hours granted pursuant to this section shall not exceed six (6) hours per renewal period;
 - (b) If a licensee or a renewal, reinstatement, or reactivation applicant has previously received credit in connection with a particular presentation, the Board shall not grant credit for a subsequent presentation unless it involves either a different subject or substantial additional research concerning the same subject;

- (c) The presentation was completed during the period for which credit is claimed; and
- (d) The maximum amount of credit which may be granted for preparation time is twice the amount of the associated presentation time or twice the amount of contact hours awarded for participants.

7908.4 The Board may grant credit for publication of an article in a professional journal or publication of a book or a chapter in a book or publication of a book review in a professional journal related to audiology or speech-language pathology, subject to the following:

- (a) The Board may grant eight (8) hours of continuing education credit per renewal period to an author or sole editor of a published book, if the book was published or accepted for publication during the period for which credit is claimed and the applicant submits proof of this fact in the application;
- (b) The Board may grant four (4) hours of continuing education per renewal period to the sole author or co-author of a peer-reviewed published original paper; and
- (c) The Board may grant one (1) continuing education hour of credit per renewal period to the sole author of a published book review.

Section 7909 is repealed and replaced with:

7909 [RESERVED]

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty days after the date of publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002. Copies of the proposed rule may be obtained from the Department at the same address during the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays, at the address listed above, or by contacting Angli Black, Administrative Assistant, at Angli.Black@dc.gov, (202) 442-5977.

OFFICE OF TAX AND REVENUE**NOTICE OF PROPOSED RULEMAKING**

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR) of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code § 47-2023 (2005 Repl.), Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019; P.L. 109-356, D.C. Official Code § 1-204.24d (2012 Supp.)), and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of its intent to amend Chapter 4, SALES AND USE TAXES, of Title 9, TAXATION AND ASSESSMENTS, of the District of Columbia Municipal Regulations (DCMR), by adding Section 476, Admissions to Boat Tours and Boat Cruises, Rentals of Boats, and Sales of Food and Drink or Alcoholic Beverages on Boats.

The newly proposed Section 476 provides that sales tax is due on admissions fees for boat tours and boat cruises, provides that sales tax does not apply to boat charters which include the services of a captain, and provides guidance for the application of the sales tax exemption for food and drink or alcoholic beverages sold on a boat that is in the course of commerce between the District and a state. The guidance that would be provided by this rulemaking is necessary to provide clarity to taxpayers attempting to comply with District sales and use tax statutes and would aid in the fair and efficient administration of District laws.

OTR gives notice of its intent to take final rulemaking action to adopt these regulations in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 4 (SALES AND USE TAXES) of Title 9 (TAXATION AND ASSESSMENTS) DCMR is amended as follows:

Section 476, Admissions, Rentals of Boats, and Sales of Food, Drinks, and Beverages, is added to read as follows:

476 ADMISSIONS TO BOAT TOURS AND BOAT CRUISES, RENTALS OF BOATS, AND SALES OF FOOD, DRINKS, AND BEVERAGES ON BOATS

476.1 The charges for admission to boat tours and boat cruises shall be subject to the gross sales tax. If taxable food and drink or alcoholic beverages are sold on a boat or included in the admissions fee to a boat tour or boat cruise, the fee charged for admissions to the boat tour or boat cruise will be subject to the tax rate imposed on the food and drink or alcoholic beverages.

Examples:

(a) *A charge to a comedy show on a boat shall also be subject to the gross sales tax.*

- (b) *The entire charge, including the admission charge, for a dinner cruise on a boat that is taxable under § 476.4 shall be subject to the gross sales tax at the rate imposed on taxable food and drink or alcoholic beverages.*
- (c) *The entire charge, including the admission charge, shall be subject to the gross sales tax for admission and boat tours where all of the sale of food and drink or alcoholic beverages is exempt under § 476.4, regardless of whether food and drink or alcoholic beverages are included within the admission charge.*

476.2 If the services of a captain or operator are provided as part of the fee for the charter of any boat, no rental of the boat has occurred. If the boat is rented from one person and the services of the captain or operator rented from another, the gross sales tax shall apply to the boat rental.

476.3 A boat rented without the services of a captain or operator, including a bareboat charter, is a sale in which possession of tangible personal property is transferred, and the gross sales tax shall apply to such rentals.

476.4 The taxability of food and drink or alcoholic beverages sold on a boat is determined as follows:

- (a) Gross receipts from the sales of food and drink or alcoholic beverages if made in any boat operating within the District in the course of commerce between the District and a state are exempt from the gross sales tax. Generally, a boat is operating in the course of commerce between the District and a state if the boat ties up at a dock outside of the District where any or all passengers or crew disembark or if any or all of the boat's passengers or crew disembark the boat by other means and go ashore outside of the District.

Example: A boat that departs and returns to the same or different location in the District and does not tie up at a dock or allow passengers to disembark at a location outside of the District shall not be considered to be in the course of commerce between the District and a state, even if the boat enters another jurisdiction's waters.

- (b) In order to substantiate the exemption, a taxpayer must prove, via his or her books and records, that a boat is in the course of commerce between the District and a state. To the extent the taxpayer's books and records do not substantiate that a boat is in the course of commerce between the District and a state, all sales of food and drink or alcoholic beverages allocated to the District shall be presumed taxable.
- (c) For boats not operating in the course of commerce between the District and a state, a taxpayer shall substantiate in his or her books and records the allocation of sales of food and drink or alcoholic beverages to the

District. All such allocations must be reasonable. To the extent the allocation of sales of food and drink or alcoholic beverages cannot be substantiated by the taxpayer's books and records or the allocation on the taxpayer's books is unreasonable, the Deputy Chief Financial Officer shall allocate the sales to the District.

476.5 For the purposes of this Section, the following definitions apply.

- (a) "Bareboat charter" means providing a boat only, exclusive of crew.
- (b) "Boat" means a vessel for transport by water and includes, but is not limited to, ships, yachts, sailboats, rowboats, motorboats, kayaks, paddleboats, and canoes.
- (c) "Captain or operator" means a person who is master or commander of a boat with passengers or crew, or both.
- (d) "Dock" means a structure or group of structures involved in the handling of boats or ships, on or close to a shore and includes piers and wharfs.

Comments on this proposed rulemaking should be submitted to Jessica Brown, Assistant General Counsel, Office of Tax and Revenue, no later than thirty (30) days after publication of this notice in the *D.C. Register*. Jessica Brown may be contacted by: mail at DC Office of Tax and Revenue, 1101 4th Street, SW, Suite 750, Washington, DC 20024; telephone at (202) 442-6462; or, email at jessica.brown@dc.gov. Copies of this rule and related information may be obtained by contacting Jessica Brown as stated herein.

DEPARTMENT OF HEALTH

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Interim Director of the Department of Health, pursuant to the authority set forth in §104(a)(1) of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 (Civil Infractions Act), effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.04(a)(1)(2007 Repl.)), and § 7(d) of the District of Columbia Smoking Restriction Act of 1979, effective September 28, 1979 (D.C. Law 3-22; D.C. Official Code § 7-1706(d) (2008 Repl.)), paragraph 2 of Mayor's Order 2004-46, dated March 22, 2004, as amended by paragraphs 29 and 30 of Mayor's Order 2006-61, dated June 14, 2006, delegating authority pursuant to the Civil Infractions Act, hereby gives notice of the adoption, on an emergency basis, of the following amendment to Chapter 36 (Department of Health (DOH) Infractions) of Title 16 (Consumers, Commercial Practices & Civil Infractions) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the rulemaking is to establish a schedule of civil infractions for smoking violations as alternative sanctions for criminal penalties. Emergency action is necessary because of the growing number of establishments that permit smoking in violation of the law prohibiting smoking in workplaces and the need to provide a stronger deterrent to the illegal activity. Growing exposure to tobacco smoke is a public health hazard that requires an immediate response for the preservation of the public health, safety, and welfare. The emergency rules were adopted on July 8, 2013, and became effective immediately. The emergency rules shall expire one hundred and twenty (120) days after the effective date, on November 5, 2013.

Pursuant to § 104(a)(1) of the Civil Infractions Act, the emergency and proposed rules will be submitted to the Council of the District of Columbia for review and approval. The rules will become final upon Council approval, or thirty (30) days after submission, if the Council has not earlier disapproved the proposed rules, and following publication of the final rules in the *D.C. Register*.

Chapter 36 (Department of Health (DOH) Infractions) of Title 16 (Consumers, Commercial Practices & Civil Infractions) of the DCMR is amended by adding a new Section 3632 (Smoking Infractions) to read as follows:

3632 SMOKING INFRACTIONS**3632.1 RESERVED**

3632.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 2101.5 (failure to prohibit smoking in enclosed area of a place of employment or public place);
- (b) 20 DCMR § 2101.7 (failure to ensure that outdoor smoking area does not encompass area where smoking is prohibited);

- (c) 20 DCMR § 2106.5 (having a smoking area that exceeds twenty-five percent (25%) of the total area of a place of employment or public place that is a restaurant);
- (d) 20 DCMR § 2106.5(a), (b), (c), and (d) (failure to comply with additional conditions or restrictions necessary to minimize the adverse effects of smoking where an economic hardship waiver has been granted); and
- (e) 20 DCMR § 2108.1(d) (failure to warn a person observed to be smoking in a “no-smoking” area).

3632.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 2101.1 (failure of a place of employment or public place to adopt a smoking policy consistent with the District of Columbia Smoking Restriction Act of 1979 (D.C. Law 3-22; D.C. Official Code § 7-1701 *et seq.*) and the Department of Health Functions Clarification Amendment Act of 2001 (D.C. Law 16-90; D.C. Official Code § 7-741 *et seq.*));
- (b) 20 DCMR § 2101.2 (failure to notify employees, orally and in writing, of the smoking policy for a place of employment or public place);
- (c) 20 DCMR § 2101.4 (failure of an employer or public place to post the smoking policy near similar employee notices);
- (d) 20 DCMR §§ 2103.2, 2103.3, 2103.6(a), 2103.8, and 2108.1(c) (failure to post or maintain properly worded and properly placed “no-smoking” signs);
- (e) 20 DCMR §§ 2103.4, 2103.6(b), and 2103.9 (failure to post properly worded signs designating a smoking area);
- (f) 20 DCMR § 2104.3 (failure to post properly worded and properly sized tobacco health warning signs);
- (g) 20 DCMR § 2104.4 (failure to post properly placed tobacco health warning signs);
- (h) 20 DCMR § 2108.1(a) (smoking in a posted “no smoking” area); and
- (i) 20 DCMR § 2108.1(b) (covering, removing, or disfiguring a smoking-related sign).

Comments on the proposed rules should be sent in writing to Angli Black at the Department of Health, Office of the General Counsel, 5th Floor, 899 North Capitol Street, NE, Washington, DC 20002, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules may be obtained Monday through Friday, except

holidays, between the hours of 8:15 A.M. and 4:45 P.M. at the same address. Questions concerning the rulemaking should be directed to Angli Black, Administrative Assistant, at Angli.Black@dc.gov or (202) 442-5977.

DEPARTMENT OF MOTOR VEHICLES

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Motor Vehicles (Director), pursuant to the authority set forth in Sections 1825 and 1826 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code §§ 50-904 and 50-905 (2009 Repl.)), Section 6 of the District of Columbia Traffic Act of 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code §§ 50-2201.03 (2009 Repl.)), § 107 of the Traffic Adjudication Act, effective September 12, 1978 (D.C. Law 2-104; D.C. Official Code § 50-2301.07 (2009 Repl.)), and Title IX of the Fiscal Year 1997 Budget Support Act of 1996, effective April 9, 1997 (D.C. Law 11-198; D.C. Official Code § 50-2209.01, *et seq.* (2009 Repl.)), hereby gives notice of the adoption, on an emergency basis, of the following rulemaking that amends Chapter 10 (Procedures for Administrative Hearings) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (DCMR).

The emergency rulemaking updates the present regulations which did not take into account that different manufacturers and models would have diverse criteria to determine accuracy of the equipment. This emergency rulemaking is necessitated by the immediate need to promote the public welfare by being able to deploy immediately additional automated traffic enforcement equipment, which has different criteria for determining accuracy than presently used, and thus would not be in compliance with the present regulations. The new rules would be applicable to all equipment, irrespective of manufacturer or model. The immediate deployment of the equipment would aid in ensuring DC streets are safer and that fewer accidents, deaths, and injuries take place.

This emergency rulemaking was adopted on July 15, 2013 and became effective immediately. This emergency rule will remain in effect until November 12, 2013, one hundred twenty (120) days from the date it became effective, unless earlier superseded by a notice of final rulemaking.

The Director also gives notice of her intent to take final rulemaking action to adopt these rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Title 18, VEHICLES AND TRAFFIC, of the DCMR is amended as follows:**Chapter 10, PROCEDURES FOR ADMINISTRATIVE HEARINGS, is amended as follows:****Section 1035, AUTOMATED TRAFFIC ENFORCEMENT, is amended as follows:****Subsection 1035.1 is amended to read as follows:**

1035.1 A photo radar device, as that term is used in this section, is a type of automated traffic enforcement system authorized by § 901 of the Fiscal Year 1997 Budget Support Act of 1996, effective April 9, 1997 (D.C. Law 11-198; D.C. Official Code § 50-2209.01).

Subsection 1035.2 is amended to read as follows:

- 1035.2 A photo radar device shall be deemed to be calibrated correctly and in proper working order if:
- (a) For a mobile photo radar device operated from a vehicle, there is a Unit Deployment Log corresponding to the time period, date and location of the alleged violation being adjudicated that:
 - (1) Indicates that the tuning fork reading was accurate to plus or minus one (1) mile per hour of the tuning fork frequency being used and that the unit test sequence shows the unit was operating properly at the beginning and the end of deployment; and
 - (2) Contains a certification by the operator that the device was correctly set up and deployed when the alleged violation was recorded; or
 - (b) For a fixed or portable photo radar device operated out-of-doors, there is a Unit Deployment Log for the device dated not more than four (4) days before and four (4) days after the date of the alleged violation that:
 - (1) Indicates that the tuning fork reading was accurate to plus or minus one (1) mile per hour of the tuning fork frequency being used and that the unit test sequence shows the unit was operating properly at the beginning and end of the deployment; and
 - (2) Contains certifications by a technician or police officer, or both, that the device was correctly set up.

Subsection 1035.3 is amended to read as follows:

- 1035.3 The photo radar device shall reflect that it was only recording the speed of the vehicle or vehicles shown receding in the image.

Subsection 1035.5 is amended to read as follows:

- 1035.5 The images captured by the photo radar device shall enable identification of the vehicle whose speed was detected by the radar unit.

Subsection 1035.11 is amended to read as follows:

- 1035.11 Any person seeking a hearing must answer the ticket within sixty (60) days of mailing of the notice of infraction.

Subsection 1035.12 is amended to read as follows:

1035.12 Failure to answer within the time period provided by § 1035.11 shall result in a default judgment being entered against the vehicle owner in accordance with § 206(b) of the Traffic Adjudication Act of 1978, effective September 12, 1978 (D.C. Law 2-104; D.C. Official Code § 50-2302.06(b)).

Subsection 1035.13 is amended to read as follows:

1035.13 Repealed.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, to David Glasser, General Counsel, D.C. Department of Motor Vehicles, 95 M Street, S.W., Suite 300, Washington, D.C. 20024 or online at www.dcregs.dc.gov. Comments must be received not later than thirty (30) days after the publication of this notice in the *D.C. Register*. Copies of this proposal may be obtained, at cost, by writing to the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

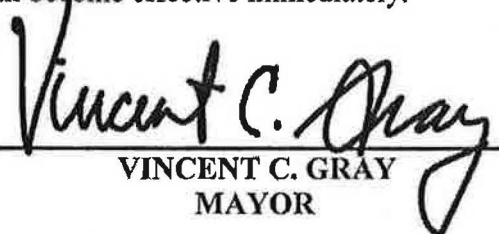
Mayor's Order 2013-123
July 10, 2013


SUBJECT: Appointments – Board of Barber and Cosmetology

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Supp.), and pursuant to D. C. Official Code § 47-2853.06(c) (2012 Supp.), it is hereby **ORDERED** that:

1. **NORAH S. CRITZOS** was nominated by the Mayor on March 8, 2013 and following a forty-five day period of review by the Council of the District of Columbia was deemed approved pursuant to Proposed Resolution 20-0126 on May 13, 2013 as a licensed cosmetologist member of the Board of Barber and Cosmetology ("Board"), replacing Lenya Gregory-Perkins, to complete the remainder of an unexpired term to end December 13, 2013.
2. **RAYMOND L. KIBLER** was nominated by the Mayor on March 8, 2013 and following a forty-five day period of review by the Council of the District of Columbia was deemed approved pursuant to Proposed Resolution 20-0127 on May 13, 2013 as a licensed barber member of the Board, for a term to end December 13, 2015.
3. **MARK C. WILLS** was nominated by the Mayor on March 8, 2013 and following a forty-five day period of review by the Council of the District of Columbia was deemed approved pursuant to Proposed Resolution 20-0128 on May 13, 2013 as a licensed barber member of the Board, replacing Franklin Kelly, to complete the remainder of a term to end December 13, 2013.
4. **EFFECTIVE DATE:** This Order shall become effective immediately.


VINCENT C. GRAY
MAYOR

ATTEST: 
CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2013-124
July 12, 2013

SUBJECT: Appointment – District of Columbia Child Fatality Review Committee

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Supp.), and in accordance with section 4604 of the Child Fatality Review Committee Establishment Act of 2001, effective October 3, 2001, D.C. Law 14-28, D.C. Official Code § 4-1371.04 (2008 Repl.), it is hereby **ORDERED** that:

1. **LAURA E. HOUSE**, who was nominated by the Mayor on April 8, 2013, and approved by the Council pursuant to Proposed Resolution 20-0187 on July 10, 2013, is appointed to the District of Columbia Child Fatality Review Committee, as a community representative member, Ward 5, for a term to end three years from the date of this order.
2. **EFFECTIVE DATE:** This Order shall be effective immediately.



VINCENT C. GRAY
MAYOR

ATTEST: 

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2013-125
July 12, 2013


SUBJECT: Appointments – District of Columbia Board of Library Trustees

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Supp.), and pursuant to section 4 of An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia, approved June 3, 1896, 29 Stat. 244, D.C. Official Code § 39-104 (2001), it is hereby **ORDERED** that:

1. **FAITH G. HUBBARD**, who was nominated by the Mayor on May 22, 2013, and approved by the Council pursuant to Proposed Resolution 20-0292 on July 10, 2013, is appointed as a member of the District of Columbia Board of Library Trustees (“Board”), replacing Kelley J. Smith, whose term expired January 5, 2010, to complete the remainder of an unexpired term to end on January 5, 2015.
2. **NEIL ALBERT**, who was nominated by the Mayor on May 22, 2013, and approved by the Council pursuant to Proposed Resolution 20-0293 on July 10, 2013, is appointed as a member of the Board, replacing Richard H. Levy, whose term expired January 5, 2009, to complete the remainder of an unexpired term to end on January 5, 2014.
3. **EFFECTIVE DATE:** This Order shall become effective immediately.


VINCENT C. GRAY
MAYOR

ATTEST: 
CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2013-126
July 12, 2013

SUBJECT: Re-establishment – Mayor's Commission on HIV/AIDS

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) and (11) (2012 Supp.), it is hereby **ORDERED** that:

I. ESTABLISHMENT

There is hereby re-established in the Executive Branch of the Government of the District of Columbia, the Mayor's Commission on HIV/AIDS (hereinafter referred to as the "Commission").

II. PURPOSE

The Commission shall advise the Mayor of the District of Columbia, the Director of the Department of Health (DOH), and the Senior Deputy Director of the HIV/AIDS, Hepatitis, STD and TB Administration (HAHSTA), Department of Health, on issues and matters relating to the human immunodeficiency virus (HIV) and the acquired immunodeficiency syndrome (AIDS), and the District government's response to and coordination of programs and services related to HIV/AIDS.

III. FUNCTIONS

The Commission shall:

- A. Make recommendations on the continuum and capacity of health care services and programs, and related services, for persons with HIV/AIDS in the District;
- B. Determine the best way to achieve "*Treatment on Demand*" in the District;

- C. Develop evidence-based HIV/AIDS policy recommendations for the District to help reduce HIV infection rates, increase HIV testing utilization, and improve access to quality medical, substance abuse, and mental health treatment and housing for all persons with HIV/AIDS;
- D. Develop recommendations regarding the coordination of District-wide HIV/AIDS policy and collaboration among District agency programs and services;
- E. Develop recommendations to control the epidemic while simultaneously creating training and employment opportunities in the District;
- F. Advise on methods of identifying unmet HIV/AIDS prevention and education needs within defined populations;
- G. Guide the HAHSTA in the development of a Five Year Strategic Plan and make recommendations for legislation or executive action; and
- H. Perform other functions as requested by the Mayor or the designee of the Mayor.

IV. COMPOSITION

- A. The Commission shall be composed of twenty-eight (28) members, including eight (8) District government representatives, appointed by the Mayor.
- B. The Mayor shall appoint sixteen (16) public members who may include individuals representing the following:
 - 1. Persons living with HIV/AIDS;
 - 2. Primary caregivers of persons living with HIV/AIDS;
 - 3. Professional health-care provider associations and organizations;
 - 4. Health-care organizations or facilities, including organizations specializing in HIV/AIDS treatment, care, advocacy, or education and prevention;
 - 5. The business community;

6. The organized labor community;
 7. HIV/AIDS prevention, education, and care and treatment organizations;
 8. The correctional, law enforcement, or ex-offender community;
 9. The Gay, Lesbian, Bisexual, and Transgender (GLBT) community;
 10. The elder community;
 11. The substance-abuse community;
 12. The Latino community;
 13. The Asian and Pacific Islander community;
 14. The African community;
 15. The religious and faith-based community; and
 16. The general public.
- C. The Mayor, the City Administrator/Deputy Mayor, and the Deputy Mayor for Health and Human Services shall serve as *ex officio*, non-voting members of the Commission.
- D. The Chairman of the Committee on Health, Council of the District of Columbia, may serve as a non-voting *ex officio* member of the Commission.
- E. The Mayor shall appoint representatives of the following District government agencies, who shall serve at the pleasure of the Mayor as *ex officio*, non-voting members of the Commission:
1. The Director, Department of Health, or his or her designee;
 2. The Senior Deputy Director, HIV/AIDS, Hepatitis, STD and TB Administration (HAHSTA), Department of Health, or his or her designee;
 3. The Director, Department of Mental Health, or his or her designee;

4. The Director, Department of Corrections, or his or her designee;
 5. The Director, Department of Human Services, or his or her designee;
 6. The Director, Office on Aging, or his or her designee;
 7. The Director, Department of Housing and Community Development, or his or her designee; and
 8. The Chancellor, D.C. Public Schools, or his or her designee.
- F. Members of the Commission shall be residents of the District or shall have some resident business, educational, social, or cultural nexus to the District.
- G. Non-District residents shall not constitute more than half of the Commission.

V.**TERMS**

- A. Public members appointed to the Commission shall serve for a term to expire December 31, 2015. The date on which the first Commission members are installed shall become the anniversary date for all subsequent appointments.
- B. Members may be appointed to fill unexpired terms as vacancies occur.
- C. District government officials shall serve only while employed in their official positions and shall serve at the pleasure of the Mayor.
- D. A public member may be excused from a meeting for an emergency reason. A public member who is not excused from attending and yet fails to attend three (3) unexcused, consecutive meetings shall be deemed removed from the Commission, and a vacancy shall be created. Such vacancies shall be filled by the Mayor as outlined in Section IV of this Mayor's Order.
- E. The Mayor shall appoint members to fill vacancies in unexpired terms only for the remainder of the unexpired time of the terms.
- F. A member may serve beyond the end of his or her term until reappointed or replaced by the Mayor.

- G. A public member may be removed by the Mayor for personal misconduct, neglect of duty, conflict of interest violations, incompetence, or official misconduct. Prior to removal, the public member shall be given notice of any charges and an opportunity to respond within 10 business days following receipt of the charges. Upon a review of the charges and the response, the Director of the Office of Boards and Commissions, Executive Office of the Mayor (OBC), shall refer the matter to the Mayor with a recommendation for a final decision or disposition. A public member shall be suspended by the Director of the OBC, on behalf of the Mayor, from participating in official matters of the Commission pending consideration and disposition of the charges.

VI. ORGANIZATION

- A. A quorum for the purposes of conducting business shall be a majority plus one voting member of the Commission.
- B. The Commission shall be co-chaired by the Mayor and the Director of the Department of Health (DOH), or his or her designee.
- C. The Commission may elect other officers as it may deem necessary, and may determine rules of procedure, subject to the approval of the Mayor or designee.
- D. The Commission shall operate through the following committees: *Treatment on Demand*, *Treating the Whole Person*, and *Ending the Epidemic*, and may establish subcommittees as it deems necessary.
- E. The Commission shall establish its own meeting schedule, but should convene no fewer than 4 meetings each calendar year.
- F. The Commission may utilize telephone conferencing or video-conferencing technologies in satisfaction of the meeting requirements.
- G. The Commission may establish its own bylaws and rules of procedure, subject to the approval of the Mayor or designee.

VII. COMPENSATION

Members of the Commission shall serve without compensation. However, reasonable expenses of the Commission may be reimbursed, when approved in advance by the Senior Deputy Director of the HIV/AIDS,

Hepatitis, STD and TB Administration (HAHSTA), Department of Health, subject to the availability of appropriations for that purpose, and shall become obligations against funds designated for that purpose, when sufficient budget authority exists to allow reimbursement.

VIII. ADMINISTRATION

The Senior Deputy Director of the HIV/AIDS, Hepatitis, STD and TB Administration (HAHSTA), Department of Health, shall be the Secretary to the Commission and shall coordinate and provide administrative and staff support for the work of the Commission.

IX. RESCISSIONS

Mayor's Order 2011-52, dated March 4, 2011, is superseded and rescinded in its entirety.


X. SUNSET

This Commission shall cease to exist on December 31, 2015.

XI. EFFECTIVE DATE: This Order shall become effective immediately.



VINCENT C. GRAY
MAYOR

ATTEST: 

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2013-127
July 12, 2013

SUBJECT: Appointments – Mayor's Commission on HIV/AIDS

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Supp.), and in accordance with Mayor's Order 2013-126, dated July 12, 2013, it is hereby **ORDERED** that:

1. The following persons are appointed as public members of the Mayor's Commission on HIV/AIDS (hereinafter referred to as the "Commission") and shall serve for a term to end December 31, 2015:

**JEFFREY AKMAN
DON BLANCHON
DR. LISA FITZPATRICK
ISAAC FULWOOD
ANTONIO SEBASTIAN MASON
GEORGE JOHNSON
TONI ZOLLICOFFER
LILLIAN PERDOMO
OMONIGHO UFOMATA
RON SWANDA
ALEXANDRA BENINDA
EARLINE BUDD
CORRIE FRANKS
DR. FLORA HAMILTON
MARIELLA SANCHEZ
REVEREND DYAN ABENA MCCRAY**

2. The following member of the Council of the District of Columbia ("Council") has consented to serving and is appointed as an ex-officio, non-voting member of the Commission who shall serve so long as she remains a member of the Council:

YVETTE ALEXANDER, CHAIRPERSON, COMMITTEE ON HEALTH

- 3. The following persons are appointed as ex-officio, non-voting members of the Commission representing District government agencies and shall serve at the pleasure of the mayor for so long as they remain employees of the District government:

VINCENT C. GRAY is appointed in his capacity as the Mayor;

ALLEN Y. LEW is appointed in his capacity as the City Administrator;

BEATRIZ "BB" OTERO is appointed in her capacity as the Deputy Mayor for Health and Human Services;

GREGORY PAPPAS, M.D., PhD is appointed in his capacity as the Senior Deputy Director, HIV/AIDS, Hepatitis, STD and TB Administration (HAHSTA), Department of Health;

STEPHEN BARON is appointed in his capacity as the Director, Department of Mental Health;

MICHAEL KELLY is appointed in his capacity as the Director, Department of Housing and Community Development;

DR. JOHN THOMPSON is appointed in his capacity as the Director, Office on Aging;

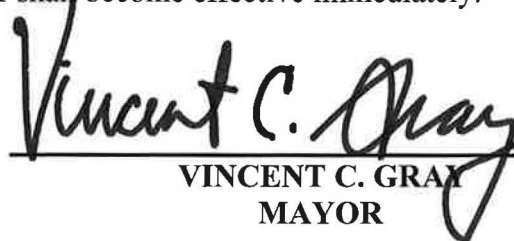
DAVID BERNS is appointed in his capacity as the Director, Department of Human Services;

DIANA BRUCE is appointed to represent the Chancellor, District of Columbia Public Schools, on the Commission;


FORREST DANIELS is appointed to represent the Director, Department of Corrections, on the Commission.

- 4. **VINCENT C. GRAY** is appointed Chairperson of the Commission.

- 5. **EFFECTIVE DATE:** This Order shall become effective immediately.



VINCENT C. GRAY
MAYOR

ATTEST: 

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA**ADMINISTRATIVE ISSUANCE SYSTEM**

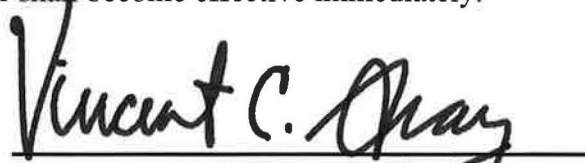
Mayor's Order 2013-128
July 12, 2013

SUBJECT: Appointments – District of Columbia Commission on Re-Entry and Returning Citizen Affairs


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22 (2) and (11) (2012 Supp.), and in accordance with section 4 of the Office on Ex-Offender Affairs and Commission on Re-Entry and Ex-Offender Affairs Establishment Act of 2006, effective March 8, 2007, D.C. Law 16-243, D.C. Official Code § 24-1303 (2012 Supp.), and Mayor's Order 2012-31, dated February 28, 2012, which established the District of Columbia Commission on Re-Entry and Returning Citizen Affairs ("Commission"), it is hereby **ORDERED** that:

1. **LOUIS B. SAWYER, JR.** was nominated by the Mayor on March 21, 2013, and deemed approved by the Council of the District of Columbia, pursuant to Proposed Resolution 20-0157, on July 9, 2013, and is appointed as a member to the Commission, replacing Terrence L. Ingram, for a term to end August 4, 2015.
2. **PETRINA L. WILLIAMS** was nominated by the Mayor on March 21, 2013, and deemed approved by the Council of the District of Columbia, pursuant to Proposed Resolution 20-0158, on July 9, 2013, and is appointed as a member to the Commission, replacing Charles Whitaker, for a three year term to end August 4, 2015.
3. **EFFECTIVE DATE:** This Order shall become effective immediately.



VINCENT C. GRAY
MAYOR

ATTEST: 

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
AGENDA

WEDNESDAY, JULY 24, 2013 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review of requests dated July 9, 2013, July 10, 2013 and July 15, 2013 from E& J Gallo Winery for approval to provide retailers with products valued at more than \$50 and less than \$500.

2. Review of New Caterer's License Application. *Aramark Educational Services at American University*, 3500 Massachusetts Avenue NW Caterer, Lic.#: 92633. *Continued from the July 10, 2013 Supplemental Agenda.*

3. Review of letter, dated July 2, 2013, from a group of residents requesting that the Board deny Aramark Educational Services at American University's catering application. *Aramark Educational Services at American University*, 3500 Massachusetts Avenue NW Caterer, Lic.#: 92633. *Continued from the July 10, 2013 Supplemental Agenda.*

4. Review of letter, dated July 5, 2013, from Elwyn Ferris regarding the lack of notification for the Settlement Agreement Termination application for Policy from both the Licensee and ABRA. Mr. Ferris is also requesting permission to reinstate his request for the Board to deny the Licensee's application. *Policy*, 1904 14th Street NW Retailer CR03, Lic.#: 76804. *Continued from the July 10, 2013 Supplemental Agenda.*

5. Review of letter, dated July 5, 2013, from Tanya Barbour regarding the lack of notification for the Settlement Agreement Termination application for Policy from both the Licensee and ABRA. Ms. Barbour is also requesting permission to reinstate his request for the Board to deny the Licensee's application. *Policy*, 1904 14th Street NW Retailer CR03, Lic.#: 76804. *Continued from the July 10, 2013 Supplemental Agenda.*

6. Review of letter, dated July 1, 2013, from Ramon Estrada regarding the lack of notification for the Settlement Agreement Termination application for Policy from both the Licensee and ABRA. Mr. Estrada is also requesting permission to reinstate his request for the Board to deny the Licensee's application. *Policy*, 1904 14th Street NW Retailer CR03, Lic.#: 76804. *Continued from the July 10, 2013 Supplemental Agenda.*

Board's Agenda – July 24, 2013 - Page 2

7. Review of Settlement Agreement, dated July 10, 2013, between Ruby Tuesday #5320 and ANC 1A. **Ruby Tuesday #5320**, 3365 14th Street NW Retailer CR02, Lic.#: 75456.*
-

8. Review of Settlement Agreement, dated July 8, 2013, between Agua 301 and ANC 6D. **Agua 301**, 301 Water Street SE Retailer CR02, Lic.#: 92094.*
-

9. Review of Settlement Agreement, dated June 19, 2013, between Sonoma and ANC 6B. **Sonoma**, 223 Pennsylvania Avenue SE Retailer CR02, Lic.#: 72017.*
-

10. Review of Change of Hours Application to Add Sunday and increase Hours of Operation and Alcoholic beverage Sales/Service. **Hours of Operation and Hours of Alcoholic beverage Sales/Service**: Sunday 11 am – 7pm, Monday through Saturday 10 am – 10 pm. No pending citation. No investigation matters. No conflict with Settlement Agreement. ANC 6B. **Capitol Hill Wine and Spirits**, 323 Pennsylvania Ave, SE, Retailer A, Lic# 81749.
-

11. Review of Change of Hours Application to Add Sunday. **Hours of Operation and Hours of Alcoholic beverage Sales/Service**: Sunday through Saturday 9 am – 10 pm. No pending citation. No investigation matters. No Settlement Agreement. ANC 7D. **Benning Liquors**, 3445 Benning Rd. NE, Retailer A, Lic# 78782.
-

12. Review of Change of Hours Application to Add Sunday. **Hours of Operation and Hours of Alcoholic beverage Sales/Service**: Sunday 9 am – 9 pm, Monday through Saturday 7 am – 12 am. No pending citation. No investigation matters. No Settlement Agreement. ANC 3B. **Lax Wine and Spirits**, 3035 Naylor Rd. SE, Retailer A, Lic# 82054.
-

13. Review of Change of Hours Application for Inside premise and outside Sidewalk Café. **Hours of Operation for inside Premise**: Sunday 11 am – 2 am, Monday through Thursday 5 pm – 2 am and Friday 5 pm – 4 am and Saturday 11:30 am – 4 am. **Hours of Hours of Alcoholic beverage Sales/Service inside Premise**: Sunday 11 am – 2 am, Monday through Thursday 5 pm – 2 am and Friday 5 pm – 3 am and Saturday 11:30 am – 3 am. **Hours of Operation and Hours of Alcoholic beverage Sales/Service for outside Sidewalk Café**: Sunday 11 am – 2 am, Monday through Thursday 5 pm – 2 am and Friday 5 pm – 3 am and Saturday 11 am – 3 am. No pending citation. No investigation matters. No conflict with Settlement Agreement. ANC 1C. **Duplex Diner**, 2004 18th St. NW, Retailer CR01, Lic# 88303.
-

Board's Agenda – July 24, 2013 - Page 2

14. Review of Entertainment Endorsement Application. ***Proposed Entertainment Hours:*** Sunday through Thursday 6 pm – 2 am and Friday & Saturday 6 pm – 3 am. No pending citation. No investigation matters. No conflict with Settlement Agreement. ANC 1C. ***Duplex Diner***, 2004 18th St. NW, Retailer CR01, Lic# 88303.
-

15. Review of Summer Garden Application for 16 seats. ***Proposed Hours of Operation and Hours of Alcoholic beverage Sales/Service:*** Sunday through Saturday 10 am – 12 am. No pending citation. No investigation matters. There is a conflict with Settlement Agreement. ANC 6B. (405.1) ***Rose Luxury***, 717 8th St. SE, Retailer CR01, Lic#: 90884.
-

16. Review of letter, 6/14/13, requesting to expand to the 3rd floor and increase the occupancy to 149. ***Current Hours of Operation and Hours of Alcoholic beverage Sales/Service:*** Sunday through Thursday 10 am – 2 am, and Friday & Saturday 10 am – 3 am. No pending citation. No investigation matters. No conflict with Settlement Agreement. ANC 1B. ***Black Cat***, 1811 14th St. NW, Retailer CX, Lic#: 60476.
-

17. Review of letter, 5/6/13, requesting to expand the current sidewalk café to include an additional 12 seats. ***Current Hours of Operation and Hours of Alcoholic beverage Sales/Service:*** Sunday through Saturday 10:30 am – 10:30 pm. No pending citation. No investigation matters. No Settlement Agreement. ANC 2F. ***Siroc***, 915 15th St NW, Retailer CR01, Lic#: 80975.
-

18. Review of Applications for a Retailer Class A license submitted by Savita Malhotra using 401 M, LLC which was previously used by her husband Ajay Malhotra, who is 100% stock holder and currently a licensee of 909 NJ, LLC t/a Harry's Reserve. In addition, the daughter Aisya Malhotra has recently applied for a Retailer Class A license that is pending.

*** In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend.**

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD**

**NOTICE OF MEETING
INVESTIGATIVE AGENDA**

**WEDNESDAY, JULY 24, 2013
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

On July 24, 2013 at 4:00 pm, the Alcoholic Beverage Control Board will hold a closed meeting regarding the matters identified below. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed “to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations.”

1. Case#13-251-00073 Nanny O'Brien's Irish Pub, 3319 CONNECTICUT AVE NW Retailer C Tavern, License#: ABRA-076279

2. Case#13-CC-00037 Town House Tavern Restaurant, 1637 R ST NW Retailer C Restaurant, License#: ABRA-024682

3. Case#13-CC-00036 Top Spanish Cafe & Catering, 3541 GEORGIA AVE NW Retailer C Restaurant, License#: ABRA-084580

4. Case#13-CMP-00272 Taste, 1812 Hamlin ST NE Retailer C Tavern, License#: ABRA-086011

5. Case#13-CMP-00250 The Blaguard, 2003 18TH ST NW Retailer C Restaurant, License#: ABRA-086012

BRIDGES PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

ABA / VB Consultative Services

Bridges Public Charter School invites all interested parties to submit proposals to provide training and consultative support services to the school for Applied Behavior Analysis/Verbal Behavior instruction within the classroom setting. Proposals are due no later than 12:00 PM Friday, July 26, 2013. The complete RFP can be obtained by contacting Olivia Smith via email at osmith@bridgespcs.org.

CESAR CHAVEZ PUBLIC CHARTER SCHOOL DC
REQUEST FOR PROPOSALS

The Cesar Chavez Public Charter For Public Policy Schools invites interested and qualified vendors to submit proposals to provide services in the following areas:

Reading Intervention Program: Chavez is looking for a research, blended learning reading intervention program to service the needs of middle and high school students between grades 6 and 10. The intervention program must be research based and have longitudinal data supporting its effectiveness in urban settings.

Mathematics Intervention Program: Chavez is looking for a proven, data-driven mathematics intervention program to service the needs of middle and high school students who need remediation in mathematics concepts and procedures for elementary through Algebra content. The intervention program must be research-based and have longitudinal data supporting its effectiveness in urban settings.

Interested vendors can contact Tracy Wright at Tracy.Wright@chavezschools.org

Deadline for receiving bids is Friday July 26th, 2013 at 12pm.

**DISTRICT OF COLUMBIA COMMISSION ON SELECTION AND TENURE OF
ADMINISTRATIVE LAW JUDGES OF
THE OFFICE OF ADMINISTRATIVE HEARINGS**

NOTICE OF PUBLIC MEETING

The District of Columbia Commission on Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings hereby gives notice that it will meet on Monday, July 22, 2013 at 5:30 p.m. The meeting is open to the public and will be held at the following location:

Office of Administrative Hearings
The Potomac Room
441 Fourth Street, N.W., Suite 450 North
Washington, DC 20001

For further information, please contact Shereé Cleckley at sheree.cleckley@dc.gov or (202) 442-7290.

AGENDA

- I. Call to Order (Board Chairman)**
- II. Roll Call**
- III. Discussion**
 - a. Office of Administrative Hearings FY14 Budget**
 - b. Open meetings law**
 - c. Upcoming Reappointments**
 - d. Leftwich and Ludaway, LLC Investigation Report**
- IV. Scheduling Future Meetings**
- X. Adjournment (Board Chairman)**

**COMMUNITY COLLEGE PREPARATORY ACADEMY PUBLIC CHARTER
SCHOOL****REQUEST FOR PROPOSALS**

The Community College Preparatory Academy Public Charter School solicits expressions of interest in the form of proposals with references from qualified vendors for each of the 7 services listed below.

Business Services:

1. Technology consulting – support the school’s technology needs with installation, maintenance, repair, and professional development
2. Building Maintenance
3. Auditing Services
4. Accounting services – accounting consulting services (Washington, DC CPA Required)
5. Computers – 8 laptops for faculty/staff and 50 laptops for students

Insurance services:

6. Employee Benefits – provide health and life insurance for 12 employees
7. Business Insurance – business insurance coverage for public charter school

Questions and proposals may be e-mailed to monica@ccprep-academy.org with the subject line in the type of service. Deadline for submissions is **12:00 pm Monday, July 29, 2013**.

Appointments for presentations will be scheduled at the discretion of the school office after receipt of proposals only. No phone calls please.

E-mail is the preferred method for responding but you can also mail proposals and supporting documents to the following address:

Community College Preparatory Academy Public Charter School
2405 Martin Luther King Ave., SE, Washington, DC 20020
Attn: Business Office

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF PUBLIC MEETING

Community Schools Advisory Committee

The final meeting of the Community Schools Advisory Committee will take place on July 23rd, 2013 at OSSE, 810 1st Street, NE, Room 4002, Washington, DC 20002.

Agenda

- 4:00-4:30 pm Update on RFA
- 17 applications
 - Scored from reviewers due July 23rd
 - Consensus meetings July 25th
 - Site visits early August
- 4:30-5:45 pm Recommendations for Mayor
- 5:45-6:00 pm Final Thoughts and Adjourn

BOARD OF ELECTIONS**CERTIFICATION OF ANC/SMD VACANCY**

The District of Columbia Board of Elections hereby gives notice that there is a vacancy in one (1) Advisory Neighborhood Commission office, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

VACANT: 1A04

Petition Circulation Period: **Monday, July 22, 2013 thru Monday, August 12, 2013**

Petition Challenge Period: **Thursday, August 15, 2013 thru Wednesday, August 21, 2013**

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

**D.C. Board of Elections
441 - 4th Street, NW, Room 250N
Washington, DC 20001**

For more information, the public may call **727-2525**.

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

**Certification of Filling a Vacancy
In Advisory Neighborhood Commissions**

Pursuant to D.C. Official Code §1-309.06 (d)(6)(G) and the resolution transmitted to the District of Columbia Board of Elections (“Board”) from the affected Advisory Neighborhood Commission, the Board hereby certifies that a vacancy has been filled in the following single member district by the individual listed below:

Mercile Banks
Single-Member District 5C06

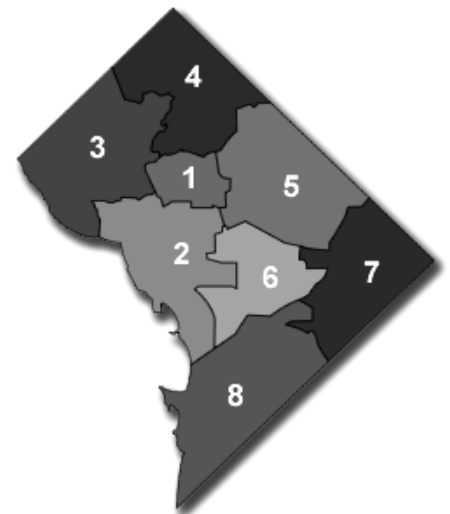
**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION SUMMARY
As Of JUNE 30, 2013**

WARD	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	45,472	2,977	850	18	164	12,929	62,410
2	31,940	6,478	277	27	159	12,763	51,644
3	39,399	8,033	412	22	124	13,114	61,104
4	51,906	2,654	614	9	180	10,462	65,825
5	54,136	2,271	610	17	167	9,532	66,733
6	53,108	6,611	596	21	191	13,666	74,193
7	52,556	1,424	490	2	132	7,382	61,986
8	50,625	1,464	492	3	188	8,289	61,061
Totals	379,142	31,912	4,341	119	1,305	88,137	504,956
Percentage By Party	75.08%	6.32%	.86%	.02%	.26%	17.45%	100.00%

DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF
VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS
AS OF THE END OF JUNE 30, 2013

COVERING CITY WIDE TOTALS BY:
WARD, PRECINCT AND PARTY

ONE JUDICIARY SQUARE
441 4TH STREET, NW SUITE 250N
WASHINGTON, DC 20001
(202) 727-2525
<http://www.dcboee.org>



D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 1 REGISTRATION SUMMARY
As Of JUNE 30, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
20	1,464	42	13	1	11	243	1,774
22	3,715	307	31	2	8	1,023	5,086
23	2,847	176	67	3	6	800	3,899
24	2,631	260	36	0	9	885	3,821
25	4,203	478	78	1	7	1,394	6,161
35	3,689	247	71	0	13	1,169	5,189
36	4,556	296	81	1	17	1,277	6,228
37	3,263	159	57	0	8	774	4,261
38	2,836	145	59	1	9	777	3,827
39	4,289	231	110	3	17	1,127	5,777
40	3,989	234	110	1	25	1,227	5,586
41	3,426	212	69	3	18	1,111	4,839
42	1,868	63	30	2	6	523	2,492
43	1,752	71	25	0	4	382	2,234
137	944	56	13	0	6	217	1,236
TOTALS	45,472	2,977	850	18	164	12,929	62,410

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 2 REGISTRATION SUMMARY
As Of JUNE 30, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
2	715	161	7	0	10	464	1,357
3	1,492	449	16	1	13	762	2,733
4	1,730	495	9	1	8	888	3,131
5	2,311	784	20	1	10	972	4,098
6	2,715	1,154	29	2	23	1,711	5,634
13	1,416	302	7	1	1	529	2,256
14	3,129	500	28	1	12	1,177	4,847
15	3,329	371	26	7	16	1,064	4,813
16	3,843	436	35	4	12	1,114	5,444
17	4,985	714	49	6	32	1,757	7,543
129	2,035	364	11	2	6	841	3,259
141	2,546	283	27	0	9	779	3,644
143	1,694	465	13	1	7	705	2,885
TOTALS	31,940	6,478	277	27	159	12,763	51,644

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 3 REGISTRATION SUMMARY
As Of JUNE 30, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
7	1,259	443	18	0	4	591	2,315
8	2,420	719	25	2	9	831	4,006
9	1,186	549	10	2	10	525	2,282
10	1,750	489	9	1	9	695	2,953
11	3,524	1,025	48	3	9	1,531	6,140
12	514	219	3	0	4	235	975
26	3,041	400	34	3	5	1,052	4,535
27	2,627	324	20	1	5	684	3,661
28	2,501	644	35	4	8	933	4,125
29	1,371	301	17	0	4	499	2,192
30	1,365	265	17	0	4	311	1,962
31	2,407	380	21	0	10	631	3,449
32	2,913	421	33	1	5	729	4,102
33	3,099	419	39	3	12	879	4,451
34	3,857	596	30	0	12	1,385	5,880
50	2,252	350	20	2	11	570	3,205
136	938	147	9	0		372	1,466
138	2,375	342	24	0	3	661	3,405
TOTALS	39,399	8,033	412	22	124	13,114	61,104

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 4 REGISTRATION SUMMARY
As Of JUNE 30, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
45	2,317	85	46	2	8	487	2,945
46	3,189	92	34	0	16	655	3,986
47	3,216	180	40	3	15	856	4,310
48	3,002	153	37	0	11	651	3,854
49	918	49	16	0	6	219	1,208
51	3,355	612	26	0	10	717	4,720
52	1,340	235	6	0	2	272	1,855
53	1,280	81	20	0	4	317	1,702
54	2,512	112	39	0	7	542	3,212
55	2,745	88	38	1	14	521	3,407
56	3,361	107	39	0	14	795	4,316
57	2,834	100	37	0	17	542	3,530
58	2,524	69	22	1	3	455	3,074
59	2,841	101	39	1	8	456	3,446
60	2,379	98	26	0	8	751	3,262
61	1,798	62	17	0	3	340	2,220
62	3,399	156	31	0	5	422	4,013
63	3,613	137	63	0	14	703	4,530
64	2,447	64	18	1	6	376	2,912
65	2,836	73	20	0	9	385	3,323
Totals	51,906	2,654	614	9	180	10,462	65,825

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 5 REGISTRATION SUMMARY
As Of JUNE 30, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
19	4,218	198	60	5	9	1,009	5,499
44	3,025	238	32	3	16	713	4,027
66	5,041	144	39	0	12	607	5,843
67	3,255	126	25	0	9	441	3,856
68	2,055	184	34	1	9	455	2,738
69	2,391	87	20	0	9	298	2,805
70	1,654	77	21	1	3	287	2,043
71	2,641	74	34	1	8	393	3,151
72	4,881	130	31	1	15	813	5,871
73	2,043	112	35	2	7	401	2,600
74	4,423	210	65	0	11	883	5,592
75	3,386	132	49	0	8	717	4,292
76	1,333	54	13	0	4	261	1,665
77	3,076	119	37	0	10	546	3,788
78	3,062	80	37	0	7	480	3,666
79	2,139	70	16	2	8	385	2,620
135	3,206	189	51	1	16	600	4,063
139	2,307	47	11	0	6	243	2,614
TOTALS	54,136	2,271	610	17	167	9,532	66,733

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 6 REGISTRATION SUMMARY
As Of JUNE 30, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	4,269	413	51	1	18	1,126	5,878
18	4,249	269	48	0	16	943	5,525
21	1,164	56	19	0	4	272	1,515
81	5,143	376	51	1	20	1,040	6,631
82	2,686	277	27	1	11	605	3,607
83	3,955	442	40	3	12	1,000	5,452
84	2,029	455	26	2	8	639	3,159
85	2,843	567	29	1	9	849	4,298
86	2,411	292	29	0	7	550	3,289
87	2,969	244	30	1	13	615	3,872
88	2,245	332	21	0	7	569	3,174
89	2,706	750	31	3	6	890	4,386
90	1,700	285	15	1	6	524	2,531
91	4,298	387	49	2	18	1,038	5,792
127	4,144	289	56	2	13	941	5,445
128	2,300	212	33	1	10	678	3,234
130	874	369	9	0	3	343	1,598
131	1,709	425	15	2	5	609	2,765
142	1,414	171	17	0	5	435	2,042
TOTALS	53,108	6,611	596	21	191	13,666	74,193

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 7 REGISTRATION SUMMARY
As Of JUNE 30, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
80	1,797	89	19	0	10	313	2,228
92	1,689	41	14	1	10	247	2,002
93	1,690	47	17	0	5	239	1,998
94	2,125	57	19	0	2	275	2,478
95	1,831	51	21	0		314	2,217
96	2,536	75	27	0	7	383	3,028
97	1,594	35	14	0	4	208	1,855
98	1,991	44	26	0	5	273	2,339
99	1,570	46	15	0	4	246	1,881
100	2,242	43	14	0	5	279	2,583
101	1,851	37	21	0	6	205	2,120
102	2,619	58	28	0	7	328	3,040
103	3,811	99	40	0	13	577	4,540
104	3,114	84	29	0	11	456	3,694
105	2,576	66	27	0	4	400	3,073
106	3,330	77	23	0	7	472	3,909
107	1,932	59	17	0	4	296	2,308
108	1,282	38	8	0	2	141	1,471
109	1,092	39	9	0	1	116	1,257
110	4,354	130	35	1	9	520	5,049
111	2,711	67	29	0	9	402	3,218
113	2,504	78	21	0	5	322	2,930
132	2,315	64	17	0	2	370	2,768
TOTALS	52,556	1,424	490	2	132	7,382	61,986

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 8 REGISTRATION SUMMARY
As Of JUNE 30, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
112	2,378	67	12	1	7	341	2,806
114	3,477	116	31	0	21	573	4,218
115	3,310	79	28	1	11	688	4,117
116	4,366	117	44	0	18	685	5,230
117	2,107	56	17	0	10	338	2,528
118	2,971	86	35	0	11	458	3,561
119	3,138	124	48	0	11	594	3,915
120	2,102	46	22	0	6	351	2,527
121	3,617	88	40	1	14	590	4,350
122	2,097	55	21	0	6	320	2,499
123	2,666	128	29	0	14	495	3,332
124	2,932	70	18	0	5	413	3,438
125	5,096	133	47	0	16	811	6,103
126	4,195	131	40	0	18	767	5,151
133	1,545	49	11	0	5	199	1,809
134	2,474	50	32	0	6	323	2,885
140	2,154	69	17	0	9	343	2,592
TOTALS	50,625	1,464	492	3	188	8,289	61,061

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION ACTIVITY

For voter registration activity between 5/31/2013 and 6/30/2013

NEW REGISTRATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Beginning Totals	380,777	32,129	4,377	119	1,319	88,645	507,366
Board of Elections Over the Counter	26	0	0	0	0	8	34
Board of Elections by Mail	53	2	1	0	1	12	69
Board of Elections Online Registration	49	5	0	0	1	7	62
Department of Motor Vehicle	861	126	8	0	3	345	1,343
Department of Disability Services	5	2	0	0	0	2	9
Office of Aging	0	0	0	0	0	0	0
Federal Postcard Application	0	0	0	0	0	0	0
Department of Parks and Recreation	0	0	0	0	0	0	0
Nursing Home Program	0	0	0	0	0	0	0
Dept. of Youth Rehabilitative Services	0	0	0	0	0	0	0
Department of Corrections	3	1	0	0	0	3	7
Department of Human Services	16	0	0	0	0	2	18
Special / Provisional	0	0	0	0	0	0	0
All Other Sources	53	0	1	0	0	28	82
+Total New Registrations	1,066	136	10	0	5	407	1,624

ACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Reinstated from Inactive Status	60	3	1	0	0	12	76
Administrative Corrections	8	0	1	0	0	103	112
+TOTAL ACTIVATIONS	68	3	2	0	0	115	188

DEACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Changed to Inactive Status	2,197	320	34	1	14	766	3,332
Moved Out of District (Deleted)	3	0	0	0	0	3	6
Felon (Deleted)	0	0	0	0	0	0	0
Deceased (Deleted)	24	1	0	0	0	2	27
Administrative Corrections	700	33	9	0	5	110	857
-TOTAL DEACTIVATIONS	2,924	354	43	1	19	881	4,222

AFFILIATION CHANGES	DEM	REP	STG	LIB	OTH	N-P	
+ Changed To Party	233	30	7	2	5	68	
- Changed From Party	-78	-32	-12	-1	-5	-217	
ENDING TOTALS	379,142	31,912	4,341	119	1,305	88,137	504,956

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2013

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue air quality permit #5983-R2 to the Architect of the Capitol to operate one (1) existing 556 kW diesel-fired emergency generator set at John Adams Building, located at 110 Second Street SE, Washington DC 20540. The contact person for the facility is Gregory Simmons, P.E., Superintendent, Library Buildings and Grounds, at (202) 707-5157.

The permit application and supporting documentation, along with the draft permit are all available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a public hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments postmarked after August 19, 2013 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2013

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue air quality permit #5984-R2 to the Architect of the Capitol to operate one (1) existing 100 kW diesel-fired emergency generator set at the St. Cecilia Special Facilities Center, located at 601 East Capitol Street SE, Washington DC 20003. The contact person for the facility is Gregory Simmons, P.E., Superintendent, Library Buildings and Grounds, at (202) 707-5157.

The permit application and supporting documentation, along with the draft permit are all available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

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DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2013

PUBLIC NOTICE

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The permit application and supporting documentation, along with the draft permit are all available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

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Air Quality Division
District Department of the Environment
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Washington, DC 20002
Stephen.Ours@dc.gov

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For more information, please contact Stephen S. Ours at (202) 535-1747.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2013

PUBLIC NOTICE

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The permit application and supporting documentation, along with the draft permit are all available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

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DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2013

PUBLIC NOTICE

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The permit application and supporting documentation, along with the draft permit are all available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

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Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

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For more information, please contact Stephen S. Ours at (202) 535-1747.

EXCEL ACADEMY PUBLIC CHARTER SCHOOL**PUBLIC NOTICE****NSLP CEO Notice**

Excel Academy Public Charter School has chosen to continue our participation in the National School Lunch and School Breakfast Programs Community Eligibility Option (CEO) for School Year 2013-2014. It is possible for **ALL** students enrolled at Excel Academy to receive healthy breakfasts and lunches each day at **no charge** during the entire School Year.

This option will make it easier for eligible children in low-income communities to receive free meals in the National School Lunch and School Breakfast Programs. Community eligibility alleviates the burden on families by eliminating household applications, while helping schools reduce costs associated with collecting and processing those applications.

Any questions can be directed towards:

Larry Jiggetts
ljiggetts@excelpcs.org

“In accordance with Federal Law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. To file a complaint of discrimination, write USDA, Director, Office of Adjudication, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call toll free (866) 632-9992 (Voice). Individuals who are hearing impaired or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish). USDA is an equal opportunity provider and employer.”

Also, the District of Columbia Human Rights Act, approved December 13, 1977 (DC Law 2-38; DC Official Code §2-1402.11(2006), as amended) States the following:

Pertinent section of DC Code § 2-1402.11:

It shall be an unlawful discriminatory practice to do any of the following acts, wholly or partially for a discriminatory reason based upon the actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, genetic information, disability, matriculation, or political affiliation of any individual. To file a complaint alleging discrimination on one of these bases, please contact the District of Columbia’s Office of Human Rights at (202) 727-3545.

**Government of the District of Columbia
Department of Health Care Finance**

NOTICE OF FUNDS AVAILABILITY

The Department of Health Care Finance (DHCF) is soliciting applications to establish electronic connection between hospitals located in the District of Columbia and a state-designated health information exchange (HIE) for advanced HIE services. The purpose of the connection is to establish secure transmission of health information within and between states so that patient care is better coordinated and more efficient. The Director, DHCF has authority pursuant to the DHCF Establishment Act of 2007, effective February 27, 2008 (DC Law 17-109) to develop health care financing programs that improve access and efficient delivery of care and ensure that these programs maximize federal financial assistance.

In 2010 the DHCF was awarded a \$5.1 million Cooperative Agreement Grant for state HIE from the U.S. Department of Health and Human Services, Office of the National Coordinator for Health Information Technology (ONC). DHCF plans to use a portion of remaining grant funds to issue sub grants to hospitals located in the District to connect to an existing state-designated HIE for provision of advanced services.

Eligible Applicants: Non-governmental, non-psychiatric, acute care hospitals located in the District of Columbia. Acute care is defined as an average length of stay of 25 days or fewer.

Available Funding for Awards: Up to \$800,000. The amount of each award to an eligible hospital will vary based on the hospital's gross patient revenue and staffed bed capacity. Awards are subject to federal approval and the availability of a local funding match.

Number of Awards: Maximum of eight (8).

Performance Period: October 1, 2013 until January 31, 2014.

Request for Applications (RFA) Release Date and Amendments: The RFA will be released on August 5, 2013 and made available at the DHCF website (www.dhcf.dc.gov/health-information-exchange) and through the District Grants Clearinghouse (<http://opgs.dc.gov/page/opgs-district-grants-clearinghouse>). Prospective applicants may also call the Project Management Officer for an application at 202-724-7342.

Prospective applicants will be required to submit contact information in order to receive any amendments or clarifications that may be issued. Instructions for responding to such information will be made available with the RFA.

Application Deadline: September 5, 2013; 5:00pm EST.

Pre- Application Conference: August 7, 2013 at DHCF offices located at 899 North Capitol Street, NE, 6th Floor, Washington, D.C. 20002.

For additional information regarding this Notice of Funding Availability, please contact Cleveland Woodson, Acting Director of Health Care Reform & Innovation Administration via email at cleveland.woodson@dc.gov.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FUNDS AVAILABILITY

Provider Stabilization and Beneficiary Access Program

The District of Columbia Department of Health Care Finance (DHCF) is soliciting applications from eligible health care providers for grants designed to improve the stability of the health care provider network that serves low-income beneficiaries enrolled in Medicaid and D.C. Health Care Alliance Program. These grants are designed to promote improved access to health care services for low-income Medicaid and Health Care Alliance beneficiaries by providing payment for unpaid claims to providers affected by the recent dissolution of the Chartered Health Plan.

The availability of a robust and stable provider network is critical to adequate access to needed health care services and for ensuring continuity of care. As the single State agency for Medicaid, DHCF is charged with responsibility for ensuring that provider networks are adequate to meet beneficiary demand. When the stability of a provider network is threatened due to circumstances beyond its control, The Director of DHCF has authority pursuant to the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-609; DC Official Code § 7-771.05) to issue grants to mitigate the impact on beneficiaries by maintaining provider participation in the Medicaid and the Alliance programs.

Eligibility: D.C. Medicaid Providers who provided services to D.C. Medicaid and Alliance beneficiaries pursuant to a network agreement with Chartered Health Plan and who can demonstrate financial hardship based upon the existence of unpaid medical claims for services rendered beginning November 1, 2012 through April 30, 2013 to Medicaid and Alliance beneficiaries. The provider's claims that have not been paid by Chartered must be undisputed by Chartered Health Plan. And, the grantee is eligible only if it also provides a global release of all claims for any payment for services rendered to Chartered Health Plan, Inc. and the District of Columbia and their officers, employees and agents.

Length of Awards: Awards will be made on a one-time basis.

Available Funding for Awards: The amount available for this award period shall not exceed \$30,000,000 (thirty million dollars) and is subject to the availability of funds.

Additional Grant Conditions: The grant may be withdrawn or canceled at any time at the sole discretion of the Director of DHCF. In addition, the offering of the grant or acceptance of a grant application by the District does not create any third party entitlement to funds or a contractual relationship of any kind between the District of Columbia and the applicant for payment of unpaid medical claims for services owed to the provider/grantee by Chartered Health

Plan. No portion of the grant funds provided for in this notice shall be subject to assignment except with prior written consent of the District of Columbia.

The Request for Applications (RFA) will be released on July 29, 2013 and the deadline for submission is August 16, 2013, 4:00 p.m. The RFA will be available on DHCF's website, www.DHCF.dc.gov, and/or by contacting the DHCF Grants Management Office at (202) 442-9533.

For additional information regarding this competition, please contact Mr. Bidemi Isiaq, Grants Management Officer at (202) 442-9202.

DEPARTMENT OF HEALTH**PUBLIC NOTICE**

The District of Columbia Board of Pharmacy hereby gives notice of a change in its regularly scheduled monthly meeting date for August 2013 pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2009).

For the month of August 2013, the District of Columbia Board of Pharmacy's regularly scheduled monthly meeting will be moved to Thursday, August 15th due to a lack of quorum for the regularly scheduled meeting date.

The open (public) session begins at 9:30 a.m. The Board of Pharmacy meets at 899 North Capitol Street, NE, 2nd Floor, Washington, D.C. 20002.

Thereafter, the Board will return to its normal meeting schedule, which is the first Thursday of each month at 9:30 a.m.

**DEPARTMENT OF HEALTH
HIV/AIDS, HEPATITIS, STD and TUBERCULOSIS ADMINISTRATION**

**NOTICE OF FUNDING AVAILABILITY
RFA#TLC08.02.13**

2013 HIV Testing and Linkage to Care

The Government of the District of Columbia, Department of Health-HIV/AIDS, Hepatitis, STD and TB Administration (HAHSTA) is soliciting applications from qualified organizations located in and licensed to conduct business with the District of Columbia. The following entities are eligible to apply: private, non-profit organizations, licensed to conduct business within the District of Columbia. Private entities include community-based organizations, community health centers and hospitals.

It is anticipated that approximately \$2,245,000 will be available for FY2014 grant awards, with two optional, performance-based continuation years. Funds will be used to support HIV testing & linkage to care interventions. Grants will be awarded through the use of DC Local Appropriated and Centers of Disease Control and Prevention funds (grant ID#5U62PS003685) to support HIV testing strategies. This program is authorized under Sections 301 and 318 of the Public Health Service Act (42 U.S.C. Section 241 and 247c), as amended. All awards are contingent upon the continued availability of funds.

The release date for this RFA is Friday, August 2, 2013. The Request for Applications (RFA#TLC08.02.13) will be available for download on the following website www.opgs.dc.gov under District Grants Clearinghouse. Alternatively, the RFA may be picked up IN HAHSTA offices at 899 North Capitol Street, NE, 4th Floor Washington, DC beginning Friday, August 2, 2013.

The Request for Application (RFA) submission deadline is no later than 4:30 p.m. on Wednesday, September 4, 2013. Late applications will not be accepted. A Pre-Application Conference will be held on **Wednesday, August 7, 2013 from 10:00 a.m. – 12:00 p.m.**, at 899 North Capitol Street, NE, 4th Floor, Washington, DC in the HAHSTA 4th floor conference room.

Please contact Avemaria Smith for additional information at 202/671-4900 or by email Avemaria.Smith@dc.gov.

**DEPARTMENT OF HEALTH
COMMUNITY HEALTH ADMINISTRATION
Child, Adolescent and School Health Bureau**

**Notice of Funding Availability (NOFA)
Request for Applications (RFA)
RFA# CHA_SBHC_06.21.2013**

This notice supersedes the NOFA published in the DC Register on 6/7/13 (Volume 60/25)

**School Based Health Centers
New Deadline: Friday, August 2, 2013 at 4:45 p.m.**

The Government of the District of Columbia, Department of Health (DOH), Community Health Administration (CHA) is soliciting applications from qualified not-for-profit organizations located and licensed to conduct business within the District of Columbia to improve access to care for high school students in grades 9-12 by operating a school-based health center. The overall goal is to help address the primary and urgent care needs of students in the school that will house the school-based health center. This includes assuring appropriate confidentiality and coordination of care, making referrals for specialty care, and serving as a model medical home.

DOH is working with DC Public Schools (DCPS) and the Department of Government Services (DGS) as the construction of the health center is completed. The school-based health center will be approximately 2,500 square feet and will include practice space for the school nurse. There will be two awards of up to \$675,000.00 each. Approximately \$1,350,000 in local appropriated funds is anticipated to be available for these two year grants. The second year is contingent upon performance and continued availability of funds.

The release date for RFA # CHA_SBHC_06.21.2013 is Friday, June 21, 2013. The Department of Health, Community Health Administration will have the complete RFA available on the DC Grants Clearinghouse website at www.opgs.dc.gov on **Friday, June 21, 2013**. The RFA will also be available for pickup at CHA located at 899 North Capitol Street, NE, on the 3rd Floor.

The Request for Application (RFA) submission deadline is 4:45 pm Monday, July 15, 2013. The Pre-Application conference will be held in the District of Columbia at 899 North Capitol Street, NE, 3rd Floor Conference Room, Washington, DC 20002, **on Thursday, June 27, 2013, from 10:00am – 12:30pm.**

If you have any questions please contact Luigi Buitrago via e-mail luigi.buitrago@dc.gov or by phone at (202) 442.9154.

**HOSPITALITY HIGH SCHOOL
REQUESTS FOR PROPOSALS**

Security Guards

Hospitality High School is offering the opportunity to bid on the services of **two unarmed security guards**: one male and one female Monday – Friday from 7:00 a.m. to 4:30 p.m. at Hospitality High School. The RFP with bidding requirements and supporting documentation can be obtained from: our website www.washingtonhospitality.org or call our technology coordinator at 202-737-4150 x 1408. Deadline for receiving bids is 08/07/13 at 2:30 pm.

Qualified Therapeutic Consultants

Hospitality High School is offering the opportunity to bid on the services of qualified Therapeutic Consultants who will **provide Occupational Therapists, Speech Language Pathologists, and Physical Therapists**. The RFP with bidding requirements and supporting documentation can be obtained from: our website www.washingtonhospitality.org or call our technology coordinator at 202-737-4150 x 1408. Deadline for receiving bids is 08/07/13 at 2:30 pm.

School Improvements Consultant

Hospitality High School is offering the opportunity to bid on the services of a school improvements specialist whose **major focus is evaluation, data analysis, instruction, and teacher support**. The RFP with bidding requirements and supporting documentation can be obtained from: our website www.washingtonhospitality.org or call our technology coordinator at 202-737-4150 x 1408. Deadline for receiving bids is 08/07/13 at 2:30 pm.

All bids not addressing all areas as outlined in the RFPs will not be considered.

**DISTRICT OF COLUMBIA HOUSING AUTHORITY
BOARD OF COMMISSIONERS**

**NOTICE OF CANCELLATION
OF PUBLIC MEETING**

1133 NORTH CAPITOL STREET, NORTHEAST
WASHINGTON, D.C. 20002-7599
202-535-1000

The regular August meeting of the Board of Commissioners of the District of Columbia Housing Authority (“DCHA”) previously scheduled for Wednesday, August 14, 2013, has been cancelled.

**DISTRICT OF COLUMBIA HOUSING AUTHORITY
BOARD OF COMMISSIONERS**

**NOTICE OF RESCHEDULING
OF PUBLIC MEETING**

1133 NORTH CAPITOL STREET, NORTHEAST
WASHINGTON, D.C. 20002-7599
202-535-1000

The regular July meeting of the Board of Commissioners of the District of Columbia Housing Authority (“DCHA”) previously scheduled for Wednesday, July 31, 2013 at 1:00 pm, has been rescheduled as follows:

Wednesday, July 31, 2013
1133 North Capitol, NE
2:00 p.m.

A notice of the meeting of the DCHA Board of Commissioners will also be posted at 1133 North Capitol Street, NE and on the District of Columbia Housing Authority website: www.dchousing.org

INSPIRED TEACHING DEMONSTRATION PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Before And After School Services**

The Inspired Teaching Demonstration Public Charter School is seeking competitive bids for a vendor to provide Before and After School Services at their school at 1328 Florida Avenue NW for the 2013-2014 School Year.

The vendor will provide the services to students from preschool through 5th grade. Additional information regarding the Inspired Teaching School and specifications of service are outlined in the Request for Proposal (RFP) and may be obtained from:

Zoe Duskin, Principal
zoe.duskin@inspiredteachingschool.org
202-248-6825

Proposals must be submitted as PDF or Microsoft Word documents and will be accepted until 5pm, August 2nd, 2013.

All bids not addressing all areas as outlined in the RFP will not be considered.

MUNDO VERDE PCS
REQUEST FOR PROPOSALS

Meal Services

Mundo Verde PCS will receive bids until August 9, 2013 at 5:00PM. Mundo Verde is advertising the opportunity to bid on the delivery of breakfast, lunch, snack and/or CACFP supper meals to children enrolled at the school for the 2013-2014 school year with a possible extension of (4) one year renewals. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast, Lunch, Afterschool Snack and At Risk Supper meal pattern requirements. Additional specifications outlined in the Request for Proposals (RFP) such as; student data, days of service, meal quality, etc. may be obtained from:

Anna Johnson
3220 16th Street, NW, Washington, DC 20010
(202) 630-8373
ajohnson@mundoverdepcs.org

All bids not addressing all areas as outlined in the Request for Proposal will not be considered.

Proposals are due no later than 5:00PM, August 9, 2013.

**THE NOT-FOR-PROFIT HOSPITAL CORPORATION
BOARD OF DIRECTORS
NOTICE OF PUBLIC MEETING**

The Board of Directors of the Not-For-Profit Hospital Corporation, an independent instrumentality of the District of Columbia Government, will hold a public meeting on Saturday, July 13, 2013 at 8:30 a.m, immediate followed by a closed session pursuant to D.C. Official Code § 2-575(b)(4A)(10)(11). The meeting will be held at Matthews Memorial Baptist Church, 2616 Martin Luther King Jr., Ave, SE, Washington, DC 20020. Notice of a location or time change will be published in the D.C. Register, posted in the Hospital, and/or posted on the Not-For-Profit Hospital Corporation's website (www.united-medicalcenter.com).

DRAFT AGENDA - REVISED

- I. CALL TO ORDER**

- II. DETERMINATION OF A QUORUM**

- III. APPROVAL OF AGENDA**

- IV. PRESENTATION AND DISCUSSION OF THE COMMUNITY NEEDS ASSESSMENT AND HURON RECOMMENDATIONS**

- V. OTHER BUSINESS**
 1. Old Business
 2. New Business

- VI. ANNOUNCEMENT**
 1. The next Governing Board Meeting will be held at 9:00am, July 25, 2013 at United Medical Center/Conference Room 2/3.

- VII. ADJOURNMENT**

NOTICE OF INTENT TO CLOSE. The NFPHC Board hereby gives notice that it may close the meeting and move to executive session to discuss (i) trade secrets obtained from outside the government, disclosure of which would result in substantial harm to the competitive position of the person from whom the information was obtained; (ii) to discuss employment and compensation; and (iii) to obtain legal advice and preserve the attorney-client privilege. D.C. Official Code §§2-575(b)(4A)(10)(11).

**THE NOT-FOR-PROFIT HOSPITAL CORPORATION
BOARD OF DIRECTORS
NOTICE OF PUBLIC MEETING**

The monthly Governing Board meeting of the Board of Directors of the Not-For-Profit Hospital Corporation, an independent instrumentality of the District of Columbia Government, will be held at 9:00 a.m. on Thursday, July 25, 2013. The meeting will be held at 1310 Southern Avenue, SE, Washington, DC 20032, in Conference Room 3/4. Notice of a location or time change will be published in the D.C. Register, posted in the Hospital, and/or posted on the Not-For-Profit Hospital Corporation's website (www.united-medicalcenter.com).

DRAFT AGENDA

- I. CALL TO ORDER**

- II. DETERMINATION OF A QUORUM**

- III. APPROVAL OF AGENDA**

- IV. CONSENT AGENDA**
 - A. READING AND APPROVAL OF MINUTES**
 - 1. June 27, 2013 – General Board Meeting
 - 2. July 13, 2013 – Board Retreat

 - B. EXECUTIVE REPORTS**
 - 1. Dr. Cyril Allen, Chief Medical Officer
 - 2. Jean Phaire, VP of Nursing
 - 3. Pamela Lee, VP of Hospital Operations
 - 4. Jackie Johnson, VP of Human Resources
 - 5. John Wilcox, Chief Information Officer

V. NONCONSENT AGENDA**A. CHIEF EXECUTIVE REPORTS**

1. Michael Davis, CFO
2. David Small, CEO

B. MEDICAL STAFF REPORT

1. Dr. Gilbert Daniel, Chief of Staff

C. COMMITTEE REPORTS

1. Finance Committee Report / Mr. Steve Lyons, Chair
2. Strategic Steering Committee Report / Dr. Margo Baily, Chair
3. Governance Committee Report / Mr. Virgil McDonald, Chair
4. Patient Safety & Quality Committee Report / Dr. Shannon Hader, Chair

D. OTHER BUSINESS

1. Old Business
2. New Business

E. ANNOUNCEMENT

1. The next Governing Board Meeting will be held at 9:00am, September 26, 2013 at United Medical Center/Conference Room 2/3.

F. ADJOURNMENT

NOTICE OF INTENT TO CLOSE. The NFPHC Board hereby gives notice that it may close the meeting and move to executive session to discuss contracts, settlements, collective bargaining agreements, personnel, discipline, and investigations of alleged criminal or civil misconduct. D.C. Official Code §§2-575(b)(2)(4A)(5),(9),(10),(14).

Decision and Order

PERB Case Nos. 11-U-35 and 11-U-44

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e-mail to MPD recipients on March 29, 2011. Exhibit 4 does not contain an e-mail sent by Officer Whitfield. The e-mail that Officer Olive and Officer Dallas forwarded says "SEE ATTACHMENT." A document critical of the proposed dues increase follows. The Complaint alleges, "The document contained false information about FOP internal operations and accused FOP leadership of misconduct. The document also encouraged FOP members, based on erroneous information, to vote against a dues assessment supported by the FOP leadership." (Complaint ¶ 5).

Among the recipients of the e-mails were Respondents Young and Asbury (Exhibit 4), who are agents of the Internal Affairs Division. (Complaint ¶ 7). FOP alleges that they did not initiate an investigation of the misuse of MPD's e-mail system as the Labor Relations Bulletin requires, nor did anyone else at MPD. (Complaint ¶¶ 6 & 7). In contrast, MPD previously took action against members of FOP for using MPD's e-mail system to communicate about union-related matters. (Complaint ¶ 8).

The Complaint characterizes Respondents Whitfield, Olive, Dallas, Young, Asbury, and Lanier as "responsible parties" and "agents and representatives of the District." (Complaint ¶ 10). The Complaint asserts that "the Respondents" permitted "the Respondents" (presumably different Respondents) to send an e-mail on MPD's e-mail system containing false information about FOP while at the same time preventing FOP from using MPD's e-mail system. Thereby the Respondents violated section 1-617.04(a)(1) of the D.C. Code "by interfering, restraining, coercing, or retaliating against the exercise of rights guaranteed to the FOP members by the CMPA" (Complaint ¶ 12), interfered with the existence or administration of the FOP in violation of section 1-617.04(a)(2) (Complaint ¶ 13), and failed to give FOP the exclusive recognition to which it is entitled. (Complaint ¶ 16).

Respondents MPD, Agent Young, Agent Asbury, and Chief Lanier timely answered the Complaint. Subsequently, FOP filed a "Line" dismissing Agent Young, Agent Asbury, and Chief Lanier as respondents. The remaining individually-named respondents, Officers Whitfield, Olive, and Dallas ("Officers"), filed a motion for extension of time to answer on June 8, 2011. The Complainant opposed the motion on the ground that it was filed beyond the time allowed by Board Rule 501.2. The Complainant moved for default and admission of material facts pursuant to Board Rule 520.7. The Officers filed an opposition to the Complainant's motion as well as an answer. In the answer the Officers denied that they were agents or representatives of the District within the meaning of section 1-617.04(a)(1) and asserted that as a result the Board lacked jurisdiction over them.

Admittedly in response to that answer, FOP, rather than amending its Complaint, filed on July 12, 2011, another complaint ("Second Complaint") against only the Officers, case number 11-U-44. The Second Complaint asserts that section 1-617.04(b)(1) "clearly provides that employees of the District are responsible for unfair labor practices and it is proper and appropriate to proceed against these individual respondents." (Second Complaint ¶ 5). FOP alleged that by sending the March 29, 2011, e-mail the Officers were "interfering, restraining, coercing, or retaliating against the exercise of rights guaranteed to the FOP members by the

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PERB Case Nos. 11-U-35 and 11-U-44
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CMPA" in violation of section 1-617.04(b). (Second Complaint ¶ 7). The Second Complaint prays for an order finding that the Officers committed an unfair labor practice in violation of section 1-617.04(b), ordering the Officers to cease and desist from retaliatory actions against FOP, compelling the Officers to post "no less than two (2) notices of their violations and PERB's order in each MPD building," ordering MPD to investigate the violations, and compelling the Officers to pay the Complainant's costs and fees. (Second Complaint ¶ 8).

FOP moved to consolidate case numbers 11-U-35 and 11-U-44. The Officers filed an answer in case number 11-U-44 and moved to dismiss the complaints ("Complaints") against them. The Complainant filed an opposition to the motion to dismiss ("Opposition").

The Complainant's motion to consolidate and motion for default and admission of material facts and the Officers' motion for extension of time and motion to dismiss are before the Board for disposition.

II. Discussion

A. Procedural Motions

As case numbers 11-U-35 and 11-U-44 involve common issues, we are consolidating these cases for purposes of our consideration and disposition of the motions. *See FOP/Dep't of Corrs. Membership Class Action v. FOP/Dep't of Corrs. Labor Comm.*, 59 D.C. Reg. 6155, Slip Op. No. 1019 at p. 2, PERB Case No. 10-S-05 (2010).

It is unnecessary to decide the Officers' motion for extension of time or the Complainant's motion for default and admission of material facts as this case can be decided on the face of the Complaints with all factual allegations in the Complaints taken as true. Accordingly, we pretermitt the issues raised by those motions and proceed to consider the Officers' motion to dismiss.

B. Motion to Dismiss

Section 1-617.04(a) of the D.C. Code lists unfair labor practices that the "[t]he District, its agents and representatives" are prohibited from committing. Section 1-617.04(b) lists unfair labor practices that "[e]mployees, labor organizations, their agents, or representatives" are prohibited from committing. Both groups are prohibited from "[i]nterfering with, restraining, or coercing" employees in the exercise of rights guaranteed by the Comprehensive Merit Personnel Act ("CMPA"). D.C. Code § 1-617.04(a)(1), (b)(1). In its Complaints and briefs, the Complainant adds "retaliating" to the statute's list. (*See e.g. supra* at pp. 2-3).

In their motion to dismiss, the Officers maintain that they violated neither section 1-617.04(a) nor section 1-617.04(b). The Officers deny that they are agents or representatives of the District. They do not deny that they are employees of the District. Neither the Officers nor the Complainant contend that the Officers were acting in their official capacities when they forwarded the e-mail regarding the proposed FOP dues increase. Respondent Whitfield denies

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PERB Case Nos. 11-U-35 and 11-U-44
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that he forwarded the e-mail at all. The Officers argue that the Complaints infringe their right to engage in union activity and their right to free speech and as a result should be dismissed.

While issues of fact—such as the alleged agency of the Officers—are contested, taking all of Complainant’s allegations as true, the Board finds pursuant to Board Rule 520.10 that the allegations against the Officers do not constitute an unfair labor practice under either section 1-617.04(a) or section 1-617.04(b). Therefore, for the reasons that follow, we grant the motion to dismiss.

The Officers assert that an effort “to enforce an absolute one-party state within the union and suppress dissent” is barred in the private sector by the Labor Management Reporting and Disclosure Act, 29 U.S.C. §§ 401-531 (“LMRDA”). (Mot. to Dismiss at p. 15). Section 101(a)(2) of the LMRDA provides for a right of union members in the private sector “to express any views arguments or opinions.” 29 U.S.C. § 411(a)(2). The Supreme Court held that a union violated this provision when it removed an elected union official because he opposed a dues increase proposed by the union trustee. *Sheet Metal Workers Int’l Ass’n v. Lynn*, 488 U.S. 347 (1989). The Officers present an argument by analogy:

If this case arose in the private sector, the FOP’s prosecution of this ULP Complaint against Olive, Whitfield, and Dallas would amount to a violation of Title I of the LMRDA. Obviously, the case here is not governed by the LMRDA. Nevertheless, the Supreme Court’s reasoning in *Lynn* is instructive in that it recognizes the protected status that union members’ oppositional activity with respect to union dues is accorded.

(Mot. to Dismiss at p. 17).

In its Opposition, FOP denies that it violated rights protected by the LMRDA:

[T]he LMR[D]A expressly permits the D.C. Police Union to take steps to protect itself from the actions of the Respondents. . . . See Labor Management Reporting and Disclosure Act [*sic*] § 101(a)(2) (“That nothing herein shall be construed to impair the right of a labor organization to adopt and enforce reasonable rules as to the responsibility of every member toward the organization as an institution and to his refraining from conduct that would interfere with its performance of its legal or contractual obligation[s].”).

Further, although the Respondents are correct that they have the right to “meet and assemble freely with other members” and to “express any views, arguments, or opinions,” such opinions must be presented “in a responsible manner consistent with good conscience in order to discuss factually and honestly the issues on which the membership must base its decisions.” *Id.*

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(Opposition at pp. 19-20). Ironically, FOP's representation that the LMRDA includes a requirement that opinions be presented "in a responsible manner consistent with good conscience in order to discuss factually and honestly the issues" is not factual. That language does not appear in the statute. In addition, this case does not involve the enforcement of FOP's rules or by-laws. Rather, the case involves proposed state action: the Complaints seek to have the Board enforce the CMPA against the Officers.

The Officers contend that their exercise of free speech cannot be the basis of an unfair labor practice claim under the CMPA. The Officers assert that they "had the right under [the] First and Fourteenth Amendments to the U.S. Constitution¹ to express their opposition to the FOP's dues increase." (Mot. to Dismiss at p. 14). The Officers note that in a number of defamation cases the Supreme Court recognized the protected character of speech in a labor context. (*Id.*) (citing *Farmer v. United Bhd. of Carpenters & Joiners, Local 25*, 430 U.S. 290, 305-6 (1977); *Old Dominion Branch No. 496, Nat'l Ass'n of Letter Carriers v. Austin*, 418 U.S. 264, 282-83 (1974); *Linn v. United Plant Guard Workers, Local 114*, 383 U.S. 53 (1966)). FOP correctly replies that these defamation cases held that the National Labor Relations Act, rather than the First Amendment, preempted state defamation laws under the circumstances of those cases. Notwithstanding, the Officers presented those cases only as analogous support. "Just as such protected speech cannot form the basis of tort liability," the Officers reason, "it cannot be the basis for governmental regulatory action." (Mot. to Dismiss at p. 14). The Officers' authority for the latter proposition is *NLRB v. Gissel Packing Co.*, 395 U.S. 575 (1969).

In *Gissel*, the Supreme Court discussed section 8(c) of the National Labor Relations Act, which provides, "The expressing of any views, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this subchapter, if such expression contains no threat of reprisal or force or promise of benefit." 29 U.S.C. § 158(c). The Court opined:

[A]n employer's free speech right to communicate his views to his employees is firmly established and cannot be infringed by a union or the Board. Thus, § 8(c) merely implements the First Amendment by requiring that the expression of "any views, argument, or opinion" shall not be "evidence of an unfair labor practice," so long as such expression contains "no threat of reprisal or force or promise of benefit" in violation of § 8(a)(1). Section 8(a)(1), in turn, prohibits interference, restraint or coercion of employees in the exercise of their right to self-organization.

Gissel, 395 U.S. at 617 (citation omitted). In construing "threat of reprisal or force," the Court was sensitive to the fact that an employer's threat can be implicit given "the economic dependence of the employees on their employers, and the necessary tendency of the former,

¹ Reference to the Fourteenth Amendment was unnecessary. See *Bolling v. Sharpe*, 347 U.S. 497, 499 (1954); *Parker v. District of Columbia*, 478 F.3d 370, 391 n.13 (D.C. Cir. 2007) ("[T]he District is constrained by the entire Bill of Rights, without need for the intermediary of incorporation.").

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because of their relationship, to pick up intended implications of the latter that might be more readily dismissed by a more disinterested ear.” *Id.*

This Board has recognized the applicability of these authorities to cases arising under the CMPA:

While there is no analogous section in the D.C. Code, the Supreme Court in NLRB v. Gissel Packing Co. noted that Section 8(c) of the NLRA is only a codification of the First Amendment right to free speech. Thus, the right exists independent of any statutory authority and is applicable in cases arising under the D.C. Code.

AFSCME Council 20 v. Gov't of D.C., 36 D.C. Reg. 427, Slip Op. No. 200 at p. 5 n.2, PERB Case No. 88-U-32 (1988) (citation omitted). *See also AFGE, Local 872 v. D.C. Dep't of Pub. Works*, 38 D.C. Reg. 1627, Slip Op. No. 265 at p. 8, PERB Case No. 89-U-11 (1990).

By *Gissel's* logic, the Officers contend, “it would be improper for PERB to use its enforcement powers under the unfair labor practice provisions of D.C. Code 1-617.04 to penalize individual union members for their exercise of their right to free speech.” (Mot. to Dismiss at p. 15). FOP claims that the Officers overstate the holding of *Gissel*, arguing that “[t]he Court in *Gissel* was specific that the employer’s speech ‘must be carefully phrased on the basis of *objective fact* to convey an employer’s belief as to demonstrably probable consequences beyond his control.’ [395 U.S.] at 618 (emphasis added).” (Opposition at pp. 17-18). Here FOP changed the subject, and thus the meaning, of the sentence it quoted from *Gissel*. FOP is correct that the Court was discussing *employer's* speech, but it was discussing a particular type of employer’s speech that could convey an implicit threat, namely, a prediction of the effects of unionization, which could imply a threat to close a plant. The Court’s full explanation is as follows:

[A]n employer is free to communicate to his employees any of his general views about unionism or any of his specific views about a particular union, so long as the communications do not contain a “threat of reprisal or force or promise of benefit.” He may even make a prediction as to the precise effects he believes unionization will have on his company. In such a case, however, *the prediction* must be carefully phrased on the basis of objective fact to convey an employer’s belief as to demonstrably probable consequences beyond his control or to convey a management decision already arrived at to close the plant in case of unionization.

395 U.S. at 618 (emphasis added). The present case involves neither speech by an employer nor a prediction as to the effects of unionization.

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More broadly, the Complainant argues that as the e-mail contains “multiple knowingly false representations,” it is afforded no constitutional protection. (Opposition at p. 18). The Complainant quotes *Garrison v. Louisiana*, where the Supreme Court said “the knowingly false statement and the statement made with reckless disregard of the truth, do not enjoy constitutional protection.” 379 U.S. 64, 75 (1964). Notwithstanding, the Supreme Court has more recently said that the preceding quotation from *Garrison* and similar statements of the Court “all derived from cases discussing defamation, fraud, or some other legally cognizable harm associated with a false statement” and do not establish a general rule that false speech is unprotected by the First Amendment. *United States v. Alvarez*, 132 S. Ct. 2537, 2545-47 (2012) (plurality opinion). Section 8(c) contains no exception for false speech. Rather, it expressly protects “noncoercive speech.” *Brown v. United States*, 554 U.S. 60, 68, 74 (2008).

As noted, the right codified in section 8(c) applies to cases arising under the CMPA. The e-mail with its attachment was attached to both Complaints. A review of the e-mail and its attachment reveals that it contains no “threat of reprisal or force or promise of benefit.” The Complainant does not contend otherwise. Therefore, this noncoercive e-mail cannot constitute or be evidence of an unfair labor practice. Although the Complainant may dispute the e-mail’s contents and object to its tone, this Board recognizes that “the free discussion of labor related matters is essential in a modern society.” *Forbes v. D.C. Dep’t of Corrs.*, 37 D.C. Reg. 2570, Slip Op. No. 244 at p. 12, PERB Case Nos. 87-U-05 and 87-U-06 (1990).

In view of the foregoing, the Officers’ motion to dismiss is granted.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Complainant’s motion to consolidate is granted.
2. The motion to dismiss filed by Respondents Whitfield, Olive, and Dallas is granted. PERB Case No. 11-U-44 is dismissed. Respondents Whitfield, Olive, and Dallas are dismissed as respondents from PERB Case No. 11-U-35.
3. The Board’s Executive Director shall refer to mediation the remaining parties to PERB Case No. 11-U-35.
4. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

Washington, D.C.

July 1, 2013

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CORRECTED CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case Nos. 11-U-35 and 11-U-44 was transmitted via U.S. Mail and electronic mail to Anthony M. Conti, tony@lawcfl.com, 36 South Charles St., suite 2501, Baltimore, Maryland 21201, and Betty Grdina, bgrdina@mooneygreen.com, 1920 L St. NW, suite 400, Washington, D.C. 20036, on the 2d of July, 2013, and to Mark Viehmeyer, mark.veihmeyer@dc.gov, and Nicole L. Lynch, nicole.lynch@dc.gov, 300 Indiana Ave. NW, room 4126, Washington, DC 20001 on the 9th of July, 2013.



David McFadden
Attorney-Advisor

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia
Public Employee Relations Board**

_____)	
In the Matter of:)	
)	
Fraternal Order of Police/Metropolitan)	
Police Department Labor Committee,)	
)	PERB Case No. 04-A-01
Petitioner,)	
)	Opinion No. 1396
v.)	
)	
District of Columbia)	
Metropolitan Police Department,)	
)	
Respondent.)	
_____)	

DECISION AND ORDER

I. Statement of the Case

Petitioner Fraternal Order of Police/Metropolitan Police Department Labor Committee (“Petitioner” or “FOP”) filed the above-captioned arbitration review request (“Request”), seeking review of Arbitrator Lois Hochhauser’s arbitration award (“Award”). Petitioner asserts that the Award is contrary to law and public policy promoting sound and effective labor-management relations, and that the Arbitrator exceeded her jurisdiction by issuing an award that fails to draw its essence from the parties’ collective bargaining agreement (“CBA”). (Request at 5-6). Respondent District of Columbia Metropolitan Police Department (“Respondent” or “MPD”) filed an Opposition to the Arbitration Review Request (“Opposition”), denying the Petitioner’s allegations.

The Request and Opposition are now before the Board for disposition.

II. Discussion

A. Award

The Award stems from a grievance filed by FOP on behalf of Detective Renee Holden (“Grievant”) as a result of MPD’s decision not to promote Grievant to the rank of Detective

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Grade One. (Award at 1). The Arbitrator was asked to determine whether MPD violated the parties' CBA by failing to adhere to the appropriate procedures in the promotion process, and if so, what relief, if any, was appropriate. (Award at 2).

The Arbitrator found that on or about August 29, 2001, MPD issued a circular and special order announcing the Detective Grade One selection process. (Award at 3). In order to be eligible to apply for the promotion, employees were required to have a current in-service training and firearms certification.

Executive Assistant Chief of Police Gainer issued a memorandum to three assistant chiefs, advising them that thirteen (13) detectives on the first half of the promotional list for Grade One Detectives were not current on their in-service training and firearms certifications. (Award at 3). Gainer noted that forty-one (41) of the first sixty-five (65) names on the promotional list had not attended in-service training the previous year, despite the training being mandatory. (Award at 4). A handwritten note on the memorandum, initialed by Assistant Chief Broadbent, concluded that employees could not be elevated to Detective Grade One status without being current on their in-service training requirements. *Id.*

On July 28, 2002, Chief of Police Ramsey issued a memorandum announcing that fifty-five (55) Detective Grade Two candidates would be promoted to Detective Grade One. (Award at 4). The promoted detectives included members who were on the list of those who had not completed their in-service requirements. *Id.* The Grievant, who had completed her in-service training requirements, was placed 85th on the list and was not promoted. *Id.*

At arbitration, FOP alleged that MPD violated the parties' CBA by failing to adhere to its requirements regarding in-service training, and asserted that the Grievant should have been promoted. (Award at 4). As a remedy, FOP requested that the Grievant be promoted retroactive to July 2002, with back pay. FOP asked that the Arbitrator not invalidate any of the promotions which it argued were made in violation of the CBA. *Id.* MPD did not dispute that it did not follow the memorandum regarding the promotion process, but pointed to a recent arbitration award issued by Arbitrator Rosen ("Rosen Award") involving the same issues as the instant case. *Id.* In the Rosen Award, the arbitrator concluded that although MPD violated the CBA by promoting employees who had not satisfied the mandatory in-service requirement, an award granting the promotions requested by the union would violate the management rights clause of the parties' CBA. *Id.*

As an initial matter, the Arbitrator noted that she would afford the Rosen Award considerable weight because that matter involved the same promotion process and addressed the arbitrator's view on how the CBA should be interpreted under those circumstances. (Award at 5). Additionally, Arbitrator Rosen had the opportunity to consider testimonial evidence, which the parties in the instant arbitration hearing chose not to do¹. *Id.*

¹ The Arbitrator notes that she was "encouraged by the parties" to give the Rosen Award considerable weight. (Award at 5).

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The Arbitrator concluded that MPD's violation of the parties' CBA was not harmless error, as the Grievant may have been reached for promotion but for MPD's failure to adhere to its own eligibility criteria. (Award at 5). Notwithstanding, the Arbitrator refused to order the immediate promotion of the Grievant, for several reasons. *Id.* The Arbitrator held that such a remedy would violate the management rights provision of the parties' CBA. (Award at 5). She noted that Article 4 of the CBA gives MPD the right to promote and assign employees, and the CBA states that those management rights are not subject to arbitration. *Id.* The Arbitrator stated that MPD determined that fifty-five (55) detectives should be promoted to Detective Grade One, and that because the parties did not want to invalidate any of the current promotions, awarding a promotion to the Grievant would expand the number of detectives in violation of the management rights provision of the CBA. *Id.*

The Arbitrator determined that her Award should be limited to the same remedy awarded by Arbitrator Rosen in the Rosen Award, and that because "[t]he event giving rise to the arbitration is the same one that was before Arbitrator Rosen," MPD could not be faulted for additional violations or for ignoring the Rosen Award. (Award at 6). Further, the Arbitrator held that without further evidence on whether the forty-one (41) candidates mentioned in the Gainer memorandum should have been disqualified, it would be premature to order the Grievant's promotion. *Id.* "In any event," concluded the Arbitrator, "the management rights clause gives [MPD] the exclusive right to determine the number of Detective Grade One officers," and that since FOP did not want any officers to be demoted as a result of the arbitration, the Grievant's promotion exceed the number of Detective Grade One positions that MPD deemed necessary. *Id.*

Instead, the Arbitrator found that directing MPD to "cease and desist from failing to adhere to its requirements for promotion to Detective Grade One" would be consistent with the CBA's purpose of promoting and improving the efficiency and quality of the service provided by MPD. (Award at 6; *citing* CBA Article 1, Section 4). The Arbitrator held that should MPD ignore her Award and the Rosen Award by promoting individuals who did not meet its own requirements, "more broadly fashioned relief should be awarded in the future." (Award at 6).

B. Position of FOP before the Board

In its Request, FOP first alleges that the Award violates the "well-established public policy embodied in Article 1, Section 2" of the CBA, which provides that the parties "agree to establish and promote a sound and effective labor-management relationship in order to achieve mutual understanding of practices, procedures and matters affecting conditions of employment." (Request at 4). Specifically, FOP asserts that refusing to issue a remedy for MPD's violation "fails to promote a sound and effective labor-management relationship in order to achieve a mutual understanding of the practices and procedures." (Request at 5). FOP states that the Arbitrator's "mere suggestion of more severe penalties in the future depending on the circumstances does nothing to cure the lack of an award in the instant case," and that the Award damages the relationship between the parties. *Id.*

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Additionally, FOP alleges that the Arbitrator exceeded her authority in issuing the Award because it fails to draw its essence from the parties' CBA. (Request at 6). FOP argues that Article 1 of the parties' CBA requires that the parties "agree to honor and support the commitments contained herein," and that Article 4 requires that MPD's exercise of its management rights be "in accordance with applicable laws, rules, and regulations." (Request at 6-7). FOP asserts that when MPD failed to adhere to its own regulations, "the protection afforded under Article 4 is lost." (Request at 8). By failing to issue a remedy despite MPD's breach of the CBA, the Award did not draw its essence from the parties' CBA. (Request at 7).

Next, FOP contends that the Board has previously determined that awards concerning the future conduct of parties exceed an arbitrator's authority by imposing additional requirements not expressly provided for in the parties' CBA. (Request at 7, citing *D.C. Water and Sewer Authority v. American Federation of Government Employees, Local 631*, 49 D.C. Reg. 11123, 11128, Slip Op. No. 687, PERB Case No. 02-A-02 (2002); *MPD v. FOP/MPD Labor Committee*, 49 D.C. Reg. 810, 813-14, Slip Op. No. 669, PERB Case No. 01-A-02 (2001)). FOP asserts that the Award in the instant case "merely threatens future penalties" without providing specific details on those penalties or binding a future arbitrator. (Request at 7).

Finally, FOP asserts that MPD "is fully aware that Article 4 does not protect it from this type of breach," based upon a prior arbitration awards. (Request at 8). FOP cites to *Sulieka Brooks Award*, FMCS Case No. 00-12001, stating:

In that award, and there are several others, [MPD] violated the contract and failed to promote Sergeant Brooks to Lieutenant. If the arguments advanced by both arbitrators had merit, then [MPD] could have under Article 4 advanced the argument that it did not have to promote her as this is a protected right of management. This argument could not be advanced, however, because there is no management right when the applicable rules, regulations and procedures of the Agency are not followed.

(Request at 8).

C. MPD's Position before the Board

In its Opposition, MPD rejects FOP's assertion that Article 1 of the parties' CBA constitutes a public policy, as defined by Board precedent. (Opposition at 2). In support of its position, MPD cites to *MPD v. FOP/MPD Labor Committee*, 47 D.C. Reg. 7217, Slip Op. No. 633, PERB Case No. 00-A-04 (2000), in which the Board held that reference to D.C. domestic violence laws "did not satisfy the 'specific public policy that has been violated' standard." (Opposition at 2). MPD contends that "merely referring to a general provision in the Preamble to a CBA cannot meet the standard of a 'specific public policy that has been violated.'" *Id.* MPD concludes that FOP has failed to identify a specific public policy, and thus there is no violation of public policy. *Id.*

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Next, MPD alleges that the Arbitrator did not exceed her authority by awarding a cease and desist order. (Opposition at 3). MPD contends that FOP simply disagrees with the Arbitrator's construction of the CBA's language, which is not a basis for review of an arbitrator's award. *Id.* Further, MPD states that disagreement with an arbitrator's choice of remedy does not render an award contrary to law and public policy. (*Id.*; citing *D.C. Housing Authority v. Newell*, 46 D.C. Reg. 10375, Slip Op. No. 600, PERB Case No. 99-A-08 (1999)). According to MPD, FOP seeks "to maximize the number of promotions by not demanding that unqualified promotes be demoted," which placed the Arbitrator in the "untenable position of having to violate the contract if she were to grant the remedies requested." (Opposition at 3).

MPD asserts that FOP "erroneously attributes 'subsequent similar violations by the Agency could warrant more serious action' to Arbitrator Hochhauser, when in fact it was Arbitrator Rosen who made such an assertion," and therefore FOP's "contention in this instance should be dismissed." (Opposition at 4). MPD acknowledges that Arbitrator Hochhauser adopted a similar position regarding future violations, but notes that the language "is clearly *obiter dicta*, and just as clearly not a part of the Award." *Id.*

Regarding FOP's allegation that the Award does not bind future arbitrators, MPD states that the argument "ignores the practice and principle that arbitral decisions are not binding as judicial precedents are." (Opposition at 4). Further, MPD contends that "[FOP] itself" distinguished the arbitration award in the Sulieka Brooks arbitration from the instant case by noting that in the Sulieka Brooks arbitration, MPD did not raise management rights as a bar to the desired promotion. (Opposition at 5). Therefore, the *Brooks* arbitrator had no opportunity to rule on the issue, and is not applicable to this case. *Id.*

Finally, MPD dismisses FOP's allegation that the Award failed to enforce the CBA because it did not award a remedy. (Opposition at 5). MPD states that [t]he fact is Arbitrator Hochhauser granted the actual remedy of a cease and desist order," and "[t]he fact that [FOP] was disappointed that it did not receive its requested remedy does not mean that an award was not granted." *Id.* MPD notes that cease and desist awards are routinely ordered by the Board. *Id.* Further, MPD disagrees with FOP's contention that the Award was based on equitable considerations, in violation of the test set forth by the Sixth Circuit in *Cement Division, National Gypsum Co. v. United Steelworkers for America, AFL-CIO, Local 135*, 793 F.2d 759, 765 (6th Cir. 1986). *Id.* Instead, MPD states that the Award is based solely upon the CBA, and should not be disturbed. (Opposition at 5-6).

D. Analysis

The Comprehensive Merit Personnel Act ("CMPA") authorizes the Board to modify or set aside an arbitration award in three limited circumstances: (1) if the arbitrator was without or exceeded his or her jurisdiction; (2) if the award on its face is contrary to law and public policy; or (3) if the award was procured by fraud, collusion or other similar and unlawful means. D.C. Code § 1-605.02(6).

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In the instant case, FOP contends that the Arbitrator exceeded her authority because the Award did not award an actual remedy, and thus did not draw its essence from the CBA. (Request at 5). An arbitrator's authority is derived "from the parties' agreement and any applicable statutory and regulatory provisions." *D.C. Dep't of Public Works v. AFSCME Local 2091*, 35 D.C. Reg. 8186, Slip Op. No. 194, PERB Case No. 87-A-08 (1988). By submitting a matter to arbitration, the parties agree to be bound by the arbitrator's interpretation of the parties' CBA, related rules and regulations, and evidentiary findings and conclusions. *See MPD v. FOP/MPD Labor Committee*, 47 D.C. Reg. 7217, Slip Op. No. 633 at p. 3, PERB Case No. 00-A-04 (2000). It is the arbitrator's interpretation, not the Board's, which the parties have bargained for. *See University of the District of Columbia v. University of the District of Columbia Faculty Association*, 39 D.C. Reg. 9628, Slip Op. No. 320 at p. 2, PERB Case No. 02-A-04 (1992).

One of the tests used by the Board to determine whether an arbitrator has exceeded her jurisdiction is "whether the Award draws its essence from the collective bargaining agreement." *D.C. Public Schools v. AFSCME, District Council 20*, 34 D.C. Reg. 3610, Slip Op. No. 156 at p. 5, PERB Case No. 86-A-05 (1987). The Board adopted the Sixth Circuit's analysis of "essence of the agreement" issues:

Did the arbitrator act "outside his authority" by resolving a dispute not committed to arbitration? Did the arbitrator commit fraud, have a conflict of interest or otherwise act dishonestly in issuing the award? And in resolving any legal or factual disputes in the case, was the arbitrator "arguably construing or applying the contract?" So long as the arbitrator does not offend any of these requirements, the request for judicial intervention should be resisted even though the arbitrator made "serious," "improvident," or "silly" errors in resolving the merits of the dispute.

Nat'l Ass'n of Government Employees, Local R3-07 v. D.C. Office of Communications, 59 D.C. Reg. 6832, Slip Op. No. 1203, PERB Case No. 10-A-08 (2011) (citing *Michigan Family Resources, Inc. v. SEIU Local 517M*, 475 F.3d 746, 753 (2007)).²

In the instant case, the Board finds that the Award did not exceed the Arbitrator's jurisdiction. The Arbitrator was asked to determine whether MPD violated the CBA by failing to adhere to the appropriate procedures in the promotion process, and if so, what relief (if any) was appropriate. (Award at 2). The Arbitrator determined that MPD violated the CBA, but chose not to award FOP's requested remedy of a promotion for the Grievant without demotions for any other detectives in that grade. (Award at 5-6). Instead, the Arbitrator directed MPD "to cease and desist from failing to adhere to its requirements for promotion to Detective Grade One." (Award at 7). There is no evidence or allegation that the Arbitrator committed fraud, had a conflict of interest, or otherwise acted dishonestly in issuing the Award.

² *Cement Division*, 793 F.2d 759, was overruled by *Michigan Family Resources, Inc.* after the instant Request was filed with the Board.

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The remaining question is whether the Arbitrator was “arguably construing or applying the contract.” The Board has held, and the D.C. Superior Court has affirmed, that “[i]t is not for [this Board] or a reviewing court...to substitute their view for the proper interpretation of the terms used in the [CBA].” *D.C. Gen. Hospital v. Public Employee Relations Board*, No. 9-92 (D.C. Super. Ct., May 24, 1993). The CBA was presented to the Arbitrator in its entirety, and the Award quoted and analyzed the contract provisions she found relevant to the dispute. (Award at 2-3, 5-6). While FOP may not approve of the Arbitrator’s interpretation of the CBA provisions, particularly Article 4, it cannot be said that the Arbitrator did not arguably construe or apply the contract. Therefore, FOP’s allegation that the Arbitrator exceeded her jurisdiction by issuing an award that failed to draw its essence from the CBA is dismissed.

Additionally, FOP contends that the Award “merely threatens future penalties against [MPD],” violating the Board’s previous determination that awards concerning future conduct exceed an Arbitrator’s authority. (Request at 7). The Arbitrator noted in the “Analysis, Findings and Conclusions” portion of the Award that if MPD “ignores these awards and again promotes individuals who do not meet its own requirements, then more broadly fashioned relief should be awarded in the future.” (Award at 6). Notwithstanding, under the section of the Award entitled “Award,” the Arbitrator stated only that “[MPD] is directed to cease and desist from failing to adhere to its requirements for promotion to Detective Grade One.” (Award at 7). MPD contends that the language in the “Analysis, Findings and Conclusions” section of the Award “is clearly *obiter dicta*, and just as clearly not a part of the Award.” (Opposition at 4). The Board agrees. The relief ordered by the Arbitrator was an order for MPD to cease and desist its failure to adhere to its promotion requirements for Detective Grade One. (Award at 7). The “future conduct” language FOP objects to does not appear at all in the order, nor does it outline any details or mechanism for achieving the “more broadly fashioned relief.” (Award at 6). This language does not form part of the Award’s remedial order, and therefore does not exceed the Arbitrator’s authority. *See Metropolitan Police Dep’t v. National Ass’n of Government Employees, Local R3-5*, 59 D.C. Reg. 2983, Slip Op. No 785 at p. 5, PERB Case No. 03-A-08 (2006) (arbitrator’s discussion unrelated to her conclusion is *dicta* and does not constitute grounds for review of the award).

The Board’s scope of review in arbitration review requests is extremely narrow, particularly in the case of the public policy exception. *See MPD v. FOP/MPD Labor Committee*, 60 D.C. Reg. 3052, Slip Op. No. 1365 at p. 5, PERB Case No. 11-A-02 (2013). A petitioner must demonstrate that the award “compels” the violation of an explicit, well-defined public policy grounded in law or legal precedent. *See United Paperworkers Int’l Union v. Misco, Inc.*, 484 U.S. 29 (1987). Absent a clear violation of law evident on the face of the arbitrator’s award, the Board lacks authority to substitute its judgment for that of the arbitrator. *Fraternal Order of Police/Dep’t of Corrections Labor Committee v. Public Employee Relations Board*, 973 A.2d 174, 177 (D.C. 2009). Disagreement with an arbitrator’s findings is not a sufficient basis for concluding that an award is contrary to law or public policy. *MPD v. FOP/MPD Labor Committee*, 31 D.C. Reg. 4159, Slip Op. No. 85, PERB Case No. 84-A-05 (1984).

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FOP contends that the Award is contrary to law and public policy because it “is contrary to the well-established public policy embodied in Article 1, Section 2 of the parties’ CBA, wherein the parties ‘agree to establish and promote a sound and effective labor-management relationship in order to achieve mutual understanding of practices, procedure, and matters affecting conditions of employment.’” (Request at 4). Specifically, FOP asserts that “the lack of an award in the instant case” damages the labor-management relationship established by Article 1, Section 2 of the parties’ CBA. (Request at 4-5).

As discussed above the Award does contain a remedy for MPD’s violation of its promotion policies – the order “to cease and desist from failing to adhere to its requirements for promotion to Detective Grade One.” (Award at 7). Further, the Board has noted with approval the U.S. Court of Appeals for the District of Columbia Circuit’s holding that “in order to provide the basis for an exception, the public policy in question ‘must be well defined and dominant,’ and is to be ascertained ‘by reference to the laws and legal precedents and not from general considerations of supposed public interests.’” *Fraternal Order of Police/Dep’t of Corrections Labor Committee v. D.C. Dep’t of Corrections*, 59 D.C. Reg. 9798, Slip Op. No. 1271 at p. 2, PERB Case No. 10-A-20 (2012) (citing *American Postal Workers Union v. U.S. Postal Service*, 789 F.2d 1, 8 (D.C. Cir. 1986)). The D.C. Circuit went on to explain that the “exception is designed to be narrow so as to limit potentially intrusive judicial review of arbitration awards under the guise of ‘public policy.’” *Id.* at 8. As the D.C. Court of Appeals has noted, we must “not be led astray by our own (or anyone else’s) concept of ‘public policy,’ no matter how tempting such a course of action may be in any particular factual setting.” *D.C. Dep’t of Corrections v. Teamsters Union Local 246*, 54 A.2d 319, 325 (D.C. 1989).

As cited by the Arbitrator, Article 1, Section 2 of the parties’ CBA states:

The parties to this Agreement hereby recognize that the collective bargaining relationship reflected in this Agreement is of mutual benefit. Further, both parties agree to establish and promote a sound and effective labor-management relationship in order to achieve mutual understanding of practices, procedures and matters affecting conditions of employment and to continue working towards this goal.

(Award at 2). This preamble to the parties’ CBA falls short of the demanding requirement that the Award compels the violation of an explicit, well-defined public policy grounded in law or legal precedent. *See Misco, Inc.*, 484 U.S. 29. Further, FOP’s public policy cannot be ascertained “by reference to the laws and legal precedents” instead of from “general considerations of supposed public interests.” *See Fraternal Order of Police/Dep’t of Corrections Labor Committee* Slip Op. No. 1271 at p. 2. FOP merely disagrees with the Arbitrator’s conclusions, and the Board cannot disturb the Award on that basis. *MPD*, Slip Op. No. 85. Therefore, this allegation is denied.

Finally, FOP asserts that when MPD failed to “adhere to its own rules and directives, then the protection afforded under Article 4 is lost.” (Request at 8). However, FOP cites no

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authority for this allegation, nor is this outcome mandated by the text of Article 4. (*See* Award at 2-3). FOP disagrees with the Arbitrator's Award, and the Board will not overturn or modify the Award on this basis. *MPD*, Slip Op. No. 85. Therefore, this allegation is denied.

In light of the above, we find no merit to FOP's request. The Arbitrator's ruling cannot be said to be contrary to law or public policy, in excess of her authority, or procured by fraud, coercion, or other unlawful means. Therefore, no statutory basis exists for setting aside the Award, and the Request is dismissed.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Fraternal Order of Police/Metropolitan Police Department Labor Committee's Arbitration Review Request is denied.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

July 1, 2013

CERTIFICATE OF SERVICE

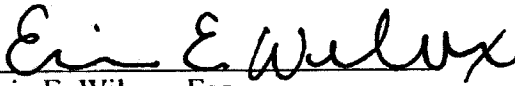
This is to certify that the attached Decision and Order in PERB Case No. 04-A-01 was transmitted via U.S. Mail and e-mail to the following parties on this the 1st day of July, 2013.

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Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia
Public Employee Relations Board**

_____)	
In the Matter of:)	
)	
Fraternal Order of Police/Department of)	
Corrections Labor Committee)	
(on behalf of Allen Claiborne),)	
)	
Petitioner,)	
)	PERB Case No. 12-E-09
v.)	
)	Opinion No. 1398
District of Columbia Department of Corrections,)	
)	
)	
Respondent.)	
_____)	

DECISION AND ORDER

The Fraternal Order of Police/Department of Corrections Labor Committee (“FOP” or “Petitioner”) has petitioned the Board to enforce an arbitration award arising out of discipline imposed upon Corporal Allen Claiborne (“Claiborne” or “Grievant”) by the District of Columbia Department of Corrections (“Corrections” or “Respondent”).

I. Statement of the Case

For a period of approximately an hour and a half the morning of December 23, 2006, the Grievant, while on duty at a Corrections facility, failed to make security checks that were required to be made every half hour. During that period, an inmate committed suicide. Following this incident, Corrections removed Claiborne from his position with Corrections. FOP filed a grievance, and the matter was referred to arbitration.

On September 15, 2009, the arbitrator issued an opinion and award (“Original Award”) in which he sustained the grievance. The arbitrator also concluded that he had the authority to award attorneys’ fees in the arbitration under the Back Pay Act, 5 U.S.C. § 5596. The arbitrator issued the following award:

1. The removal of the Grievant was not for cause.

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2. The Grievant's removal shall be reduced to a suspension without pay for sixty days, and the Grievant shall be reinstated forthwith.
3. The Grievant shall receive all pay, benefits and entitlements provided under the Back Pay Act and under the Agreement.
4. The Union may file a motion for attorney's fees with the Arbitrator no later than twenty-one days from the date of this Award. Thereafter the Union and the Department shall attempt to agree on the amount of any attorney's fees to be awarded to the Grievant. If no agreement is reached within fourteen days after the submission of the motion, the Department will have an additional fourteen days thereafter to respond to the motion.
5. The Arbitrator will retain jurisdiction for ninety days from the date of this Award to resolve any disputes regarding attorney's fees and/or compliance with this Award.

(Original Award at pp. 26-27).

Corrections filed an arbitration review request solely on the arbitrator's reservation of authority to award attorneys' fees. The Board issued a decision and order ("Decision and Order") sustaining the Original Award. *D.C. Dep't of Corrs. and FOP/Dep't of Corrs. Labor Comm.*, 59 D.C. Reg. 10816, Slip Op. No. 1306, PERB Case No. 10-A-03 (2011). On April 30, 2013, Corrections' motion for reconsideration was denied. *D.C. Dep't of Corrs. v. FOP/Dep't of Corrs. Labor Comm.*, 60 D.C. Reg. 7185, Slip Op. No. 1380, PERB Case No. 10-A-03 (2013).

While the motion for reconsideration was pending, FOP filed a petition for enforcement ("Petition").¹ The Petition states that on November 11, 2009, the arbitrator issued a supplemental award ("Supplemental Award"), which awarded \$23,700 in attorneys' fees to FOP's attorney. The Petition alleges that "[t]he District of Columbia has not complied with the award of attorneys' fees." (Petition at p. 2). The Petition concludes with this prayer for relief: "FOP/DOC respectfully requests that PERB issue an order to enforce its Decision and Order of August 9, 2012, awarding attorney's fees with interest and leave to file a further petition for attorneys' fees with PERB on account of the cost of obtaining the award." (Petition at p. 3). Corrections moved to dismiss the Petition on the grounds that it was premature as it was filed while Corrections' motion for reconsideration was pending and that it failed to set forth a *prima facie* case under Board Rule 560.1. On September 26, 2012, FOP filed an opposition to the motion to dismiss in which it acknowledged that FOP is also seeking enforcement of the attorneys' fee award in the District of Columbia Superior Court. On June 26, 2013, FOP filed a pleading entitled "Petitioner's Motion to Grant Petition for Enforcement or, in the Alternative,

¹ FOP erroneously filed the Petition in the arbitration review initiated by Corrections, PERB Case No. 10-A-03. The Petition has been given PERB Case No. 12-E-09.

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Petitioner's Second Petition for Enforcement" in which FOP noted that the denial of Corrections' motion for reconsideration had become final and again requested the Board to "issue an order to enforce its Decision and Order of August 9, 2012, and April 30, 2013, awarding attorney's fees with interest and leave to file a further petition for attorneys' fees with PERB on account of the cost of obtaining the award."

II. Discussion

The Petitioner's Motion to Grant Petition for Enforcement or, in the Alternative, Petitioner's Second Petition for Enforcement moots the Respondent's argument that the Petition was prematurely filed while the Respondent's motion for reconsideration was pending. On the merits, the Respondent contends that "the Petition erroneously conflates the PERB Decision and Order with an arbitration award that has never been before PERB, and inappropriately seeks enforcement of such arbitration award (and not the PERB Decision and Order)." (Mot. to Dismiss at p. 3). This conflation of the Decision and Order with the Supplemental Award can be seen in FOP's prayer for relief, which asks the Board to enforce "its Decision and Order . . . awarding attorney's fees with interest. . . ." The two can be untangled by considering whether the elements under Board Rule 560.1 are present with respect to the Original Award and to the Supplemental Award.

Board Rule 560.1 provides: "If any party fails to comply with the Board's decision within the time period specified in Section 559.1, the prevailing party may petition the Board to enforce the order." Thus, two elements of a petition for enforcement are (1) a decision of the Board and (2) a failure to comply with that decision within the specified time period. As noted, the Original Award reduced the penalty imposed on Claiborne, ordered his reinstatement with back pay, and established a procedure by which FOP could move for attorneys' fees. The Decision and Order sustained this award. Because there is a Decision and Order, the first element of Rule 560.1 is met. But there is no allegation that Corrections failed to comply with what was ordered by the Decision and Order, which is to say, there is no allegation that Corrections failed to comply with anything ordered by the award the Board sustained. For example, such an allegation could be that Claiborne was not reinstated, *see FOP/Metropolitan Police Department Labor Committee v. D.C. Metropolitan Police Department (on behalf of Suggs)*, 59 D.C. Reg. 5006, Slip Op. No. 966 at p. 4, PERB Case No. 08-E-02 (2009), or not paid his back pay, *see FOP/Department of Corrections Labor Committee (on behalf of Butler) v. D.C. Department of Corrections*, Slip Op. No. 1022 at p. 7, PERB Case No. 10-E-02 (July 29, 2010), or even that Corrections did not "attempt to agree [with FOP] on the amount of attorney's fees to be awarded the Grievant." (Original Award at p. 27).

While the Petitioner made no allegation of such a failure to comply with the Original Award, Petitioner does allege a failure to comply with the Supplemental Award's order to pay \$23,700 in attorneys' fees. However, there has been no decision and order of the Board sustaining that award. Although the Board has authority to seek enforcement of its orders, it does not have authority to seek enforcement of orders of third parties such as arbitrators.

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FOP/Metro. Police Dep't Labor Comm. v. D.C. Metro. Police Dep't, 39 D.C. Reg. 9617, Slip Op. No. 295 at p. 3, PERB Case No. 91-U-18 (1992).

Whether the Petition is seeking enforcement of what was ordered by the Original Award or by the Supplemental Award, the elements of a decision and order of the Board and a failure to comply with the decision and order are not present. Therefore, the Respondent's motion to dismiss is granted.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Department of Corrections' motion to dismiss is granted.
2. The Fraternal Order of Police/Department of Corrections Labor Committee's petition for enforcement is denied.
3. The Fraternal Order of Police/Department of Corrections Labor Committee's motion to grant petition for enforcement or, in the alternative, second petition for enforcement is denied.
4. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

July 1, 2013

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CERTIFICATE OF SERVICE


This is to certify that the attached Decision and Order in PERB Case No. 12-E-09 is being transmitted to the following parties on this the 1st day of July 2013.

Kevin Stokes
Jonathan O'Neil
Office of Labor Relations and Collective Bargaining
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VIA FILE & SERVEXPRESS

J. Michael Hannon
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VIA FILE & SERVEXPRESS



David McFadden
Attorney-Advisor

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Request for Preliminary Relief and Prayer for Final Relief (“Answer”).

On September 30, 2008, a hearing was held before Hearing Examiner Sean J. Rodgers (“Hearing Examiner”). On February 6, 2009, the Hearing Examiner issued a Report and Recommendation (“Report”). Prior to issuance of the Report, the Parties filed post-hearing briefs with the Hearing Examiner. (Report at 2). The Board received no Exceptions to the Hearing Examiner’s Report from the Parties. The Hearing Examiner’s Report and Recommendation is before the Board for disposition.

II. Hearing Examiner’s Report and Recommendation

A. Hearing Examiner’s relevant factual findings

On April 23, 2005, Detective Metivier and Sergeant Hoop (collectively the “Officers”) were investigating a robbery. (Report at 2). In the course of their investigation, the Officers followed up on a lead at a Washington, D.C. area apartment building. *Id.* “Outside the building, the [O]fficers told the building manager that they wanted to enter the building.” *Id.* The building manager indicated to the Officers that he believed that he was not authorized to allow the Officers entry into the building. *Id.* As the Officers entered the building, they engaged in a conversation with the building manager. *Id.* When the Officers did not find the suspect, they left the building. *Id.* A second conversation occurred between the Officers and the building manager. *Id.*

Subsequently, arising from the two conversations with the Officers, the building manager filed a complaint with the District of Columbia Office Police Complaint (“OPC”), “alleging that the [O]fficers had ‘harassed him and used language or engaged in conduct toward him that was insulting, demeaning, or humiliating.’” (Report at 3). On December 23, 2005, OPC conducted an evidentiary hearing. *Id.* On February 9, 2006, “OPC sustained the charges of harassment and use of profane language against Metivier, and sustained the charge of harassment against Hoop.” *Id.*

Pursuant to the Parties’ collective bargaining agreement (“CBA”), on March 31, 2006, the Officers appeared in a Commander’s Resolution Conference (“CRC”) before Inspector Deirdre Porter (“Inspector Porter”), Director, Disciplinary Review Office (DDRO). (Report at 4-5). At the CRC, Kristopher Baumann, then FOP 7D Chief Shop Steward, appeared as the Officers’ representative. (Report at 3). The events at the CRC formed the basis of FOP’s Complaint, which are discussed below. *Id.*

B. The Hearing Examiner’s findings and conclusions

1. Application of *Weingarten* rights to the CRC

FOP contended that *N.L.R.B. v. Weingarten*, 420 U.S. 251 (1975) (*Weingarten*) and PERB precedent protected the Officers’ right to a union representative during an “investigatory/disciplinary interview.” (Report at 11). MPD argued that *Weingarten* rights are inapplicable to CRC’s and that the investigation into the Officers had concluded prior to the

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CRC. (Report at 13). MPD claimed:

OPC conducted the investigative interviews of Hoop and Metivier and held a hearing into the matter. OPC issued findings of fact and recommendations sustaining the allegations and recommending that discipline be imposed on Metivier and Hoop by MPD. By the time the matter reached Porter, it was a forgone conclusion that OPC's disciplinary recommendation was going to be meted out.

Id. MPD contended that the CRC is a creation of the CBA, and that three conditions exist before the CRC is held: "the investigation must be complete; a determination that discipline will be imposed has been made; and the discipline to be imposed will [be] a 10-day suspension or less." *Id.* MPD averred that "nothing said in [a Commander's Resolution] Conference can alter the investigation or the proposed penalty," and consequently, the CRC is more "settlement negotiations" than an investigatory interview. *Id.* MPD concluded that *Weingarten* rights only attach to investigatory interviews, and therefore, would not attach to the CRC. *Id.*

The Hearing Examiner in his determination of whether *Weingarten* rights attached to the CRC examined the language of the CBA and PERB precedent. (Report at 17). Based on the record before him, the Hearing Examiner found that the CRC is "an employer-investigatory interview[,] which an employee would reasonably believe might result in disciplinary action." (Report at 18). The Hearing Examiner concluded that "an employee's demand for union representation at the [Commander's Resolution] Conference is protected concerted activity under the CMPA." *Id.* Therefore, the Hearing Examiner determined that MPD's assertion that *Weingarten* was inapplicable to the CRC was without merit. *Id.*

2. Violations of *Weingarten* rights and remedies

As *Weingarten* rights attached to the CRC, the Hearing Examiner found that the FOP representative Kristopher Baumann was entitled to "all the rights established by the subsequent interpretive precedents of *Weingarten*." (Report at 15). "Specifically in this case, Baumann was entitled to 'to take an active role in assisting the employee to present facts.'" *Id.* (quoting *NLRB v. Texaco, Inc.*, 659 F.2d 124, 126 (9th Cir. 1981)). Based on witness testimony and the record, the Hearing Examiner determined that the Union proved its burden by a preponderance of the evidence that MPD had committed three unfair labor practices in violation of D.C. Code § 1-617.04(a)(1). (Report at 15).

The first violation that the Hearing Examiner found was that "[Inspector] Porter did not allow Baumann, who was acting as the FOP's and the [O]fficers' representative, to speak on an issue he reasonably believed related to the [O]fficers' due process rights." (Report at 19). "Since she [Inspector Porter] prevented the FOP representative from speaking at a disciplinary interview from the very beginning of the CRC in front of bargaining unit employees, her actions constituted an attempt to undermine the representational status of the certified exclusive representative and a violation of D.C. Code § 1-617.04(a)(1)." *Id.*

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The second violation that the Hearing Examiner found occurred when Inspector Porter told Kristopher Baumann that he could not speak at the CRC. (Report at 20). The Hearing Examiner determined that Inspector Porter's "actions to silence Baumann constitute[d] another violation of the employees' *Weingarten* rights and another attempt to undermine the representational status of the FOP, and another violation of D.C. Code § 1-617.04(a)(1)." *Id.*

The Hearing Examiner found a third violation when "[Inspector] Porter refused to allow [Kristopher] Baumann to meet and confer with Metivier and Hoop after she told him he could not speak." *Id.* The Hearing Examiner found that MPD's argument that "[Inspector] Porter acted consistent with her obligations under *Weingarten* is without merit." *Id.* In light of the "unique circumstances" in which Inspector Porter interrupted and silenced Baumann in violation of D.C. Code § 1-617.04(a)(1), the Hearing Examiner decided that "[Inspector] Porter's [subsequent] denial of Baumann's request to meet with Metivier and Hoops was a further violation of their *Weingarten* rights and the CMPA." *Id.*

Based on the record and witness testimony, the Hearing Examiner found that "MPD violated Metivier and Hoop's *Weingarten* rights at the March 31, 2006, CRC and her conduct also constituted an effort to undermine the representational status of the FOP in violation of D.C. Code § 1-617.04(a)(1)." (Report at 21).

The Hearing Examiner recommended that MPD should be ordered to:

1. Cease and desist from interfering, restraining, or coercing the FOP in the exercise of its rights guaranteed by § 1-617, *et seq.* by denying bargaining unit employees *Weingarten* representation rights, interrupting and silencing their FOP representative and denying the employee a private conversation with their union representative at Commander's Resolution Conferences;
2. Post for 30 days a notice, where notices to employees are ordinarily posted in the work place, stating that the MPD has violated the provisions of D.C. Code § 1-617.04(a)(1) by: denying bargaining unit employees *Weingarten* rights; interrupting and silencing their FOP representative; and denying the employees a private conversation with their union representative at the March 31, 2006, Commander's Resolution Conference of Detective Metivier and Sergeant Hoop;
3. Any other relief that PERB deems appropriate.

(Report at 21).

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III. Discussion

The Board determines whether the Hearing Examiner's Report and Recommendation is "reasonable, supported by the record, and consistent with Board precedent." *American Federation of Government Employees, Local 1403 v. District of Columbia Office of the Attorney General*, 59 D.C. Reg. 3511, Slip Op. No. 873, PERB Case No. 05-U-32 and 05-UC-01 (2012). Therefore, the Board will adopt a Hearing Examiner's recommendation if it finds that, upon review of the record, the Hearing Examiner's analysis, reasoning, and conclusions are rational, reasonable, persuasive, and supported by the record. *See D.C. Nurses Association and D.C. Department of Human Services*, 32 D.C. Reg. 3355, Slip Op. No. 112, PERB Case No. 84-U-08 (1985); *D.C. Nurses Association and D.C. Health & Hospitals Public Benefit Corporation*, 46 D.C. Reg. 6271, Slip Op. No. 583, PERB Case No. 98-U-02 (1999).

In reaching his conclusions, the Hearing Examiner applied *Weingarten* and PERB's subsequent interpretative rulings. (Report at 17) (citing *D.C. Nurses Assoc. v. D.C. Health and Hospitals Public Benefit Corp.*, 45 D.C. Reg., Slip Op. No. 558, PERB Case No. 97-U-16 (1998); *Georgia Mae Green v. D.C. Dept. of Corrections*, 37 D.C. Reg. 8086, Slip Op. No. 257, PERB Case No. 89-U-10 (1990)).

Like the National Labor Relations Act, the CMPA at D.C. Code § 1-617.04(a)(1), also prohibits the District, its agents and representatives from interfering with, restraining or coercing any employee in the exercise of their rights. This Board has recognized a right to union representation during a disciplinary interview in accordance with the standards set forth in *Weingarten*. *D.C. Nurses Assoc. v. D.C. Health and Hospitals Public Benefit Corp.*, 45 D.C. Reg. 6736, Slip Op. No. 558, PERB Case Nos. 95-U-03, 97-U-16 and 97-U-28 (1998) (recognizing the right to union representation during a disciplinary interview); *see also D.C. Nurses Assoc. and D.C. Dept. of Youth & Rehabilitation Serv.*, 59 D.C. Reg. 12638, Slip Op. No. 1304, PERB Case No. 10-U-35 (2012).

In the present case, the Hearing Examiner found that Inspector Porter denied FOP's representative from participating in the Officers' disciplinary interview, and silenced the FOP's representative during the Officers' disciplinary interview. (Report at 19-20). The Hearing Examiner concluded that MPD denied the Officers their *Weingarten* rights, by preventing the FOP representative from taking an active role in the disciplinary interview. *Id.* The Board has held that the purposes underlying the recognition of *Weingarten* "can be achieved only by allowing a union representative to take an active role in assisting a unit employee in presenting facts in his or her defense." *D.C. Nurses Assoc. and D.C. Dept. of Youth & Rehabilitation Serv.*, 59 D.C. Reg. 12638, Slip Op. No. 1304 at p. 4, PERB Case No. 10-U-35 (2012) (quoting *Headquarters, National Aeronautics and Space Administration*, 50 FLRA 601, 607 (1995)). The Hearing Examiner's determination that MPD committed unfair labor practices when the FOP's representative was prevented from taking an active role by Inspector Porter's actions is reasonable.

For the third violation, the Hearing Examiner found another unfair labor practice when the FOP representative was denied the ability to confer with the Officers after Inspector Porter had interrupted and silenced the FOP representative, during the disciplinary interview. (Report

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at 20). A union representative's right to take an "active role" includes not only the right to assist the employee in presenting facts but also the right to consult with the employee: "We have long held that for the right to representation to be meaningful, the representative must have freedom to assist, and consult with, the affected employee." *D. C. Nurses Assoc.*, Slip Op. No. 1304 at p. 4 (quoting *Department of Veterans Affairs, Veterans Affairs Medical Center, Jackson, Mississippi*, 48 FLRA 787, 799 (1993)). See also *U.S. Department of Justice, Immigration and Naturalization Service, Border Patrol, El Paso, Texas*, 42 FLRA 834, 840 (1990)). Consequently, the Hearing Examiner's determination that MPD committed an unfair labor practice by denying the Officers an opportunity to confer with their FOP representative during the disciplinary interview is reasonable.

Pursuant to D.C. Code § 1-605.02(3) and Board Rule 520.14, the Board has reviewed the findings, conclusions, and recommendations of the Hearing Examiner and the entire record. A review of the record reveals that the Hearing Examiner's findings and conclusions are supported by evidence, are reasonable, and are consistent with Board precedent. Accordingly, pursuant to Rule 520.14, we adopt the Hearing Examiner's findings and recommendations and affirm the Hearing Examiner's recommended remedies.

ORDER

IT IS HEREBY ORDERED THAT:

1. MPD shall cease and desist from interfering, restraining, or coercing the FOP in the exercise of its rights guaranteed by § 1-617, *et seq.* by denying bargaining unit employees *Weingarten* representation rights, interrupting and silencing their FOP representative, and denying the employee a private conversation with their union representative at Commander's Resolution Conferences.
2. MPD shall conspicuously post, within ten (10) days from the issuance of this Decision and Order, the attached Notice where notices to employees are normally posted. The Notice shall remain posted for thirty (30) consecutive days.
3. MPD shall notify the Public Employees Relations Board in writing within fourteen (14) days from the issuance of this Decision and Order that the Notice has been posted accordingly.
4. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

Washington, D.C.

July 1, 2013

CERTIFICATE OF SERVICE

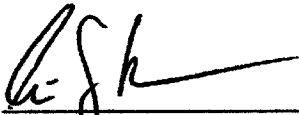
This is to certify that the attached Decision and Order for PERB Case No. 06-U-34 was transmitted to the following parties via U.S. Mail on this the 2nd day of July, 2013.

Mark Viehmeyer
Metropolitan Police Department
300 Indiana Ave., N.W., Suite 4126
Washington, D.C. 20001

U.S. Mail

Marc L. Wilhite
Pressler & Senftle, P.C.
1432 K Street, N.W.
Twelfth Floor
Washington, D.C. 20005

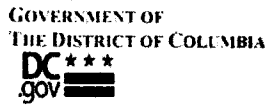
U.S. Mail



Erica J. Balkum
Attorney-Advisor
Public Employee Relations Board
1100 4th Street, S.W.
Suite E630
Washington, D.C. 20024
Telephone: (202) 727-1822
Facsimile: (202) 727-9116



Public Employee Relations Board



1100 4th Street S.W. Suite E630 Washington, D.C. 20024 Business: (202) 727-1822 Fax: (202) 727-9116 Email: perb@dc.gov

NOTICE

TO ALL EMPLOYEES OF THE DISTRICT OF COLUMBIA METROPOLITAN POLICE DEPARTMENT ("MPD"), THIS OFFICIAL NOTICE IS POSTED BY ORDER OF THE DISTRICT OF COLUMBIA PUBLIC EMPLOYEE RELATIONS BOARD PURSUANT TO ITS DECISION AND ORDER IN SLIP OPINION NO. 1399, PERB CASE NO. 06-U-34.

WE HEREBY NOTIFY our employees that the District of Columbia Public Employee Relations Board has found that we violated the law and has ordered MPD to post this notice.

WE WILL cease and desist from violating D.C. Code § 1-617.04(a)(1) by the actions and conduct set forth in Slip Opinion No. 1399.

WE WILL cease and desist from interfering, restraining, or coercing employees in the exercise of rights guaranteed by the Labor-Management subchapter of the Comprehensive Merit Personnel Act ("CMPA").

WE WILL NOT, in any like or related manner, interfere, restrain or coerce employees in their exercise of rights guaranteed by the Labor-Management subchapter of the CMPA.

D.C. Metropolitan Police Department

Date: _____ By: _____

This Notice must remain posted for thirty (30) consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

If employees have any questions concerning this Notice or compliance with any of its provisions, they may communicate directly with the Public Employee Relations Board, whose address is: 1100 4th Street, SW, Suite E630; Washington, D.C. 20024. Phone: (202) 727-1822.

BY NOTICE OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

July 1, 2013

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA
RECOMMEND FOR APPOINTMENTS OF NOTARIES PUBLIC

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after August 15, 2013.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4th Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on July 19, 2013. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

D.C. Office of the Secretary

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Recommended for appointment as a DC Notaries Public

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Adolphe	Shalimar	District of Columbia Housing Authority 1133 North Capitol Street, NE, Suite 100	20002
Alston	Jacqueline	District of Columbia Government, Office of Tax and Revenue 1101 4th Street, SW, 6th Floor	20024
Anderson	Hugh	Bank of America 3 Dupont Circle, NW	20036
Barr	Romaine L.	Arnold & Porter, LLP 555 12th Street, NW	20004
Beavers	Jesse	Gore Brothers Reporting & Videoconferencing 1025 Connecticut Avenue, NW, Suite 1000	20036
Bennett	Cherise O.	District of Columbia Housing Authority 1133 North Capitol Street, NE, Suite 100	20002
Bishop	Katoria	Environmental Defense Fund 1875 Connecticut Avenue, NW, Suite 600	20009
Bobby	Hyong S.	U.S. Army Corps of Engineers 441 G Street, NW	20314
Bonilla	Karla	Agriculture Federal Credit Union 14th & Independence Ave. SW	20250
Bradley	Tina Jai	Pension Benefit Guaranty Corporation (Office of The Chief Counsel) 1200 K Street, NW	20005
Brown	Danielle G.	The Buccini/Pollin Group, Inc. 2020 K Street, NW, Suite 600	20006
Browne	Elizabeth P.	Horst Frisch Incorporated 1255 23rd Street, NW, Suite 200	20037
Cayea	Devan	Democratic National Committee 430 South Capitol Street, SE	20003
Chacon	Sandra	Bank of America 1339 Wisconsin Avenue, NW	20007

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Chowdhry	Najmul	Department of Youth Rehabilitation Services of the DC Government 1000 Mount Olivet Road, NE	20002
Cobb	Zachary	Somera Capital Management 1054 31st Street, NW, Suite 536	20007
Coleman	Crystal	Self 5039 Hanna Place, SE	20019
Critcher	Christopher Morton	Terra Nova Title & Settlement Services, LLC 1725 DeSales Street, NW, Suite 401	20036
Davin	Ann K.	Clifford Chance US LLP 2001 K Street, NW	20006
Davis	Sherry L.	Self 4101 Fourth Street, SW	20024
Ferguson	Barbara S.	Robert Lehrman, Attorney 1836 Columbia Road, NW	20009
Harper	Yolanda A.	US Department of Labor, Office of Administrative Law Judges 800 K Street, NW, Suite 400 North	20001
Hendrick	Giana M.	University of the District of Columbia 4200 Connecticut Avenue, NW	20008
Herndon	Christopher	Facebook 1155 F Street, NW, Suite 475	20004
Hill	Ashley	Citibank 2221 I Street, NW, Suite 400	20037
Hill	Latisha	District of Columbia Housing Authority 1133 North Capitol Street, NE, Suite 100	20002
Holland	Monica D.	William C. Smith & Company, Inc. 1100 New Jersey Avenue, SE, Suite 1000	20003
Hopkins	Alison Michelle	Duane Morris LLP	

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		505 9th Street, NW, Suite 1000	20004
Huang	Bejean	National Cathedral School 3612 Woodley Road, NW	20016
Jackson	Michelle D.	Greenstein DeLorme & Luchs, P.C. 1620 L Street, NW , Suite 900	20005
Jackson	Vanessa	Self (Dual) 3707 15th Street, NE	20017
Jacobson	Emily Jordan	Institute of International Education 1400 K Street, NW, Suite 700	20005
Jefferson	Mikki	Lautman Maska Neill & Company 1730 Rhode Island Avenue, NW, Suite 301	20036
Jolley	Stephanie R.	Penzance 2400 N Street, NW, Suite 600	20037
Jones	Terry	US Agency for International Development (USAID) 1301 Pennsylvania Avenue, NW	20523
Kalomiris	Paul D.	Kutak Rock LLP 1101 Connecticut Avenue, NW, Suite 1000	20036
Kohlhepp	Andrew	Institute of International Education 1400 K Street, NW, Suite 700	20005
Koroma	Fatima	District of Columbia Housing Authority 1133 North Capitol Street, NE, Suite 100	20002
Lemon	Chrys D.	McIntyre & Lemon, PLLC 1155 15th Street, NW, Suite 1101	20005
Love	Michael A.	Self (Dual) 917 O Street, NW	20001
Lunde	Eliza	Bank Fund Staff Federal Credit Union 1725 I Street, NW	20006
Malvin, Jr.	Jerome P.	GSA FCU 1800 F Street, NW, Room G-003	20038

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Marrero	Moraima	Bank of America 1339 Wisconsin Avenue, NW	20007
Anderson	Hugh	Bank of America 3 Dupont Circle, NW	20036
Matias, Jr.	Jerson	Office of Personnel Management (OPM) 1900 E Street, NW	20415
Mayberry	Donna	District of Columbia Housing Authority 1133 North Capitol Street, NE, Suite 100	20002
McCauley- Jackson	Kiesha L.	Office of the Attorney General, Child Support Services Division 441 4th Street, NW	20001
McCoy	Joan M.	Bryan Cave LLP 1155 F Street, NW	20004
McCoy	Tammy	Axinn 950 F Street, NW, 7th Floor	20004
McPherson	Angela	Arnold & Porter, LLP 555 12th Street, NW	20004
Meiser	John	U.S. Department of Commerce, Office of Inspector General 1401 Constitution Avenue, NW	20230
Miller	Donna J.	Morris, Manning & Matin, LLP 1333 H Street, NW	20005
Miller	Sarah E.	The Chertoff Group 1399 New York Avenue, NW	20005
Mitchell	Annette	Arnold & Porter, LLP 555 12th Street, NW	20004
Monarez	Laya	Bailey & Glasser LLP 901 17th Street, NW	20006
Moore	Teali	District of Columbia Housing Authority 1133 North Capitol Street, NE, Suite 100	20002
Murphy	Jill Seibert	Perkins Coie, LLP 700 13th Street, NW, Suite 600	20005

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Nelson	Deborah A.	Arnold & Porter 555 Twelfth Street, NW	20004
O'Donnell	Kara	Self 1524 Independence Avenue, SE, Apt. 203	20003
Okafor	Krystal	Ballard Spahr LLP 1909 K Street, NW, 12th Floor	20006
Peterson	Brenda S.	U.S. Department of Agriculture 1400 Independence Avenue, SW, Whitten Federal Building, Room 130W	20250
Price	Shirley	Bank of America 901 K Street, NW	20001
Quildon	Renna L.	District of Columbia Housing Authority 1133 North Capitol Street, NE, Suite 100	20002
Rainey	Joann	District of Columbia Housing Authority 1133 North Capitol Street, NE, Suite 100	20002
Reff	Jonathan	Bank of America 3401 Connecticut Avenue, NW	20008
Rehman	Lori	CoStar Group Inc. 1331 L Street, NW	20005
Rickman	Deborah L.	NEBF Investments 900 Seventh Street, NW, 9th Floor	20001
Robinson	Jeanetta M.	U.S. Department of Justice, Office of the Inspector General 950 Pennsylvania Avenue, NW, Room 4706	20530
Rohrbough	Jane H.	University of California, Washington Center 1608 Rhode Island Avenue, NW	20036
Rothwell	Joy D.	ARPC 1220 19th Street, NW, Suite 700	20036
Rutledge	Mary A.	Crowell & Moring LLP 1001 Pennsylvania Avenue, NW	20004

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Saloom	Jamie Belcore	U.S. Small Business Administration, Office of Advocacy 409 3rd Street, SW	20416
Sanders	Toni N.	Wells Fargo N.A. 2901 M Street, NW	20007
Sandulescu	Ala	Bank Fund Staff Federal Credit Union 1725 I Street, NW, Suite 150	20006
Shafir-Volk	Mariah	Shearman & Sterling, LLP 801 Pennsylvania Avenue, NW, Suite 900	20004
Siegall	Brigitte Tan	Travel the World Visas, INC 1930 18th Street, NW, Unit 1	20009
Simpson	Allyson B.	Albright Capital Management 1101 New York Avenue, NW, Suite 900	20005
Smith	Carolyn W.	Community Management Solutions 3040 Stanton Road, SE	20020
Smith	Grant James	Metropolitan Engineering, Inc. 1150 17th Street, NW, Suite 301	20036
Smith	Jeannette	Chertoff Group, LLC 1399 New York Avenue, NW, Suite 900	20005
Stroud	Charlene	District of Columbia Housing Authority 1133 North Capitol Street, NE, Suite 100	20002
Sutton	Lilla M.	Housing Assistance Council 1025 Vermont Avenue, NW, Suite 606	20005
Tinnirella	Anthony J.	CoStar Group Inc. 1331 L Street, NW	20005
Urena	Dayana	Permanent Mission of the Dominican Republic to the OAS 1715 22nd Street, NW, 2nd Floor	20008
Vargas	Meagan E.	Zampogna, P.C. 1730 Rhode Island Avenue, NW, Suite 501	20036

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Washington	Rosa M.	U.S. Department of Justice 810 7th Street, NW	20531
Washington	Sheila E.	U.S. Department of Labor – OSHA 200 Constitution Avenue, NW, Room N3419	20210
White	Marvel S.	DC Teachers Federal Credit Union 5656 3rd Street, NE	20011
Wiggins	Elizabeth Lynne Ellis	Crowell & Moring LLP 1001 Pennsylvania Avenue, NW	20004
Williams	Jacqueline	Carnegie Institution of Washington 1530 P Street, NW	20005
Wright	Ardith M.	Bank of America 3 Dupont Circle, NW	20036
Young	Ruth	Duane Morris LLP 505 9th Street, NW, Suite 1000	20004

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT**NOTICE OF FUNDING AVAILABILITY****Healthy Food Retail Program Grant**

The Department of Small and Local Business Development (DSLBD) is soliciting applications from qualified organizations to manage its **Healthy Food Retail Program** (the "Program"). Through this grant, DSLBD will fund the expanded access of healthy foods within small food retailers in eligible areas of the District. A grant of \$200,000 will be awarded to one organization to establish and operate a commercial distribution system which provides fresh produce and healthy foods to small food retail stores. The organization will also provide business assistance services to these businesses to maximize the profits on fresh produce and healthy foods. The authorizing legislation for the grant funds is the "Food, Environmental, and Economic Development in the District of Columbia Act of 2010."

Eligible applicants include organizations that are incorporated in the District of Columbia and joint ventures, partnerships, and limited liability arrangements between for-profit entities and for-profit organizations. At least one of the partners must have experience in food distribution, business entrepreneurship, and cooperative healthy food enterprise. Through the application process, applicants must demonstrate their organizational and programmatic capacity to: a) establish a commercial distribution channel for fresh produce and healthy foods serving 30 small food retail stores throughout the District of Columbia; and, b) to provide business assistance which improves the ability of small food retailers to profitably provide fresh and healthy food. Additional applicant and project eligibility requirements and evaluation criteria are detailed in the Request for Application (RFA). Grant performance period will be established in the Request for Application (RFA). The grant recipient will be selected through a competitive application process and announced September 2013.

The **Request for Application** (RFA), which comprises the application form and program guidelines, will be available by **Friday, August 2, 2013** at www.dslbd.dc.gov after 12:0 p.m.

Instructions and guidance regarding application preparation can be found in the RFA. DSLBD will host an **Information Session** on Wednesday, August 14, 2013 at 3:00 pm at the agency's offices (441 4th Street, NW, Washington, DC 20001; photo ID required to enter building). This session will be your **final** opportunity to get answers to questions.

For more information and to obtain the Request for Application, contact Cristina Amoruso at the DC Department of Small and Local Business Development (202) 727-3900.

THE ARTS & TECHNOLOGY PCS**REQUEST OF PROPOSALS****Postage Meter/Mailing Machine**

The Arts & Technology Academy Public Charter School is soliciting bids for a postage meter/ mailing machine. Specifications needed may be obtained beginning on July 8, 2013, by sending a request via email to Sarai Francois, Finance Manager, at sfrancois@dcata.org. No phone calls. Bids must be delivered via email to sfrancois@dcata.org by 3:00 PM on Friday, July 26, 2013.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Finance and Budget Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Finance and Budget Committee will be holding a meeting on Thursday, July 25, 2013 at 11:00 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dcwater.com.

For additional information please contact: Linda R. Manley, Board Secretary at (202) 787-2332 or lmanley@dcwater.com.

DRAFT AGENDA

- | | | |
|----|--|------------------------------|
| 1. | Call to Order | Chairman |
| 2. | June 2013 Financial Report | Director of Finance & Budget |
| 3. | Agenda for September Committee Meeting | Chairman |
| 4. | Adjournment | Chairman |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Retail Water and Sewer Rates Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Retail Water and Sewer Rates Committee will be holding a meeting on Tuesday, July 23, 2013 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dewater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or lmanley@dewater.com.

DRAFT AGENDA

- | | |
|--|-------------------------|
| 1. Call to Order | Committee Chairman |
| 2. Monthly Update | Chief Financial Officer |
| 3. Committee Workplan | Chief Financial Officer |
| 4. Emerging Issues/Other Business | Chief Financial Officer |
| 5. Agenda for September 24, 2013 Committee Meeting | Committee Chairman |
| 6. Adjournment | Committee Chairman |

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Order No. 18390-A of Application of Community Three Development LLC, Motion for Minor Modification of Approved Plans for Application No. 18390, pursuant to § 3129 of the Zoning Regulations.

The original application was pursuant to 11 DCMR § 3103.2, for a variance from the drive aisle width requirements under § 2117.5 and a variance from the compact space requirements under § 2115.2, to allow the conversion of an existing building into a 22-unit, four-story multi-family residential building, in the C-2-A District at premises 435 R Street, N.W. (Square 508, Lots 52, 53, and 66).

HEARING DATE (original application):	July 31, 2012
DECISION DATE (original application):	July 31, 2012
FINAL ORDER ISSUANCE DATE (Order No. 18390):	August 6, 2012
DECISION DATE FOR MINOR MODIFICATION:	July 9, 2013

**SUMMARY ORDER ON REQUEST FOR MINOR MODIFICATION OF
APPROVED PLANS**

Background

On July 31, 2012, the Board of Zoning Adjustment (the “Board” or “BZA”) approved the application of Community Three Development LLC (the “Applicant”). The Applicant’s original request was for variances from the drive aisle width requirements under § 2117.5 and from the compact space requirements under § 2115.2, to allow the conversion of an existing building into a 22-unit, four-story multi-family residential building, in the C-2-A District at premises 435 R Street, N.W. (Square 508, Lots 52, 53, and 66). BZA Order No. 18390, approving the original request, was issued on August 6, 2012. That order approved the requested variances to allow the conversion of an existing building into a 22-unit, four-story multi-family residential building, per the approved plans at Exhibit 25. (Exhibit 31.)

Request for Minor Modification of the Approved Plans

The Applicant submitted a request for minor modification of the approved plans on June 28, 2013. In the motion the Applicant indicated that it was requesting a modification to the parking plan because during the technical review subsequent to the BZA’s granting of the requested variances and prior to the issuance of the building permit, the Department of Consumer and Regulatory Affairs (“DCRA”) technical staff directed the Community Three LLC (the “Applicant”) to create a pedestrian egress separate from the driveway, leading the Applicant to revise its parking plan. The resulting revised parking plan is consistent with the plan approved by the BZA and the relief provided. According to the Applicant, the plan has simply been “refined to effect the changes that DCRA technical

BZA APPLICATION NO. 18390-A**PAGE NO. 2**

staff directed [the Applicant] to make.” (Exhibit 33.) The record indicates that the request for modification was served on all of the parties to the case: the Office of Planning (“OP”) and Advisory Neighborhood Commission (“ANC”) 2C, the affected ANC, and the Single District Member.

Section 3129, specifically § 3129.3, indicates that a request for minor modification “of plans shall be filed with the Board not later than two (2) years after the date of the final order approving the application.” The motion was filed within the two-year period following the final order in the underlying case and thus is timely.

Pursuant to § 3129.4, all parties are allowed to file comments within 10 days of the filed request for modification. OP submitted a timely report on the minor modification of site plan, dated July 2, 2013, recommending approval of the Applicant’s requested minor modification to satisfy DCRA’s requirement of providing a separate pedestrian egress at the rear of the property on the Applicant’s site plan. OP noted that the modification request would also amend the relief provided in Order No. 18390 by increasing the number of compact spaces per § 2215 to six compact spaces. No new areas of relief are required. (Exhibit 34.) The affected ANC, ANC 2C, did not submit a report.

No objections to the request for minor modification were submitted by any parties to the case. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for modifications of approved plans.

Subsections 3129.5 and 3129.6 of the Zoning Regulations authorizes the Board to grant, without a hearing, requests for minor modifications of approved plans that do not change the material facts upon which the Board based its original approval of the application. (11 DCMR § 3129.6.)

Based upon the record before the Board and having given great weight to the OP report filed in this case, the Board concludes that in seeking a modification to the approved plans, the Applicant has met its burden of proof under 11 DCMR § 3129, that the modification no material facts have changed upon which the Board based its decision on the underlying application that would undermine its approval.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application for modification of approved plans is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 25, AS MODIFIED BY THE REVISED GROUND FLOOR PLAN, DATED JUNE 2013, AT EXHIBIT 33.** In all other respects, Order No. 18390 remains unchanged.

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VOTE on Modification of Order No. 18390: 3-0-2

(Lloyd J. Jordan, Jeffrey L. Hinkle, and S. Kathryn Allen to APPROVE; no Zoning Commission member participating or voting; the third Mayoral appointee vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this summary order.

ATTESTED BY: _____

SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: July 10, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18580 of Salome Tinker, pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirements under section 403, a variance from the rear yard requirements under section 404, and a variance from the nonconforming structure requirements under subsection 2001.3, to allow a second story addition to an existing row dwelling in the R-4 District at premises 331 L Street, N.E. (Square 774, Lot 805).

HEARING DATE: July 9, 2013

DECISION DATE: July 9, 2013

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission (“ANC”) 6C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. The ANC submitted a letter in support of the application. The Office of Planning (“OP”) submitted a report in support of the application.

Variance

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for a variance from §§ 403, 404 and 2001.3. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that in seeking a variance from §§ 403, 404, and 2001.3, the applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions

BZA APPLICATION NO. 18580

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of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 11 – Plans) is hereby **GRANTED**.

VOTE: 4-0-1 Lloyd J. Jordan, S. Kathryn Allen, Jeffrey L. Hinkle and Marcie I. Cohen to APPROVE. The third mayoral seat vacant.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: July 9, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18582 of AE Tower LLC and RE Opal LLC, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under subsection 2101.1, to constrict a six (6) unit apartment house in the NO/C-2-A District at premises 2140 Wisconsin Avenue, N.W. (Square 1300, Lot 320).

HEARING DATE: July 9, 2013

DECISION DATE: July 9, 2013

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission (“ANC”) 3B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3B, which is automatically a party to this application. The ANC submitted a letter in support of the application. The Office of Planning (“OP”) submitted a report in support of the application. The Department of Transportation submitted a report of no objection to the application.

Variance

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for a variance from § 2101.1. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that in seeking a variance from § 2101.1, the applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 25A – Plans) is hereby **GRANTED**.

BZA APPLICATION NO. 18582

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VOTE: 4-0-1 Lloyd J. Jordan, Marcie I. Cohen, S. Kathryn Allen and Jeffrey L. Hinkle to APPROVE. The third mayoral seat vacant.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: July 10, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 13-02
Z.C. Case No. 13-02
Jemal's Hecht's, LLC
(Map Amendment @ Square 4037)
July 8, 2013

The Zoning Commission for the District of Columbia ("Commission"), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 787, *et seq.*; D.C. Official Code § 6-641.01), and § 102 of Title 11 of the District of Columbia Municipal Regulations ("DCMR"), having held a public hearing to consider the application from Jemal's Hecht's, LLC ("Applicant"), and referred the proposed amendments to the National Capital Planning Commission ("NCPC") for a 30-day review pursuant to § 492 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 6-641.02) ("District Charter"), hereby gives notice of its adoption of an amendment to the Zoning Map of the District of Columbia that rezones portions of Lots 7 and 804 in Square 4037 ("Property") from the C-M-2 to C-M-3 Zone District.

FINDINGS OF FACT

1. On January 16, 2013, the Office of Zoning received an application from the Applicant requesting the Commission to rezone the Property from the C-M-2 to C-M-3 Zone District ("Application"). The Commission voted unanimously to set down the Application for a public hearing as a contested case at its February 25, 2013, public meeting.
2. The Property is located along New York Avenue in Northeast Washington, D.C. in Ward 5. The project site is bounded by New York Avenue to the north, Fenwick Street to the west, Okie Street to the south, and 16th Street to the east, all within Northeast Washington. The property is improved with the former Hecht Company Warehouse, a landmark complex of connected buildings constructed between 1937 through 1994. The portions of the building that contribute to its landmark status date from 1937, 1948, and 1961. The heights of the contributing buildings range from approximately 82 feet (1937 landmark section), to 54.5 feet (1948 landmark section), to 14 feet (1961 landmark section). The site has been vacant for the last several years and was recently purchased by the Applicant in late 2011.
3. Situated along the busy industrial section of New York Avenue, the Property is surrounded by production, distribution, and repair uses. The CSX railroad and Metrorail tracks are located across New York Avenue to the north. Other one- and two-story industrial buildings dating from the early twentieth century predominate the surrounding area.
4. The Applicant proposes to rezone the eastern portion of Square 4037 to the C-M-3 Zone District. (Exhibit ["Ex."] 3B.) The portion of the square to remain in

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- the C-M-2 Zone District begins at the west boundary line of Square 4037 and extends east a distance of 343 feet, 10 inches. The remainder of Square 4037 would be rezoned to C-M-3.
5. On March 11, 2013, the Applicant submitted a Prehearing Statement. The Commission schedule a hearing on the Application for June 3, 2013, and notice of the public hearing was given in accordance with the provisions of 11 DCMR §§ 3014 and 3015.
 6. Advisory Neighborhood Commission ("ANC") 5D, the ANC in which the Property is located, was automatically accorded party status. There were no other parties to the case other than the Applicant and ANC 5D.
 7. By letter dated February 16, 2013, ANC 5D stated that, at a duly noticed meeting held February 12, 2013, with a quorum present, the ANC voted 6-0 to support the Application.
 8. The Office of Planning ("OP") reviewed the Applicant's proposal to rezone the Property from the C-M-2 to the C-M-3 Zone District and, in its written report dated May 24, 2013, recommended approval of the Application. With regard to the Future Land Use Map ("FLUM"), OP stated that a C-M-3 zone would be as consistent with the FLUM as would a C-M-2 zone. With regard to the Generalized Policy Map, OP stated that the requested rezoning would be consistent with the policy of maintaining or enhancing existing land use and neighborhood characteristics, would help to ensure the continuation of Production, Distribution, and Repair ("PDR") land uses, and would not threaten the stability of adjacent PDR uses, nearby residential uses in Ivy City, or the Moderate-Density Commercial/Medium-Density Residential land use change area designated at the intersection of New York Avenue, N.E. and Bladensburg Road, N.E. With regard to the Comprehensive Plan, the OP stated that the requested rezoning is not inconsistent with the written elements of said plan, particularly policies for Industrial Land, the Upper Northeast Element, the New York Avenue Corridor, and Historic Preservation.
 9. The District's Department of Transportation ("DDOT") reviewed the Applicant's proposal to rezone the Property from the C-M-2 to the C-M-3 Zone District and, in its written report dated May 24, 2013, could not make an exact determination of the expected impacts of the rezoned area without a full development proposal and Transportation Impact Study ("TIS"). DDOT stated that as a result of the rezoning, however, vehicular traffic is expected to increase on arterials and adjacent local streets potentially leading to significant increases in travel delay. At the hearing, DDOT clarified that it does not normally request a TIS unless a specific project requires zoning relief from the Board of Zoning Adjustment or the

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- Commission, or through the Large Tract Review process or, public space review is required for a private street, for example, as is being proposed in this case.
10. On June 3, 2013, the Commission held a public hearing on the Application. Mr. Paul Millstein testified on behalf of the Applicant in support of the Application. The Applicant also submitted the report of Mr. Steven Sher, which was qualified as the work of an expert in land planning.
 11. Kathy Henderson (ANC 5D05) and Peta-Gay Lewis (ANC 5D01) testified in support of the Application at the hearing. Others testifying in support of the Application were Alicia Swanson-Canty, President of the Ivy City Citizens Association, and Vonetta Dumas (ANC 5D02).
 12. Based upon the testimony and evidence presented, and the DDOT and OP reports, the Commission finds that the proposed rezoning is consistent with numerous elements of the Comprehensive Plan, including, among others, policies to restore and improve the character and stability of the neighborhood (Land Use Element), actions to promote the renovation and rehabilitation of a landmark industrial warehouse building and its site for compatible PDR and commercial uses (Historic Preservation Element), and actions designed to guide growth and neighborhood conservation in Upper Northeast (Upper Northeast Area Element). The Commission also finds that the proposed map amendment would create favorable conditions for the District and satisfies each of the statutory standards applicable to map amendments.
 13. The Commission further finds that the map amendment to the C-M-3 Zone District would be consistent the Future Land Use Map's designation of the Property for PDR uses. The requested map amendment is not inconsistent with the Comprehensive Plan, would not create any adverse impacts on surrounding properties, and would result in a number of important benefits to the surrounding community and the District of Columbia as a whole.
 14. At the conclusion of the public hearing on June 3, 2013, the Commission took proposed action to approve the map amendment. Pursuant to § 492 of the District Charter, the Commission referred its proposed decision of approval to NCPC for review and comment.
 15. The Commission took final action to approve the map amendment at its regularly scheduled meeting held on July 8, 2013.

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CONCLUSIONS OF LAW

1. The Commission's authority to amend the Zoning Map derives from the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, D.C. Official Code § 6-641.01) ("Zoning Act"). Section 1 of the Zoning Act authorizes the Commission to regulate the uses of property in order to "promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia and its planning and orderly development as the national capital." (D.C. Official Code § 6-641.01.) Section 2 of the Zoning Act provides that the "zoning regulations shall be designed to lessen congestion on the street, to secure safety from fire, panic, and other dangers to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein." (D.C. Official Code § 6-641.02.) Section 3 of the Zoning Act, among other things, authorizes the Commission to amend the zoning regulations and maps. (D.C. Official Code § 6-641.03.)
2. The Commission concludes that the map amendment is consistent with the purposes of the Zoning Act. The amendment is not inconsistent with the Comprehensive Plan, would not create any adverse impacts on surrounding properties, and would result in a number of important benefits to the surrounding community and the District of Columbia as a whole.
3. In amending the Zoning Map, the Commission is constrained by the limitation in the District Charter that the Zoning Map be "not inconsistent" with the Comprehensive Plan. (See § 492(b)(1) of the District Charter.)
4. The Commission concludes that approval of the requested map amendment from the C-M-2 to the C-M-3 Zone District is not inconsistent with the Comprehensive Plan.
5. The Commission also concludes that the requested map amendment is in the best interests of the District of Columbia and will benefit the community in which the Property is located.

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6. The Commission is required under § 13(d) 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)) to give great weight to issues and concerns expressed in the affected ANC's written recommendation. The Commission concurs with the ANC's recommendation for approval and has given it the great weight to which it is entitled.
7. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP's recommendations. The Commission concurs with OP's recommendation for approval and has given the recommendation the great weight to which it is entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the Application for an amendment to the Zoning Map of the District of Columbia that rezones the portions of Lots 7 and 804 in Square 4037 from the C-M-2 to the C-M-3 Zone District shown on Exhibit 3B to the record. The west portion of Square 4037, beginning at the west boundary line and extending 343'-10" to the east, shall be located in the C-M-2 Zone District and the remainder of Square 4037 shall be located in the C-M-3 Zone District.

The Applicant is required to comply fully with the provisions of the D.C. Human Rights Act of 1977, D.C. Law 2038, as amended, D.C. Official Code § 2-1404.01 *et seq.* ("Act"). This order is conditioned upon full compliance with those provisions. In accordance with the Act, the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On June 3, 2013, upon the motion of Vice Chairman Cohen, as seconded by Commissioner Miller, the Commission **APPROVED** the Application at the conclusion of its public hearing by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Michael G. Turnbull, and Peter G. May to approve).

On July 8, 2013, upon the motion of Commissioner Miller, as seconded by Commissioner May, Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0**

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(Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Michael G. Turnbull, and Peter G. May to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register* on July 19, 2013.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF CLOSED MEETING**

TIME AND PLACE: **Thursday, July 25, 2013, @ 6:00 p.m.**
 Office of Zoning Conference Room
 441 4th Street, N.W., Suite 220
 Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

In accordance with § 406 of the District of Columbia Administrative Procedure Act (“Act”)(D.C. Official Code § 2-576), on July 15, 2013, the Zoning Commission voted 5-0-0 to hold a closed meeting and hereby provides notice it will hold said closed meeting either in person or by telephone conference call, at the time and place noted above, regarding cases noted on the July 25, 2013 agenda in order to receive legal advice from its counsel, per § 405(b)(4), and to deliberate, but not voting, on the contested cases, per § 405(b)(13) of the Act (D.C. Official Code § 2-575(b)(4) and (13)).

**ANTHONY J. HOOD, MARCIE I. COHEN, ROBERT E. MILLER, PETER G. MAY,
AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT
OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN,
SECRETARY TO THE ZONING COMMISSION.**

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**NOTICE OF SPECIAL PUBLIC MEETING**

The Zoning Commission of the District of Columbia, in accordance with § 3005 of the District of Columbia Municipal Regulations, Title 11, Zoning, hereby gives notice that it has scheduled a Special Meeting for **Thursday, July 25, 2013, at 6:30 P.M.**, to consider various items.

For additional information, please contact Sharon Schellin, Secretary to the Zoning Commission at (202) 727-6311.

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