



***District of Columbia***

**REGISTER**

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**HIGHLIGHTS**

- DC Council passes Act 20-110, Better Prices, Better Quality, Better Choices for Health Coverage Temporary Amendment Act of 2013
- District Department of the Environment establishes guidelines for regulating Lead-based paint activities
- DC Public Library revises the behavior rules governing the use of the DC Public Library
- DC Taxicab Commission adopts rules implementing the Modern Taximeter System (MTS)
- Department of Insurance, Securities, and Banking proposes rules that would require captive insurers to adopt a code of ethics
- District Department of the Environment announces funding availability for the FY 2014 Low Income Weatherization Services Grants

# DISTRICT OF COLUMBIA REGISTER

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## DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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PERIODICAL POSTAGE PAID AT WASHINGTON, D.C.  
POSTMASTER: Send address changes to D.C. Register, 441 - 4<sup>th</sup> Street, N.W., Suite 520 South, Washington, D.C. 20001

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-107

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 15, 2013

To amend, on a temporary basis, An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes to authorize an extension of time to dispose of District-owned real property located at 1421 Euclid Street, N.W., designated for tax and assessment purposes as Lot 0811 in Square 2665.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Extension of Time to Dispose of Justice Park Property Temporary Approval Act of 2013”.

Sec. 2. Section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801) is amended by adding a new subsection (d-7) to read as follows:

“(d-7)(1) Notwithstanding subsection (d) of this section, the time period within which the Mayor may dispose of 1421 Euclid Street, N.W., designated for tax and assessment purposes as Lot 0811 in Square 2665, known as the Justice Park, for which disposition was approved by the Council pursuant to the Justice Park Property Disposition Approval Resolution of 2011, effective April 5, 2011 (Res. 19-77; 58 DCR 3199) is extended to April 5, 2014.

“(2) This subsection shall apply as of April 5, 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.

(a) 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), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



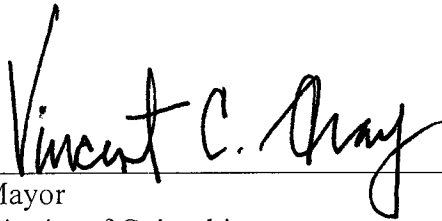
ENROLLED ORIGINAL

(b) This act shall expire after 225 days of its having taken effect.



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Chairman  
Council of the District of Columbia



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Mayor  
District of Columbia  
APPROVED  
July 15, 2013

ENROLLED ORIGINAL

AN ACT  
D.C. ACT 20-108

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
JULY 15, 2013

To amend, on a temporary basis, the School Transit Subsidy Act of 1978 to clarify that foster youth are eligible for the foster youth transit subsidy program until they reach the age of 21 years.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Foster Youth Transit Subsidy Temporary Amendment Act of 2013”.

Sec. 2. Section 2 of the School Transit Subsidy Act of 1978, effective March 3, 1979 (D.C. Law 2-152; D.C. Official Code § 35-233), is amended as follows:

(a) Subsection (c) is amended as follows:

(1) Paragraph (2) is amended by striking the semicolon and inserting the phrase “; and” in its place.

(2) Paragraph (3) is amended by striking the phrase “; and” and inserting a period in its place.

(3) Paragraph (4) is repealed.

(b) A new subsection (f) is added to read as follows:

“(f)(1) Youth in the District's foster care system shall be eligible for a foster youth transit subsidy program (“Program”) as established by the Mayor until they reach 21 years of age.

“(2) The Program shall allow qualified foster youth to travel on Metrobus and Metrorail and other public transportation services offered by the District at subsidized or reduced fares.

“(3) The subsidized or reduced foster youth fare established pursuant to this subsection shall be valid only for the transportation of foster youth for educational and employment purposes.”

Sec. 3. 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. 4. Effective date.

(a) 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), a 30-day period of Congressional review

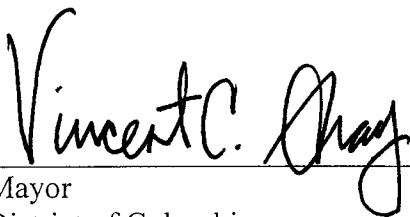
ENROLLED ORIGINAL

as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
July 15, 2013

## ENROLLED ORIGINAL

AN ACT  
D.C. ACT 20-109IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
JULY 15, 2013

To amend, on a temporary basis, the Retail Electric Competition and Consumer Protection Act of 1999 to prohibit the electric company from disconnecting residential electric service when the heat index is forecasted to be 95 degrees Fahrenheit or above.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Heat Wave Safety Temporary Amendment Act of 2013".

Sec. 2. The Retail Electric Competition and Consumer Protection Act of 1999, effective May 9, 2000 (D.C. Law 13-107; D.C. Official Code § 34-1501 *et seq.*), is amended by adding a new section 106a to read as follows:

"Sec. 106a. Disconnection of service in extreme temperature prohibited.

"(a) For the purposes of this section, the term "forecast of extreme temperature" means a National Weather Service forecast that the heat index for the District of Columbia will be 95 degrees Fahrenheit or above at any time during a day.

"(b) The electric company shall not disconnect residential electric service during the day preceding, and the day of, a forecast of extreme temperature. If the forecast of extreme temperature precedes a holiday or weekend day, the electric company shall not disconnect residential electric service on any day during the holiday or weekend."

Sec. 3. 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. 4. Effective date.

(a) 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), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved

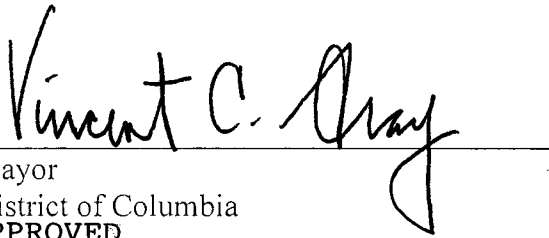
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December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
July 15, 2013

ENROLLED ORIGINAL

AN ACT  
D.C. ACT 20-110

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
JULY 15, 2013

To amend, on a temporary basis, the Health Benefit Exchange Authority Establishment Act of 2011 to promote meaningful choice, provide enhanced benefits, and build a competitive private insurance marketplace for the residents and small business owners of the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Better Prices, Better Quality, Better Choices for Health Coverage Temporary Amendment Act of 2013”.

Sec. 2. The Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-94; D.C. Official Code § 31-3171.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code §31-3171.01) is amended as follows:

(1) New paragraphs (8A) and (8B) are added to read as follows:

“(8A) “Metal level” means the bronze, silver, gold, and platinum levels of coverage as defined in section 1302(d)(1) of the Federal Act.

“(8B) “Navigator” refers to the entities described in section 1311(i) of the Federal Act.”.

(2) A new paragraph (18) is added to read as follows:

“(18) “Standardized plan” means a plan with defined benefits and cost sharing as determined by the executive board for the Authority.”.

(b) Section 10 (D.C. Official Code §31-3171.09) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph 5 is amended as follows:

(i) Subparagraph (B)(i) is amended by striking the phrase “at least one qualified health plan at the silver level and at least one plan at the gold level” and inserting the phrase “at least one qualified health plan at the bronze level, at least one qualified health plan at the silver level, and at least one qualified health plan at the gold level” in its place.

(ii) Subparagraph (D) is amended by striking the word “and” at the end.

## ENROLLED ORIGINAL

(iii) New subparagraphs (F), (G), and (H) are added to read as follows:

“(F) Provides accurate attestations as required in the initial certification process;

“(G) Offers one or more standardized plans that meet the criteria developed by the executive board for the Authority, at each metal level in which the carrier is participating, in addition to other plans the carrier may offer; and

“(H) Offers plans subject to the meaningful difference standard, as defined in section 4(ii) of Chapter 1 of the Affordable Exchanges Guidance, dated March 1, 2013, by the Centers for Consumer Information and Insurance Oversight at the Centers for Medicare and Medicaid Services in the U.S. Department of Health and Human Services, or as may be defined by the executive board for the Authority.”.

(B) Paragraph (7) is amended by striking the period at the end and inserting a semicolon in its place.

(C) New paragraphs (8), (9) and (10) are added to read as follows:

“(8) Comply section 512 of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, approved October 3, 2008 (Pub. L. No. 110-343; 122 Stat. 3881), as applied to the Federal Act, including covering behavioral health inpatient and outpatient services for mental health and substance use disorders without day or visit limitations;

“(9) Provide a drug formulary that includes, at a minimum, the greater of either the number of drugs listed in each category and class found in the District’s base-benchmark plan formulary, or the minimum number of drugs, by category and class, as established by the Center for Consumer Information and Insurance Oversight in the Centers for Medicare and Medicaid Services at the U.S. Department of Health and Human Services;

“(10) Provide benefits identical to the essential health benefits benchmark plan, as defined in federal regulations promulgated pursuant to section 1302(a) of the Federal Act, as defined by the District without benefit substitution.”.

(2) Subsection (b) is amended as follows:

(A) Paragraph (2) is amended by striking the word “or”.

(B) Paragraph (3) is amended by striking the period at the end and inserting the phrase “; or” in its place.

(C) A new paragraph (4) is added to read as follows:

“(4) On the basis of the number of qualified health plans being offered.”.

(3) New subsections (g) and (h) are added to read as follows:

“(g) A qualified health plan may provide additional services that are not in the essential health benefits package required in subsection (a)(1) of this section, if the services are eligible for claims submission and reimbursement.

“(h) For purposes of the essential health benefits benchmark plan, as defined in federal regulations promulgated pursuant to section 1302(a) of the Federal Act, the term “habilitative services” includes health care services that help a person keep, learn, or improve skills and functioning for daily living, including applied behavioral analysis for the treatment of autism spectrum disorder.”.

## ENROLLED ORIGINAL

(c) New sections 10a and 10b are added to read as follows:

“Sec. 10a. Distribution of individual and small group health benefit plans.

“(a) A carrier that offers individual or small group health benefit plans shall offer such plans solely through the American Health Benefit Exchange, as established pursuant to section 5(a) subject to the following transition:

“(1) Individual health benefit plans with plan years beginning on or after January 1, 2014, shall be offered solely through the American Health Benefit Exchange;

“(2) On or after January 1, 2014, small group health benefit plans offered to any small business that was not insured as of December 31, 2013, shall be offered and issued solely through the American Health Benefit Exchange;

“(3) Small group health benefit plans offered to or renewed by any small business that was insured as of December 31, 2013, may be issued or renewed during calendar year 2014 through existing distribution channels with the same carrier or a new carrier, except that such plans shall meet the qualifications for certification of a qualified health plan as provided in section 10; and

“(4) Unless the Council acts by October 1, 2014 to change the date that all small group health plans shall be offered, issued, or renewed through the American Health Benefit Exchange, on or after January 1, 2015, all small group health benefit plans shall be offered and issued or renewed solely through the American Health Benefit Exchange.

“(b) The requirements of this section shall not apply to grandfathered health plans as defined in section 1251 of the Federal Act.

“Sec. 10b. Sale, solicitation, and negotiation by insurance producers.

“(a) An insurance producer that is licensed in the District and authorized by the Commissioner to sell, solicit, or negotiate health insurance pursuant to the Producer Licensing Act of 2002, effective March 27, 2003 (D.C. Law 14-264; D.C. Official Code § 31-1131.02 *et seq.*), may sell any qualified health plan offered in the American Health Benefit Exchange, after satisfactorily completing training developed and provided by the Authority.

“(b) An insurance producer shall be compensated directly by a health carrier for the sale of a qualified health plan offered in the American Health Benefit Exchange.”.

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.

(a) 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), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

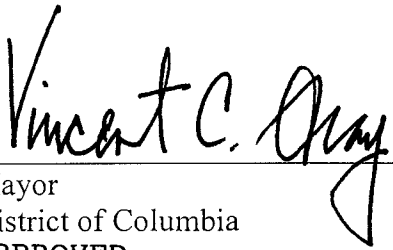


ENROLLED ORIGINAL

(b) This act shall expire after 225 days of its having taken effect.



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
July 15, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-111

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 15, 2013

To amend, on a temporary basis, Chapter 10 of Title 47 of the District of Columbia Official Code to exempt from taxation certain property owned or leased by YMCA of Metropolitan Washington or YMCA Community Investment Initiative, nonprofit organizations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “YMCA Community Investment Initiative Real Property Tax Exemption Temporary Act of 2013”.

Sec. 2. Chapter 10 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new section designation to read as follows:

“47-1089. YMCA Community Investment Initiative, Lot 2010, Square 234.”.

(b) A new section 47-1089 is added to read as follows:

“§ 47-1089. YMCA Community Investment Initiative, Lot 2010, Square 234.

“(a) The real property located at 1325 W Street, N.W., Washington, D.C., and described as Lot 2010, Square 234, shall be exempt from real property taxation, and interests in such property shall be exempt from possessory interest taxation so long as the real property continues to be used and occupied by the Young Men’s Christian Association of Metropolitan Washington (“YMCA DC”), even if it is owned by the or Young Men’s Christian Association Community Investment Initiative (“YMCA CII”) and is used for carrying out the charitable functions of the YMCA DC, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009 as if the exemption had been granted administratively.

“(b)(1) Any transfer, assignment, or other disposition of all or any portion of the real property described in subsection (a) of this section to YMCA DC or YMCA CII, any security interest instrument with respect to such property given by YMCA DC or YMCA CII to a third party lender, or a lease of such property between YMCA DC and YMCA CII, shall be exempt from the tax imposed by § 42-1103, so long as the real property continues to be used and occupied by YMCA DC; and

“(2) Any transfer, assignment, or other disposition of all or any portion of the real property described in subsection (a) of this section by YMCA DC or YMCA CII, including a

ENROLLED ORIGINAL

lease of such property between YMCA DC and YMCA CII, shall be exempt from the tax imposed by § 47-903, so long as the real property continues to be used and occupied by YMCA DC.

“(c) The exemptions set forth in this section shall apply to successor entities formed by YMCA DC for purposes of meeting requirements under the New Market Tax Credit provided by section 45D of the Internal Revenue Code of 1986, so long as the real property continues to be used and occupied by YMCA DC.

“(d) The Council orders that all real property tax, penalties, interest, fees, and other related charges assessed against the real property described in subsection (a) of this section through the end of the month during which this act becomes effective be forgiven, and that any payments already made be refunded. The Council further orders that all recordation and transfer taxes, penalties, and interest collected with respect to the transfers described in subsection (b) of this section through the end of the month during which this act becomes effective be forgiven and payments already made be refunded.”.

Sec. 3. Fiscal impact statement.

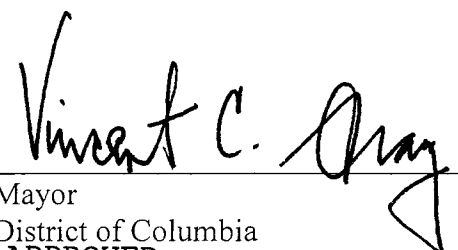
The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

(a) 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), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

  
Chairman  
Council of the District of Columbia

  
Mayor  
District of Columbia  
APPROVED  
July 15, 2013

**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](http://www.dccouncil.us).

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<b>COUNCIL OF THE DISTRICT OF COLUMBIA</b>	<b>PROPOSED LEGISLATION</b>
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**BILLS**

B20-421      Omar Sykes Way Designation Act of 2013

Intro. 07-12-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee of Whole

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B20-422      Certified Business Enterprise Program Enhanced Reform Amendment Act of 2013

Intro. 07-12-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business, Consumer, and Regulatory Affairs

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**PROPOSED RESOLUTION**

PR20-401      Board of Veterinary Examiners Dr. Aruna Noon Kampani Confirmation Resolution of 2013

Intro. 07-12-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

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**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
NOTICE OF PUBLIC ROUNDTABLE**  
1350 Pennsylvania Avenue, NW, Washington, DC 20004

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**CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
ANNOUNCES A PUBLIC ROUNDTABLE**

on

**PR 20-375, Collective Bargaining Agreement between the District of Columbia Department of General Services and Teamster Locals 63 and 730, Affiliated with the International Brotherhood of Teamsters, FY 2013-2017, Approval Resolution of 2013**

on

**Tuesday, September 24, 2013  
11:00 a.m., Hearing Room 412, John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004**

Council Chairman Phil Mendelson announces the scheduling of a public roundtable of the Committee of the Whole on PR 20-375, Collective Bargaining Agreement between the District of Columbia Department of General Services and Teamster Locals 63 and 730, Affiliated with the International Brotherhood of Teamsters, FY 2013-2017, Approval Resolution of 2013. The roundtable will be held at 11:00 a.m. on Tuesday, September 24, 2013 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of PR 20-375 is to approve a compensation agreement between the Department of General Services and Teamster Locals 63 and 730. The purpose of this roundtable is to receive testimony regarding the suitability of the compensation agreement. Note that the Committee anticipates the introduction of additional compensation agreements after the Council returns from recess in which event this notice will be revised to request testimony regarding those agreements, as well, during this roundtable.

Those who wish to testify should contact Ms. Christina Setlow, Legislative Counsel, at (202) 724-8196, or via e-mail at [csetlow@dccouncil.us](mailto:csetlow@dccouncil.us), and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Friday, September 20, 2013. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on Friday, September 20, 2013 the testimony will be distributed to Councilmembers before the roundtable. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. A copy of the proposed resolution can be obtained through the Legislative Services Division of the Secretary of the Council's office or on <http://dcclims1.dccouncil.us/lims>.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on September 27, 2013.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS  
CALENDAR

WEDNESDAY, JULY 31, 2013  
2000 14<sup>TH</sup> 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-00066;** Pure Hospitality, LLC, t/a Bandolero, 3241 M Street NW, License #75631, Retailer CR, ANC 2E

**Renewal Application**

**Protest Hearing (Status) 9:30 AM**

**Case # 13-PRO-00065;** GBP, LLC, t/a Tackle Box, 3245 M Street NW, License #84952, Retailer CR, ANC 2E

**Renewal Application**

**Protest Hearing (Status) 9:30 AM**

**Case # 13-PRO-00062;** The Griffin Group, LLC, t/a Policy, 1904 14th Street, NW, License #76804, Retailer CR, ANC 2B

**Renewal Application**

**Show Cause Hearing (Status) 9:30 AM**

**Case # 13-CMP-00111;** Sammy, LLC, t/a D.C. Mini Supermarket, 1828 1<sup>st</sup>, Street NW, License #77803, Retailer B, ANC 5E

**Failed to Post ABC License, No ABC Manager on Duty**

**Show Cause Hearing (Status) 9:30 AM**

**Case # 13-AUD-000378;** Mixtec, Inc., t/a Mixtec, 1792 Columbia Road NW, License #7374, Retailer CR, ANC 1C

**Failed to File Quarterly Statements (4th Quarter 2012)**

**Show Cause Hearing (Status) 9:30 AM**

**Case # 13-AUD-00028;** La Teberna Del Alabardero, Inc., t/a Taberna Del, Alarbardero, 1776 I Street NW, License #13218, Retailer CR, ANC 2B

**Failed to File Quarterly Statements (4th Quarter 2012)**

Board's Calendar

Page -2- July 31, 2013

**Show Cause Hearing (Status)**

**9:30 AM**

**Case # 13-AUD-00040;** Hyatt Corporation, t/a Park Hyatt Washington, 1201, 24th Street NW, License #23759, Retailer CH, ANC 2A  
**Failed to File Quarterly Statements (4th Quarter 2012)**

**Show Cause Hearing**

**10:00 AM**

**Case # 12-CMP-00677;**Tanger Corporation, t/a Tangier Lounge, 2305 18<sup>th</sup>, Street NW, License #87902, Retailer CR, ANC 1C  
**Substantial Change In Operation Without Board Approval, Permitting Sale/Service/Consumption of Alcoholic Beverages After Hours, Violation of Settlement Agreement**

**Show Cause Hearing**

**11:00 AM**

**Case # 12-AUD-00057;** Garay Corporation, t/a Corina's Restaurant, 831 Kennedy Street NW, License #79873, Retailer CR, ANC 4D  
**Failed to File Quarterly Statements**

**BOARD RECESS AT 12:00 PM**

**ADMINISTRATIVE AGENDA**

**1:00 PM**

**Protest Hearing**

**2:30 PM**

**Case # 13-PRO-00032;** Tropicalia Project, LLC, t/a Bossa Brazilian Bistro, 2463 18th Street NW, License #84505, Retailer CR, ANC 1C  
**Renewal Application**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: July 26, 2013
Petition Date: September 9, 2013
Hearing Date: September 23, 2013
Protest Hearing Date: November 13 2013

License No.: ABRA- 092663
Licensee: Bacio, LLC
Trade Name: Bacio Pizzeria
License Class: Retailer's Class "C" Tavern
Address: 81 Seaton Place, NW
Contact: Paul L. Pascal 202-544-2200

WARD 5 ANC 5E SMD 5E07

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 1:30 pm on November 13, 2013.

NATURE OF OPERATION

New - Tavern that will prepare and sell pizza and prepared pizzeria food products. Recorded music. Seating capacity 19 with a total occupancy of 35(including the summer garden).

HOURS OF OPERATION INCLUDING SUMMER GARDEN

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

HOURS OF SALES/SERVICE/CONSUMPTION INCLUDING THE SUMMER GARDEN

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



## ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

## NOTICE OF PUBLIC HEARING

Posting Date: July 26, 2013  
Petition Date: September 9, 2013  
Hearing Date: September 23, 2013

License No.: ABRA-086876  
Licensee: Sami Restaurant, LLC  
Trade Name: Bistro 18  
License Class: Retailer's Class "C" Restaurant  
Address: 2420 18<sup>th</sup> St. NW  
Contact: Sami Mohsen Ghulas, (202) 494-4609

WARD 1

ANC 1C

SMD 1C03

Notice is hereby given for a request received from the Licensee to terminate the Settlement Agreement applicable to the licensed premises, as approved and incorporated into an order by the Board in Board Order Number 2002-265 on November 13, 2002, as amended by the First Amendment to Settlement Agreement, as approved and incorporated into an order by the Board in Board Order Number 2013-022 on January 16, 2013.

**Parties to the Settlement Agreement: Sami Restaurant, LLC t/a Bistro 18 (formerly: Abebe Tekiha M. t/a Café Liyat), ANC 1C and Kalorama Citizens Association.**

Objectors are entitled to be heard before the granting of such request on the Hearing Date at 10:00 am, 2000 14<sup>th</sup> Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: July 26, 2013
Petition Date: September 9, 2013
Roll Call Hearing Date: September 23, 2013
Protest Hearing Date: November 13, 2013

License No.: ABRA-092662
Licensee: Chupacabra, LLC
Trade Name: Chupacabra
License Class: Retailer's Class "C" Tavern
Address: 822 H Street, NE
Contact: Michael D Fonseca: 202-625-7700

WARD 6 ANC 6A SMD 6A01

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 license on the Roll Call Hearing Date at 10:00 am, 2000 14th Street, N.W., 400 South, 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 on November 13, 2013

NATURE OF OPERATION

New Tavern, Latin & Tagueria kitchen serving tacos and other Latin dishes. Recorded Background music will be provided. No nude performances. Total Occupant load #96, Seating #56, Summer Garden Seats #40, Sidewalk Cafe Seats #60

HOURS OF OPERATION

Sunday through Thursday: 6am-3am and Friday and Saturday: 6am-4am

HOURS OF ALCOHOLIC BEVERAGE SALES SERVICE/CONSUMPTION

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

SUMMER GARDEN AND SIDEWALK CAFÉ HOURS OF OPERATION

Sunday through Thursday: 6am-3am and Friday and Saturday: 6am-4am

SUMMER GARDEN AND SIDEWALK CAFÉ HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Thursday: 8am-2am, Friday and Saturday: 8am-3am

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

Posting Date: July 26, 2013  
Petition Date: September 09, 2013  
Hearing Date: September 23, 2013  
Protest Hearing Date: November 13, 2013

License No.: ABRA-092719  
Licensee: Fuel 1747 Penn LLC  
Trade Name: Custom Fuel/ Fuel Pizza  
License Class: Retailer’s Class “C” Restaurant  
Address: 1741 Pennsylvania Avenue, N.W.  
Contact: Paul Strauss, 202-220-3100

WARD 2            ANC 2B            SMD 2B06

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 license on the Hearing Date at 10:00 am, 2000 14<sup>th</sup> Street, N.W., 400 South, 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 4:00 pm on November 13, 2013.

**NATURE OF OPERATION**

New restaurant. A fast, casual establishment serving pizza, wings and salads. Occupancy load is 49. Sidewalk Café with 18 seats.

**HOURS OF OPERATION**

Sunday through Thursday 11 am – 2 am: Friday and Saturday 11 am – 3 am

**HOURS OF SALES/SERVICE/CONSUMPTION**

Sunday through Thursday 11 am – 2 am: Friday and Saturday 11 am – 3 am

**HOURS OF OPERATION, SALES/SERVICE/CONSUMPTION OF  
SIDEWALK CAFE**

Sunday through Thursday 11 am – 2 am: Friday and Saturday 11 am – 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: July 26, 2013
Petition Date: September 9, 2013
Roll Call Hearing Date: September 23, 2013
Protest Hearing Date: November 13, 2013

License No.: ABRA-092773
Licensee: DACI ENTERPRISES, LLC
Trade Name: Dacha Beer Garden
License Class: Retailer's Class "D" Tavern
Address: 1600 7th St NW
Contact: Ilya A. Alter: 202-524-8790/301-806-0666

WARD 6 ANC 6E SMD 6E01

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 license on the Roll Call Hearing Date at 10:00 am, 2000 14th Street, N.W., 400 South, 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 1:30 pm on November 13, 2013.

NATURE OF OPERATION

New Tavern. The establishment will offer a choice of draft beers and light fare. Food will be pre-cooked offsite and reheated on site. It will be outfitted with a 20'-foot x 8'-foot pre-fabricated building that will be connected to public sewer and water supply and will have the following functions; 1. To provide service counter space, 2. Store and refrigerate beer kegs, 3. Reheat remotely prepared light fare on a griddle, 4. Wash beer glasses in a code compliant three compartment sink, 5. Wash glasses in an automatic glass washer, store a supply of bottled water in an under counter refrigerator. Total Occupancy load #190, Sidewalk Café Seats #30.

HOURS OF OPERATION

Sunday: 12pm-10:30pm, Monday-Thursday: 4pm-10:30pm, Friday: 4pm-11:59pm, Saturday:12pm-11:59pm

HOURS OF ALCOHOLIC BEVERAGE SALES SERVICE/CONSUMPTION

Sunday: 12pm-10pm, Monday-Thursday: 4pm-10pm, Friday: 4pm-11:30pm, Saturday: 12pm-11:30pm

SIDEWALK CAFÉ HOURS OF OPERATION

Sunday: 12pm-10:30pm, Monday-Thursday: 4pm-10:30pm, Friday: 4pm-11:59pm, Saturday: 12pm-11:59pm

SIDEWALK CAFÉ HOURS OF ALCOHOLIC BEVERAGE/SALES/SERVICE/CONSUMPTION

Sunday:12pm-10pm, Monday-Thursday: 4pm-10pm, Friday: 4pm-11:30pm, Saturday: 12pm-11:30pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: July 26, 2013
Petition Date: September 09, 2013
Hearing Date: September 23, 2013
Protest Hearing Date: November 13, 2013

License No.: ABRA-092792
Licensee: Four Five Eight LLC
Trade Name: INDIGO-Indian food on the go!
License Class: Retailer's Class "C" Restaurant
Address: 243 K Street, N.E.
Contact: Dinesh Tandon 202 460-7431

WARD 6 ANC 6C SMD 6C06

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 license on the Hearing Date at 10:00 am, 2000 14th Street, N.W., 400 South, 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 4:00 pm on November 13, 2013.

NATURE OF OPERATION

New restaurant, serving Indian food. Occupancy load is 60. Sidewalk Café with 65 seats. Live Entertainment.

HOURS OF OPERATION

Sunday through Thursday 7 am – 2 am: Friday and Saturday 7 am – 3 am

HOURS OF SALES/SERVICE/CONSUMPTION

Sunday through Thursday 8 am – 2 am: Friday and Saturday 8 am – 3 am

HOURS OF OPERATION OF SIDEWALK CAFE

Sunday through Thursday 7 am – 2 am: Friday and Saturday 7 am – 3 am

HOURS OF SALES/SERVICE/CONSUMPTION OF SIDEWALK CAFE

Sunday through Thursday 8 am – 2 am: Friday and Saturday 8 am – 3 am

HOURS OF ENTERTAINMENT FOR INSIDE AND SIDEWALK CAFE

Sunday through Thursday 6 pm -2 am: Friday and Saturday 6 pm – 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: June 26, 2013
Petition Date: September 9, 2013
Roll Call Hearing Date: September 23, 2013

License No.: ABRA-060614
Licensee: Plaza, Inc..
Trade Name: La Plaza Mexican Restaurant
License Class: Retailer's Class "C" Restaurant
Address: 629 Pennsylvania Ave., SE.
Contact: Henry Menddoza: 202-546-5489

WARD 6 ANC 6B SMD 6B02

Notice is hereby given that this licensee has applied for a substantial change to its License under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such change 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.

LICENSEE REQUESTING TO ADD ENTERTAINMENT ENDORSEMENT TO THE LICENSE

HOURS OF LIVE ENTERTAINMENT

Sunday through Saturday: 10am-11pm

CURRENT APPROVED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES AND CONSUMPTION

Sunday through Thursday: 10am-2am, Friday and Saturday: 10am-3am

CURRENT APPROVED SIDEWALK CAFÉ HOURS OF OPERATION AND SALES AND CONSUMPTION

Sunday through Saturday: 10am-12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: July 26, 2013
Petition Date: September 9, 2013
Roll Call Hearing Date: September 23, 2013

License No.: ABRA-074712
Licensee: Dalunas, LLC
Trade Name: Marx Café American Bar
License Class: Retailer’s Class “C” Restaurant
Address: 3203 Mt Pleasant St, NW
Contact: Dallas Haris 202-518-7600

WARD 1

1D

1D04

Notice is hereby given that this applicant has applied for a substantial change to its 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.

NATURE OF SUBSTANTIAL CHANGE:

Request is for a class change from” C “ Restaurant to a “C” Tavern

APPROVED HOURS OF OPERATION

Sunday through Thursday 11 am – 2 am Friday & Saturday 11 am – 3 am

SALES/SERVICE/CONSUMPTION

Sunday through Thursday 11 am – 1:30 am Friday & Saturday 11 am – 2:30 am

ENTERTAINMENT ENDORSEMENT

Sunday through Saturday 6 pm – 1:30 am

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

Posting Date: July 26, 2013  
Petition Date: September 9, 2013  
Hearing Date: September 23, 2013

License No.: ABRA-076754  
Licensee: Notta Tav Urne, LLC  
Trade Name: Pi  
License Class: Retail Class "C" Restaurant  
Address: 2309 18<sup>th</sup> Street NW  
Contact: Alireza Halighali 202-232-6146

WARD 1

ANC 1D

SMD1D04

Notice is hereby given for a request received from the Licensee to terminate the Settlement Agreement applicable to the licensed premises, as approved and incorporated into an order by the Board in Board Order Number 2005-39 on February 14, 2005.

**Parties to the Settlement Agreement: Notta Tav Urne, LLC, Reed Cooke Neighborhood Association and the Kalorama Citizens Association**

Objectors are entitled to be heard before the granting of such request on the Hearing Date at 10:00 am, at 2000 14<sup>th</sup> Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date.



ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: July 26, 2013
Petition Date: September 9, 2013
Hearing Date: September 23, 2013
Protest Hearing Date: November 13, 2013

License No.: ABRA-092684
Licensee: 301 Romeo, LLC
Trade Name: Romeo & Juliet
License Class: Retailer's Class "C" Restaurant
Address: 301 Massachusetts Avenue NE
Contact: Andrew J. Kline, 202-686-7600

WARD 6 ANC 6C SMD 6C02

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, 2000 14th Street, N.W, 4th Floor, 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 on November 13, 2013.

NATURE OF OPERATION

New restaurant serving American food. No entertainment. Seating for 90 patrons, Total occupancy load is 90. Sidewalk Café with seating for 170 patrons.

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**

**NOTICE OF PUBLIC HEARING**

Posting Date: July 26, 2013  
Petition Date: September 9, 2013  
Hearing Date: September 23, 2013  
Protest Date: November 13, 2013

License No.: ABRA-092766  
Licensee: Blagden Alley Entertainment, LLC  
Trade Name: The American  
License Class: Retailer’s Class “C” Restaurant  
Address: 1209 – 1213 10<sup>th</sup> Street, NW  
Contact: Paul Pascal (202) 544-2200

WARD 2            ANC 2F            SMD 2F06

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 hearing date at 10:00 am, 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for 1:30pm on November 13, 2013

**NATURE OF OPERATION**

Classic American Bistro with 70 seats with recorded music and Summer Garden with 75 seats. Total occupancy load of 175.

**HOURS OF OPERATION FOR INSIDE PREMISE AND OUTSIDE SUMMER GARDEN**

Sunday through Thursday 7 am – 2 am and Friday & Saturday 7 am – 3 am

**HOURS OF ALCOHOLIC BEVERAGES SALES/SERVICE/CONSUMPTION FOR INSIDE PREMISE AND OUTSIDE SUMMER GARDEN**

Sunday through Thursday 8 am – 2 am and Friday & Saturday 8 am – 3 am

## ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

## NOTICE OF PUBLIC HEARING

Posting Date: July 26, 2013  
Petition Date: September 9, 2013  
Hearing Date: September 23, 2013

License No.: ABRA-086012  
Licensee: The Juniper Group, LLC  
Trade Name: The Blaguard  
License Class: Retailer's Class "C" Restaurant  
Address: 2003 18<sup>th</sup> St. NW  
Contact: Nicolas Makris 202-232-9005

WARD 1

ANC 1C

SMD 1C07

Notice is hereby given for a request received from the Licensee to terminate the Settlement Agreement applicable to the licensed premises, as approved and incorporated into an order by the Board in Board Order Number 2002-275 on December 17, 2002.

**Parties to the Settlement Agreement: Juniper Group, LLC t/a The Blaguard (formerly: Salgon Corporation t/a The Common Share), ANC 1C and Kalorama Citizens Association.**

Objectors are entitled to be heard before the granting of such request on the Hearing Date at 10:00 am, 2000 14<sup>th</sup> Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date.

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**

**NOTICE OF PUBLIC HEARING**

Posting Date: July 26, 2013  
Petition Date: September 9, 2013  
Hearing Date: September 23, 2013  
Protest Date: November 13, 2013

License No.: ABRA-092202  
Licensee: Wal-Mart Stores East, LP  
Trade Name: Wal-Mart  
License Class: Retailer’s Class “B” Full Grocery Store  
Address: 99 H Street, NW  
Contact: Michael Fonseca (202) 625-7700

WARD 6                      ANC 6E                      SMD 6E07

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 hearing date at 10:00 am, 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for 1:30pm on November 13, 2013.

**NATURE OF OPERATION**

Full service grocery store with accessory retailer sales and provides underground parking for patrons. Requesting a tasting permit.

**HOURS OF OPERATION**

Sunday through Saturday 6 am – 12 am

**HOURS OF ALCOHOLIC BEVERAGES SALES/SERVICE/CONSUMPTION**

Sunday through Saturday 7 am – 12 am

## 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 4<sup>th</sup> 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 4<sup>th</sup> 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](mailto:lincoln.lashley@dc.gov), and questions about this hearing should be directed to him at (202) 741-0814.

**BOARD OF ZONING ADJUSTMENT  
PUBLIC HEARING NOTICE  
TUESDAY, OCTOBER 1, 2013  
441 4<sup>TH</sup> STREET, N.W.  
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH  
WASHINGTON, D.C. 20001**

**TO CONSIDER THE FOLLOWING:** The Board of Zoning Adjustment will adhere to the following schedule, but reserves the right to hear items on the agenda out of turn.

**1:00 P.M. AFTERNOON HEARING SESSION**

**A.M.**

**WARD SIX**

18625            **Application of James and Barbara Loots**, pursuant to 11 DCMR §  
ANC-6B           3104.1, for a special exception under section 223, to allow an addition to a  
flat (two-family dwelling) not meeting the lot occupancy (section 403) and  
nonconforming structure (subsection 2001.3) requirements in the R-4  
District at premises 634 G Street, S.E. (Square 877, Lot 926).

**WARD TWO**

18621            **Application of Laborer’s International Union of North America**,  
ANC-2B           pursuant to 11 DCMR §§ 3104.1 and 3103.2, special exceptions under  
sections 506, 537, 777 and 2514, and variances under sections 530, 531  
and 774, to construct additions to an existing office building in the SP-2  
and C-4 Districts at premises 901 16th Street, N.W. (Square 199, Lots 61  
and 824).

**WARD FOUR**

18622            **Application of Laurence and Andrea Gibbons**, pursuant to 11 DCMR §  
ANC-4C           3103.2, for a variance from the lot area requirements under section 401.3,  
to construct a new one-family detached dwelling in the R-1-B District at  
premises 4301 16<sup>th</sup> Street, N.W. (Square 2698, Lot 37).

**WARD EIGHT**

18624            **Appeal of Sameh Azzam**, pursuant to 11 DCMR §§ 3100 and 3101, from  
ANC-8D           an April 19, 2013, decision by the Department of Consumer and  
Regulatory Affairs, to revoke Certificate of Occupancy Permit No.  
CO1301521 for a four unit apartment building in the R-2 District at  
premises 34 Galveston Place, S.W. (Square 6239, Lot 21).

## BZA PUBLIC HEARING NOTICE

OCTOBER 1, 2013

PAGE NO. 2

**PLEASE NOTE:**

Failure of an applicant or appellant to appear at the public hearing will subject the application or appeal to dismissal at the discretion of the Board.

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial. The

public hearing in these cases will be conducted in accordance with the provisions of Chapter 31 of the District of Columbia Municipal Regulations, Title 11, and Zoning. Pursuant to Subsection 3117.4, of the Regulations, the Board will impose time limits on the testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.

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 Board, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application Form.** 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](http://www.dcoz.dc.gov). All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4<sup>th</sup> Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

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

**LLOYD J. JORDAN, CHAIRMAN, S. KATHRYN ALLEN, VICE CHAIRPERSON, JEFFREY L. HINKLE AND A MEMBER OF THE ZONING COMMISSION ----- BOARD OF ZONING ADJUSTMENT, CLIFFORD W. MOY, SECRETARY TO THE BZA, SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING.**

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

**TIME AND PLACE:**                      **Thursday, September 26, 2013, @ 6:30 p.m.**  
**Jerrily R. Kress Memorial Hearing Room**  
**441 4<sup>th</sup> Street, N.W. Suite 220-S**  
**Washington, D.C. 20001**

**FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:**

**CASE NO. 13-07 (David Belt - Zoning Consistency Map Amendment to a Portion of Square 5081)**

**THIS CASE IS OF INTEREST TO ANC 7D**

On April 19, 2013, the Office of Zoning received a petition (“Petition”) from David P. Belt (“Petitioner”) for a map amendment to rezone Lots 11-22, 52, 804, 805, and 806 in Square 5081 (“Subject Property”) from the C-3-A to the R-1-B Zone District. The Office of Planning (“OP”) indicated in its report dated June 28, 2013, that an amendment to the R-5-A Zone District would better reflect the Moderate-Density Residential designation for most of the Subject Property on the Future Land Use Map and avoid the creation of nonconformities. OP suggested that the Commission could advertise an amendment to the R-5-A Zone District either alone or in the alternative and stated that the Petitioner did not oppose an R-5-A amendment. The Zoning Commission at its public meeting held July 8, 2013 set down the Petition as an amendment to the R-5-A Zone District only.

The Subject Property has an approximate land area of 59,800 square feet (1.33 acre). This portion of Square 5081 is abutted by a public alley 16 feet wide along the northern (rear) and eastern (side) perimeters, and Benning Road and 39<sup>th</sup> Street along the southern (front) and western (side) perimeters, respectively, in Northeast Washington, D.C.

The R-5-A Zone District is designed to permit all types of urban residential development that conform to certain height, density, and area requirements. Only low height and density are permitted in this district and proposed residential development, not consisting of one-family detached or semi-detached dwellings, is subject to special exception review.

Proposed amendments to the Zoning Map of the District of Columbia are authorized pursuant to the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 *et seq.*)

The public hearing on this case will be conducted as a rulemaking in accordance with the provisions of § 3021 of the District of Columbia Municipal Regulations, Title 11, Zoning.

The Commission will impose time limits on testimony presented to it at the public hearing.



**Z.C. NOTICE OF PUBLIC HEARING  
Z.C. CASE NO. 13-07  
PAGE 2**

All individuals, organizations, or associations wishing to testify in this case should file their intention to testify writing. Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusion in the record.

Information should be forwarded to the Secretary of the Zoning Commission, Office of Zoning, Suite 210, 441 4<sup>th</sup> Street, N.W., Washington, D.C. 20001. Please include the number of the particular case and your daytime telephone number. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

**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.**

**OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES****ERRATA NOTICE**

The Administrator of the Office of Documents and Administrative Issuances (ODAI), pursuant to the authority set forth in Section 309 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1203; D.C. Official Code § 2-559 (2012 Repl.)), hereby gives notice of a correction to Section 3103 of Chapter 31 of Title 11 of the District of Columbia Municipal Regulations (DCMR), which was amended by a Notice of Final Rulemaking issued by the Zoning Commission and published in the *D.C. Register* on June 14, 2013 at 60 DCR 8967.

The non-substantive changes are to correct typographical errors. The corrections are made explicit by this Errata Notice for consistency of citation.

**Section 3103 of Chapter 31 of Title 11 is amended as follows:**

In Section 3103.7, the section identified as 3103.1 is corrected to be numbered 3103.2.

In Subsection 3103.7(a), the subsection identified as 3103.1 is corrected to be numbered 3103.2.

In Subsection 3103.7(b), the subsection identified as 3103.1 is corrected to be numbered 3103.2.

Any questions or comments regarding this notice shall be addressed by mail to Victor L. Reid, Esq., Administrator, Office of Documents and Administrative Issuances, 441 4<sup>th</sup> Street, N.W., Suite 520 South, Washington, D.C. 20001, or via telephone at (202) 727-5090.

**DISTRICT DEPARTMENT OF THE ENVIRONMENT****NOTICE OF FINAL RULEMAKING****Regulations to Implement the Lead Hazard Prevention and Elimination Act of 2008  
and the Lead Hazard Prevention and Elimination Amendment Act of 2010**

The Director of the District Department of the Environment (DDOE), pursuant to the authority set forth in the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.01 *et seq.* (2008 Repl. & 2012 Supp.)), the Childhood Lead Screening Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-265; D.C. Official Code § 7-871.03 (2008 Repl. & 2012 Supp.)), the Transfer of Lead Poison Prevention Program to the District Department of the Environment Amendment Act of 2008, effective August 16, 2008 (D.C. Law 17-219; 55 DCR 7602 (July 18, 2008)), the Lead-Hazard Prevention and Elimination Act of 2008, effective March 31, 2009 (D.C. Law 17-381; D.C. Official Code § 8-231.01 *et seq.* (2012 Supp.)), Mayor's Order 2009-113, dated June 18, 2009, and the Lead Hazard Prevention and Elimination Amendment Act of 2010 ("2011 Amendments"), effective March 31, 2011 (D.C. Law 18-348; 58 DCR 717 (January 28, 2011)), collectively referred to as the "Acts", hereby gives notice of final rulemaking to add a new Chapter 33, entitled Regulation of Lead-Based Paint Activities, to Title 20 (Environment) of the District of Columbia Municipal Regulations (DCMR).

In addition, this rulemaking includes two (2) amendments to the regulations governing the Childhood Lead Poisoning Prevention Program, located in Chapter 73 of Subtitle B (Public Health and Medicine) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR). The D.C. Council transferred the Childhood Lead Poisoning Prevention Program, formerly with the Department of Health, to DDOE in 2008. The first amendment to the screening rules makes the rules conform to the "Childhood Lead Screening Amendment Act of 2006," effective March 14, 2007 (D.C. Law 16-265; D.C. Official Code § 7-871.03 (2008 Repl. & 2012 Supp.)). Consistent with current standard practices nationwide, the second proposed amendment to the screening rules limits the method by which laboratories are required to report blood lead data to the Childhood Lead Poisoning Prevention Program.

Lead is a powerful neurotoxin that can produce irreversible health effects for those who are exposed to it. Children younger than six (6) years old and pregnant women are particularly at risk for harm caused by lead poisoning. Lead is prevalent in paint sold before 1978, the year that the Consumer Product Safety Commission banned its use for residential purposes. More than eighty percent (80%) of the District of Columbia's housing stock was built prior to 1978. The federal government considers the District a high-risk jurisdiction with respect to the likelihood of the presence of lead paint in residential housing.

It is generally acknowledged that lead safety can be increased by property owners maintaining paint in intact condition, and by ensuring that contractors and others who disturb paint in or on pre-1978 structures use lead-safe work practices, thereby preventing lead-based paint hazards from being generated. These regulations establish the legal landscape that promotes these desired outcomes.

## I. Summary of the Acts and Regulations

The regulations will allow DDOE to fulfill the intent of the Acts in a manner that is effective and protective of public health, without unduly burdening the regulated community. These regulations implement provisions of the Acts, which require all dwelling units, common areas of multifamily properties, and child-occupied facilities constructed before 1978 to be maintained free of lead-based paint hazards.

The Acts require property owners to disclose the presence of any lead-based paint or lead-based paint hazards “reasonably known to the owner” before a tenant or purchaser may be obligated on a lease or contract of sale. Owners must also disclose if there is any District government action pending against the owner related to enforcement of the Acts. Under certain circumstances, in tenant households that include a child under the age of six (6) or a pregnant woman, either as a member of the household or as a regular visitor to the home, the owner is required to provide the tenant with a clearance report that confirms lead safety.

The Acts and the regulations mandate that lead-safe work practices be followed when any worker is involved in eliminating lead-based paint hazards or in disturbing any paint on any pre-1978 residential property or child-occupied facility. When lead-based paint hazards are being eliminated, the regulations require clearance procedures after the work has been completed, to ensure the hazards have been effectively eliminated. The scope of those clearance procedures varies, based upon the specific circumstances triggering the hazard elimination activities.

The Acts and § 3317 of the regulations implement the procedures governing access by DDOE personnel, landlords, and their agents to properties under the Acts. DDOE has the authority to inspect property reasonably believed to be subject to the Acts.

The Acts establish certain basic certification requirements for each of the particular disciplines that perform lead-based paint activities. DDOE imposes additional criteria and procedures for certification in § 3307. The regulations continue the current requirement that an abatement permit be obtained before performing abatement, but also establish three discrete exceptions to those requirements, as specified in § 3316.2. The regulations also clarify in § 3316 when the raze or demolition of a pre-1978 building triggers an abatement permit.

DDOE may enforce the Acts through issuance of a Notice of Violation and an Order to Eliminate Lead-Based Paint Hazards, which require the owner to perform specific measures for elimination of any identified lead-based paint hazards and underlying conditions, or any other action necessary to protect the health and safety of the property occupants, including relocation. The regulations further define the instances in which the District government is authorized to seek enforcement actions, including reimbursement for its costs when the owner has failed to comply with DDOE directives. Reimbursement for costs is in addition to any fines or other penalties that may be imposed on the owner.

## **II. First Proposed Rulemaking Published on July 22, 2011**

DDOE published proposed regulations to implement the Acts on July 22, 2011 (58 DCR 6035). Public review of these proposed regulations during the 30-day comment period included several meetings DDOE staff held with stakeholders. Public comments received by DDOE regarding the July 22, 2011 Proposed Rules (hereinafter “July 2011 rulemaking”) contained requests for substantive changes. DDOE reviewed and considered all comments received, and also took into account comments aired at the stakeholder meetings.

Some of the commenters argued for viable alternative approaches, some of which were incorporated into the Second Proposed Rulemaking. In so doing, DDOE also consulted with key sister agencies, such as the Department of Consumer and Regulatory Affairs and the Office of the Tenant Advocate. DDOE also decided to re-organize the proposed regulations into a new sequence that conforms more closely to the standard format for regulations.

## **III. Second Proposed Rulemaking Published on August 31, 2012**

Draft revisions to the July 2011 rulemaking were placed on DDOE’s website on April 3, 2012, and notification that they were available for public scrutiny was sent that same day to hundreds of stakeholders, including lead training providers, abatement contractors, lead-based paint inspectors and risk assessors, lead project designers, residential property owners and managers, the DC Building Industry Association (DCBIA), the Apartment and Office Building Association (AOBA), and environmental health advocates. This stakeholder notification also included an invitation to review the draft revisions and attend a broad, informal meeting on April 18, 2012, at which DDOE would present its draft revisions to the July 2011 rulemaking and receive additional feedback regarding the draft revisions and any changes offered by participants for DDOE’s consideration. The April 18 meeting was attended by a broad array of stakeholders. DDOE also held an April 24, 2012 meeting, requested by AOBA, to afford AOBA members and staff an opportunity to comment on the draft revisions and propose other changes. On May 16, AOBA submitted additional written comments to DDOE.

DDOE reviewed and thoroughly considered all comments received on the July 2011 rulemaking, the April 3, 2012 draft revisions, and at the public meetings. Overall, stakeholders provided valuable insights and feedback, enabling DDOE to refine and significantly improve its earlier proposed rule and draft revisions. The Second Proposed Rulemaking was published on August 31, 2012 (59 DCR 10451) and superseded the proposed regulations published on July 22, 2011. The public comment period was extended for an additional 30 days, to November 1, 2012, in response to requests by several stakeholders.

#### **IV. Third Proposed Rulemaking Published on April 26, 2013**

DDOE again received extensive comments on the Second Proposed Rulemaking, which resulted in a number of significant amendments to a Third Proposed Rulemaking, published April 26, 2013 (60 DCR 6062), summarized as follows:

##### **A. Statutory Presumption of Lead-Based Paint**

The second proposed rulemaking stated that there was a statutory presumption that lead-based paint exists in the interior and exterior of dwelling units and child-occupied facilities as well as common areas of multifamily properties, constructed prior to 1978. In response to a comment, DDOE reviewed the statutory language and found that the presumption does not apply to common areas of multifamily properties. Accordingly, § 3301.1 was revised to reflect that the presumption of lead-based paint in pre-1978 properties does not extend to common areas of multifamily dwelling units.

##### **B. Additional Lead-Safe Work Practices and Prohibited Practices**

DDOE accepted the recommendations of two commenters who offered specific language in § 3302 to make the section more consistent with federal regulations. DDOE also adopted a commenter's suggestion that the rules should explicitly prohibit the use of new paint containing lead above the regulatory limit required by the US Consumer Product Safety Commission, and inserted that provision in § 3304.2.

##### **C. Revision of Certification Requirements for Lead-Based Paint Inspectors**

One commenter recommended deleting the educational background requirements for an individual applying to become a lead-based paint inspector, in § 3307.3. The comment noted that federal regulations do not impose educational background requirements for inspectors. DDOE deleted those educational prerequisites, but retained its proposed requirements pertaining to relevant experience in assisting with lead-based paint inspections, to help assure a minimum standard of competence for the lead-based paint inspector position.

##### **D. Advance Notice to DDOE of Dust Sampling**

Several commenters expressed concern that the proposed requirement that DDOE be provided advance notice prior to any dust sampling taking place would be unduly onerous for the regulated community and would result in a significant administrative burden for DDOE. One commenter suggested that advance notice to DDOE be required in instances of sampling activities related only to enforcement actions, and DDOE decided to take this approach. Accordingly, the advance notice requirement appears only in §§ 3315.7, 3316.10(d) and 3318.7(c).

### **E. Limited Exterior Dust and Soil Sampling**

One commenter recommended eliminating exterior dust and soil sampling from proposed clearance examination protocols, or at least limiting such sampling to the property subject to the clearance requirement. DDOE chose the latter course, limiting §§ 3310.4(c), 3316.11(c)(4) and (c)(5), and § 3318.7(a)(6) and (a)(8) accordingly, and eliminating the requirement altogether from § 3316.10.

### **F. Consistent Clearance Report Submission Deadlines**

One commenter urged DDOE to impose clearance report submission deadlines that reflect the same time limit throughout the proposed regulations, regardless of the type of activity to which the clearance report is associated. DDOE did so, establishing a seven (7)-day deadline for submitting any clearance report to the agency.

### **G. Revised Renovation Requirements**

One commenter asked that provisions be added to § 3310 to exempt properties from the renovation permit requirement, provided the owner is able to document in a manner consistent with EPA regulations that the properties in question do not contain any lead-based paint. In response, DDOE added § 3310.3. A commenter also recommended that DDOE specify that renovation activities that qualify as “emergency renovations” pursuant to federal regulations be exempt from pre-renovation education, documentation and other relevant requirements. In response, DDOE added §§ 3310.10, 3310.11 and 3310.13.

### **H. Capped Fees**

One commenter pointed out that other jurisdictions have capped their lead-related permit fees at a maximum of \$500 and recommended that DDOE do so as well. Accordingly, DDOE set a proposed regulatory cap of \$500 for its lead-related permits, at §§ 3322.5 and 3322.6.

### **I. Amended Definitions**

Two commenters pointed out that the proposed definition for “Regularly Visits” was problematic, and they both recommended changes. DDOE chose to amend this provision to be consistent with the EPA’s definition of the same term. In addition, DDOE decided to define the previously undefined term, “Work Area,” given its significance in a variety of provisions in these proposed regulations.

## **V. Final Rulemaking**

DDOE received three (3) sets of comments on its Third Proposed Rulemaking by the closing date of May 28, 2013. Two of the three commenters praised DDOE for its iterative process and for the resulting improvements in the proposed regulations. One of them expressed full support

for the Third Proposed Rulemaking. The second commenter expressed concerns about the underlying statute's broad reach and offered several comments. The third commenter had several questions and a single comment. The comments and DDOE's responses to them can be found on DDOE's website.

In summary, the comments received do not compel DDOE to make any substantive changes to the Third Proposed Rulemaking, and the DDOE Director is therefore issuing these regulations without further request for comment. However, this Final Rulemaking does include several non-substantive changes of a technical order, mostly to clarify some otherwise potentially ambiguous provisions, as well as for the sake of internal consistency. These technical changes are indicated *in italics*, as follows:

§ 3302.3(e): Keep all plastic sheeting *used to isolate contaminated rooms from non-contaminated rooms* in place until after the cleaning and removal *of other sheeting*,

§ 3307.3(a): Successfully complete an accredited initial training course for lead-based paint inspectors and provide a course completion certificate from a training provider *that is either EPA-accredited, DDOE-accredited, or accredited by an EPA-approved state.*

§ 3307.4(a): Successfully complete an initial training course for lead-based paint inspectors and an initial training course for risk assessors, *and provide course completion certificates from a training provider that is either EPA-accredited, DDOE-accredited, or accredited by an EPA-approved state*, and provide documentation of one (1) of the following[.]

§ 3309.2: A dust sampling technician shall not conduct any clearance examination activities as part of producing an initial clearance report for a property for which DDOE has issued an Order to Eliminate Lead-Based Paint Hazards, nor as part of producing a clearance report following an abatement, *nor for soil clearance purposes.*

§ 3310.8: Each clearance report shall contain a copy of the current DDOE-issued certification card belonging to the *individual that conducted the clearance examination* and the date the clearance report was issued.

§ 3310.14(c): *DDOE strikes the following portion of this provision:* "or if identical to the language in the signed contract produced under § 3310.7(b), a statement to that effect"[.]

§ 3313.5(a): A report [...], conducted pursuant to the 1997 amendments to the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, *or any more recent version thereof*, where the lead-based paint inspector [...]; or

§ 3315.6: Each clearance report shall contain a copy of the current DDOE-issued certification card belonging to the *individual that conducted the clearance examination and the date the clearance report was issued.*



§ 3316.11(e): Each clearance report shall contain a copy of the current DDOE-issued certification card belonging to the *individual that conducted the clearance examination and the date the clearance report was issued*.

The regulations in this Final Rulemaking, including the above-listed technical amendments, shall become effective upon publication in the *D.C. Register*. DDOE notes that a significant period of compliance assistance will follow this rulemaking, with DDOE lead program staff conducting outreach to stakeholder groups and producing materials that will assist the regulated community in understanding their responsibilities under these regulations.

**TITLE 20 DCMR (ENVIRONMENT) is amended as follows:**

**CHAPTER 8 (ASBESTOS, SULFUR, NITROGEN OXIDES AND LEAD) is amended by repealing Section 806 (CONTROL OF LEAD).**

**A new CHAPTER 33 (REGULATION OF LEAD-BASED PAINT ACTIVITIES) is added to read as follows:**

**3300 GENERAL**

3300.1 This chapter governs lead-based paint hazard elimination and prevention activities in the District of Columbia and implements the Lead Hazard Prevention and Elimination Act of 2008 and the Lead Hazard Prevention and Elimination Amendment Act of 2010 (“the Acts”).

3300.2 The Acts and these regulations require owners of the following structures in the District of Columbia built before 1978 to be maintained free of lead-based paint hazards:

- (a) Residential dwelling units, including those in multifamily properties;
- (b) Common areas of multifamily properties; and
- (c) Child-occupied facilities, such as daycare centers, preschool programs, or kindergarten classrooms.

**3301 PRESUMPTION OF LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS**

3301.1 The interior and exterior of dwelling units and child-occupied facilities are presumed to contain lead-based paint if constructed prior to 1978, and any paint that is deteriorated, chipping, peeling, or otherwise not in intact condition is considered to be a lead-based paint hazard and is prohibited.

3301.2 This presumption may be rebutted by a lead-based paint inspection report, prepared by a lead-based paint inspector or a risk assessor, which documents that the paint in question is not lead-based paint.

3301.3 The presence of deteriorated paint in residential premises and child-occupied facilities constructed prior to 1978, which constitutes a lead-based paint hazard if no documentation is produced proving it is not lead-based paint, shall trigger enforcement action.

**3302 LEAD-SAFE WORK PRACTICES: GENERAL**

3302.1 Except as provided in § 3303, or if a dwelling unit qualifies as a “lead-free unit” in accordance with either § 3314.5, § 3314.6 or § 3314.7, any individual, firm or entity engaged in an activity that disturbs a painted surface and that by so doing

may generate a lead-based paint hazard, such as paint chips, dust, or debris, shall use lead-safe work practices as set forth in this chapter and D.C. Official Code § 8-231.11 whenever the property or facility was built prior to 1978.

3302.2 Except as provided in § 3303, the use of lead-safe work practices, as set forth in this chapter and D.C. Official Code § 8-231.01 *et seq.*, is required of individuals, firms, or business entities performing renovation, remodeling, maintenance, repairs, gut rehab, demolition, carpentry, HVAC, roofing, siding, plumbing, painting, or electrical work, inside or on the exterior surfaces of a dwelling unit or a child-occupied facility, if there is a danger of lead-based paint hazards being generated.

3302.3 An owner, individual, firm, or business entity shall:

- (a) Prepare interior work areas by removing personal belongings, rugs, and window coverings, or by covering same with plastic whose seams and edges are taped or otherwise sealed;
- (b) Prepare exterior work areas by removing any moveable items or by covering them with plastic whose seams and edges are taped or otherwise sealed;
- (c) Post signs that clearly define each work area, warn occupants and others who are not involved in the work to remain outside of the work area, to the extent practicable are in the primary language of the occupants, are posted before the work begins, and remain readable and in place until the work has been completed, including the completion of the appropriate cleaning verification process;
- (d) Use plastic sheeting to isolate contaminated rooms from non-contaminated rooms;
- (e) Keep all plastic sheeting used to isolate contaminated rooms from non-contaminated rooms in place until after the cleaning and removal of other sheeting;
- (f) Dispose of any plastic sheeting as waste;
- (g) Cover the floor and any furniture with a taped-down plastic covering or other impermeable material that will not tear easily;
- (h) Close all windows and doors in the work area;
- (i) For interior work, the secure covering shall extend at least six feet (6 ft.) beyond the perimeter of surfaces where work that disturbs painted surfaces is taking place;

- (j) For exterior work, cover the soil, grass, or concrete with a taped-down or otherwise secured plastic sheeting or other disposable impermeable material that will not tear easily, and extend the covering to at least ten feet (10 ft.) beyond the perimeter of surfaces where work that disturbs painted surfaces is taking place;
- (k) For work that will affect surfaces within ten feet (10 ft.) of the property line, erect vertical containment or equivalent extra precautions in containing the work area to ensure that dust and debris from the work does not contaminate adjacent buildings or migrate to adjacent properties;
- (l) Isolate interior work areas so that no dust or debris leaves the work areas while work is being performed, while ensuring that such containment does not interfere with occupant and worker egress in case of an emergency;
- (m) Maintain the integrity of the containment by ensuring that any plastic sheeting or other impermeable materials are not torn or displaced;
- (n) For exterior work, close all doors and windows within twenty feet (20 ft.) of any area where work that disturbs painted surfaces is taking place, and on multi-story buildings, close all doors and windows within twenty feet (20 ft.) of such work area on the same floor as the work area, and close all doors and windows on all floors below that are the same horizontal distance from the work area;
- (o) Take reasonable measures to ensure all work clothes, shoes, tools, and other items, including the exteriors of waste containers, are free of dust and debris before workers exit or items are removed from the work area;
- (p) Cover doors located within the area of containment with plastic so that workers can pass through, while confining dust and debris to the work area;
- (q) Take the necessary precautions in containing the work area to ensure no dust or debris leaves the work area while work is being performed or contaminates other buildings or other areas of the property or migrates over to neighboring properties or structures;
- (r) Use a spray bottle to mist any painted surfaces with water prior to scraping, sanding, drilling, or cutting any painted surfaces;
- (s) Close and cover all duct openings in the work area with taped-down plastic sheeting or other impermeable material;
- (t) At least once at the end of each work day, spray-mist and collect all paint chips and debris and seal them in a heavy-duty bag that will not tear easily, without dispersing any paint chips or debris;

- (u) Upon completion of work disturbing painted surfaces, spray-mist and fold all plastic coverings, dirty-side inwards, taping the folded plastic coverings shut or sealing them in heavy-duty bags that do not tear easily;
- (v) At the end of each work day and at the conclusion of all work, store all waste that has been collected under containment in an enclosure or behind a barrier that prevents release of dust and debris out of the work area and that prevents access to dust and debris;
- (w) Cover any chute, if one is used to remove waste from the work area, to prevent any of the waste from escaping and dispersing;
- (x) Contain all waste, when it is being transported from the work areas, to prevent any release of dust or debris;
- (y) Upon completion of work disturbing painted surfaces, clean all objects and surfaces in the work area and within two feet (2 ft.) of the work area, in adherence with the specific methods and requirements prescribed in 40 CFR § 745.85(a)(5); and
- (z) Ensure that the work area and those areas within two feet (2 ft.) of the work area have no visible dust or debris left after the final work area cleanup has been completed.

3302.4 In addition, any owner, individual, firm, or business entity shall:

- (a) Comply with the following work practice standards, as applicable:
  - (1) Work practice standards in 40 CFR § 745.226 and 40 CFR § 745.227, or any successor regulation of EPA;
  - (2) U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) standards relating to lead, including those standards found at 29 CFR § 1926.62 and 29 CFR § 1910.1025, and any successor regulations;
  - (3) U.S. Department of Housing and Urban Development (HUD) Methods and Standards for Lead-Paint Hazard Evaluation and Hazard Reduction Activities contained in 24 CFR part 35, and any successor regulations; and
  - (4) Any other standards required under this chapter;
- (b) Adhere to the prohibition of unsafe practices listed at 24 CFR § 35.140 and with § 3304 of these rules;

- (c) Prevent paint dust, chips, debris, or residue from being dispersed onto adjacent property or increasing the risk of public exposure to lead-based paint; and
- (d) Adhere to other requirements for renovations listed in 40 CFR §§ 745.80 through 745.92, including the standards for post-renovation cleaning verification and the reporting and recordkeeping requirements.

### **3303 LEAD-SAFE WORK PRACTICES: EXCEPTIONS**

3303.1 The lead-safe work practices in § 3302 are not required for the following:

- (a) Individuals who perform lead-based paint activities in residences that they own; provided, that the residence is occupied by the owner or by the owner's immediate family, and there is no child under six (6) years of age and no pregnant woman residing therein; and
- (b) Performance of maintenance, repair, or renovation work resulting in disturbances of lead-based paint in a total of two square feet (2 sq. ft.) or less of surface area per interior room, or twenty square feet (20 sq. ft.) or less of exterior surface area, provided such work does not include full or partial window removal or replacement, which activities shall always trigger the use of lead-safe work practices.

### **3304 PROHIBITED PRACTICES**

3304.1 The practices listed in this subsection are prohibited when performing any lead-based paint activity or any renovation activity that disturbs presumed lead-based paint. No individual, firm or business entity shall use:

- (a) Open flame burning or torching of paint;
- (b) Machine sanding, planing, or grinding, or use of a needle gun to remove paint or other surface coatings, without a high-efficiency particulate air (HEPA) local exhaust control and without a shroud or containment system that allows no visible dust or release of air to occur outside the shroud or containment system;
- (c) Abrasive blasting, water blasting, or sandblasting without HEPA local exhaust control or an effective containment system;
- (d) Heat guns operating at or above eleven hundred degrees Fahrenheit (1100°F) or charring the paint;
- (e) Dry sanding or dry scraping, except:
  - (1) Dry scraping within one foot (1 ft.) of electrical outlets;

- (2) Dry scraping in conjunction with heat guns operating below eleven hundred degrees Fahrenheit (1100°F); or
- (3) Dry scraping when treating defective paint spots totaling no more than two square feet (2 sq. ft) in any one interior room or space;
- (f) Methylene chloride;
- (g) Stripping paint in a poorly ventilated space using a volatile stripper that is a hazardous substance as defined in 16 CFR § 1500.3, or any chemical that is a physical hazard or a health hazard; and
- (h) Scraping, sanding, drilling into, cutting, or otherwise disturbing more than two square feet (2 sq. ft.) of paint in or on a residential property or a child-occupied facility built before 1978 without the use of appropriate containment measures.

3304.2 No individual, firm or business entity shall apply paint with a lead content of more than 0.009 percent (0.009%), in accordance with 16 CFR § 1303.1.

### **3305 ACCREDITATION OF TRAINING PROVIDERS**

3305.1 A training provider shall be accredited separately for each training and refresher course offered by that training provider. The courses requiring accreditation are those for the following disciplines: lead-based paint inspector, risk assessor, abatement worker, abatement supervisor, lead project designer, renovator, and dust sampling technician. To receive accreditation, a training provider shall:

- (a) Comply with the accreditation requirements set forth in 40 CFR § 745.225, except for § 745.225(c)(8)(iv);
- (b) Submit an application to DDOE for accreditation approval, or provide proof of prior accreditation by EPA, or a state EPA approved accredited training provider that contains the information required for each individual course set forth in 40 CFR § 745.225;
- (c) Submit all course materials; and
- (d) Pay the appropriate fee pursuant to § 3322.7, except as provided for in § 3305.7.

3305.2 Accreditation of a training provider by DDOE shall expire thirty-six (36) months from the date of its issuance.

3305.3 A training provider shall notify DDOE no less than one (1) week in advance of each course being offered, including name of instructor and course, and location, date and time of the training, shall notify DDOE as soon as practicable of any

changes thereto, and shall obtain written approval from DDOE of the proposed changes prior to execution of the changes.

- 3305.4 A training provider shall notify DDOE of a cancellation of a course at least one (1) business day before the date the training was scheduled.
- 3305.5 A training provider shall forward to DDOE, by mail, email, or fax, a copy of each certificate awarded to any student who successfully completes training, or a list of the students who receive a certificate for successfully completing a particular training course, within one (1) week after issuance of such certificate, and shall keep such records for at least six (6) years.
- 3305.6 A training provider shall provide DDOE with at least two (2) weeks advance notification of any change in key staff, which for purposes of this subsection shall be limited to the training manager and the principal course instructor(s), or such shorter notice as may be required by the circumstances related to the change in key staff.
- 3305.7 A training provider shall be exempt from payment of an accreditation application fee if the training provider is a District Government agency or is a non-profit 501(c)(3) organization whose primary place of business is in the District of Columbia.
- 3305.8 DDOE shall accredit a training provider that already has been accredited by EPA, on a reciprocity basis, without a complete application; provided, that the training provider:
- (a) Submits a copy of all course materials; and
  - (b) Pays the appropriate fee pursuant to § 3322.7, except as provided for in § 3305.7.
- 3305.9 All applications completed pursuant to this section shall be reviewed and acted on within thirty (30) days of their receipt by DDOE.
- 3305.10 DDOE-accredited training providers shall issue course completion certificates that expire two (2) years from the course date for individuals certified in the District of Columbia, except for renovators and dust sampling technicians, whose certificates shall expire five (5) years from the course date.
- 3305.11 DDOE-accredited training providers that offer a refresher course for risk assessors shall allocate an appropriate amount of the course time for the essential elements of both the initial inspector and the initial risk assessor curriculum.
- 3305.12 DDOE-accredited training providers that offer a refresher course for lead-based paint inspectors, risk assessors, dust sampling technicians, renovators, abatement workers or abatement supervisors shall include a discipline-appropriate hands-on component in each such refresher course.



- 3306 CERTIFICATION REQUIREMENTS FOR INDIVIDUALS PERFORMING LEAD-BASED PAINT HAZARD IDENTIFICATION AND ELIMINATION ACTIVITIES OR RENOVATION ACTIVITIES: GENERAL**
- 3306.1 Before an individual may perform a lead-based paint activity, clearance examination, or renovation in a dwelling unit or child-occupied facility built before 1978, an individual shall obtain the appropriate certification from DDOE and comply with this section, and with §§ 3307 or 3308, as applicable.
- 3306.2 Each applicant for certification shall submit to DDOE the following documents for use in consideration of the applicant's qualification for certification:
- (a) Official academic transcripts or diplomas, as evidence of meeting the pertinent education requirements;
  - (b) Resumes, letters of reference, or documentation of work experience, as evidence of meeting the pertinent work experience requirements; and
  - (c) Course completion certificates from lead-specific or other relevant training courses, issued by an accredited training program, as evidence of meeting the pertinent training requirements.
- 3306.3 DDOE shall certify an applicant as a lead-based paint inspector, risk assessor, lead project designer, abatement worker or supervisor, dust sampling technician, or renovator if the application is complete and the applicant satisfies the requirements of this chapter and the Acts, successfully completes the pertinent course, and pays the appropriate certification fee to DDOE, in accordance with § 3322, within five (5) business days of receipt of the complete application package. Payment of a certification fee pursuant to § 3322 shall be waived if the applicant is applying as an employee of a District agency.
- 3306.4 Except as provided in § 3321.04, to maintain certification in a particular discipline, a certified individual shall apply to and be re-certified by DDOE in that discipline, provided the individual has completed the appropriate training course, either refresher or initial as applicable, through an EPA- or DDOE- accredited training provider, or from another EPA-authorized, state-accredited training provider.
- 3306.5 An individual seeking certification renewal shall submit the application materials and shall pay the appropriate certification renewal fee to DDOE, in accordance with § 3322, at least five (5) business days before their certification expires. Payment of such fee shall be waived if the applicant is an employee of a District agency.
- 3306.6 Upon receiving DDOE certification, an individual conducting renovation or lead-based paint activities shall comply with the provisions of §§ 3302 and 3304 and all other applicable laws.

3306.7 If the individual seeking renewal of certification fails to complete the refresher course before the expiration date of their current certification, as required in § 3306.4, or within ninety (90) days after such expiration date, the individual shall re-take the initial course to become certified again.

**3307 CERTIFICATION OF INDIVIDUALS: SPECIFIC REQUIREMENTS**

3307.1 Except as provided in § 3312.1, the following disciplines are required to be certified by DDOE before performing a renovation, a clearance examination, or any lead-based paint activity except for interim controls, in a dwelling unit or child-occupied facility built before 1978:

- (a) Risk Assessor;
- (b) Lead-Based Paint Inspector;
- (c) Abatement Worker;
- (d) Abatement Supervisor;
- (e) Certified Renovator;
- (f) Dust Sampling Technician; and
- (g) Lead Project Designer.

3307.2 Except as provided under § 3308, an applicant for certification seeking to engage in lead-based paint activities as a lead-based paint inspector, risk assessor, dust sampling technician, lead abatement worker, supervisor, or lead project designer, shall:

- (a) Submit an application to DDOE by mail, online, or in person, demonstrating that the individual meets all requirements of this section for the particular discipline for which certification is sought;
- (b) Complete an EPA- or DDOE-accredited course in the appropriate discipline and receive a course completion certificate from the training provider;
- (c) Pass the third-party certification exam offered by DDOE, if one is required in the appropriate discipline;
- (d) Pass the DDOE-administered exam, if one is required, that tests the applicant's knowledge of the District's relevant legal requirements pertaining to the relevant discipline; and
- (e) Pay DDOE the appropriate certification fee required under § 3322.

3307.3 An applicant for certification as a lead-based paint inspector shall:

- (a) Successfully complete an accredited initial training course for lead-based paint inspectors and provide a course completion certificate from a training provider that is either EPA-accredited, DDOE-accredited, or accredited by an EPA-approved state; and
- (b) Provide the following set of information, unless provided with a DDOE waiver for this requirement, based upon a DDOE determination that other alternative prior work experience submitted instead by the applicant for consideration is sufficiently comparable:
  - (1) A list of twenty (20) different addresses where the applicant has assisted in lead-based paint inspections with a certified lead-based paint inspector, which shall include the following information:
    - (A) Address of each property, including unit number if applicable;
    - (B) Type of activities conducted at each property, such as an X-Ray Fluorescence Analyzer (“XRF”) survey, paint chip sampling, dust sampling, or soil sampling;
    - (C) Date that each activity took place, and name of certified lead-based paint inspector the applicant assisted with each activity;
    - (D) Detailed description of how the applicant assisted; and
    - (E) A signed and dated reference by each certified lead-based paint inspector that the applicant assisted, confirming that based on the assistance the applicant provided, the applicant is knowledgeable about and capable of conducting lead-based paint inspections and adhering to federal, state, and local regulations.

3307.4 An applicant for certification as a risk assessor shall:

- (a) Successfully complete an accredited initial training course for lead-based paint inspectors and an initial training course for risk assessors, and provide course completion certificates from a training provider that is either EPA-accredited, DDOE-accredited, or accredited by an EPA-approved state, and provide documentation of one (1) of the following:
  - (1) A bachelor's degree and one (1) year of experience in a related field, such as lead, asbestos, or other environmental hazard identification or remediation work, or in construction;

- (2) An associate's degree and two (2) years of experience in a related field, such as lead, asbestos, or other environmental hazard identification or remediation work, or in construction;
  - (3) A high school diploma or its equivalent, and at least three (3) years of experience in a related field, such as lead, asbestos, or other environmental hazard identification or remediation work, or in construction; or
  - (4) Certification as an industrial hygienist, professional engineer, or registered architect, or as another environmental or construction-related professional; and
- (b) Demonstrate that the applicant's skills are directly transferable to the job activities a risk assessor is typically engaged in, and provide the following set of information, unless provided with a DDOE waiver for this requirement, based upon a DDOE determination that other alternative prior work experience submitted instead by the applicant for consideration is sufficiently comparable:
- (1) A list of ten (10) different addresses where the applicant has conducted work while certified as a lead-based paint inspector, which shall include the following information:
    - (A) Address of each property, including unit number if applicable;
    - (B) Type of activity conducted at each property, such as an XRF survey, paint chip sampling, dust sampling, or soil sampling;
    - (C) Date each activity took place; and
    - (D) Signature of supervisor or other senior management who confirms that each activity being vouched for took place as described by the applicant.

3307.5 An applicant for certification as an abatement supervisor shall demonstrate that he or she has skills directly transferable to the job activities for a supervisor, based upon:

- (a) At least one (1) year of experience as a certified lead-based paint abatement worker; or
- (b) At least two (2) years of experience in a related field, such as lead, asbestos, or environmental hazard identification or remediation work, or in construction.

- 3307.6 An applicant for certification as a lead project designer shall provide documentation of the following:
- (a) A bachelor's degree in engineering, architecture, or a related profession, and one (1) year of experience in building construction and design or a related field; or
  - (b) At least four (4) years of experience in building construction and design.
- 3307.7 An applicant for certification as a renovator shall successfully complete the EPA-accredited renovator course and be certified by EPA as a renovator, or successfully complete the DDOE-accredited renovator course.
- 3307.8 An applicant for certification as a dust sampling technician shall:
- (a) Successfully complete the DDOE-accredited dust sampling technician course;
  - (b) Document completion of the course by submitting a certificate to DDOE; and
  - (c) Pass a DDOE-administered exam that tests the applicant's knowledge of the District's relevant legal requirements pertaining to dust sampling technicians.
- 3307.9 An abatement worker applicant need not provide prior experience or education documentation.
- 3307.10 An individual who successfully completes a DDOE-accredited lead-based paint inspector or risk assessor course may take a DDOE-accredited refresher dust sampling technician course in lieu of the initial training required by § 3307.8(a) to become a dust sampling technician.
- 3307.11 A certification issued to an individual by DDOE as a lead-based paint inspector, risk assessor, lead project designer, abatement worker, or supervisor under this section shall expire two (2) years from the date of issuance, and a certification for renovator or dust sampling technician shall expire five (5) years from the date of initial issuance.

### **3308 CERTIFICATION BY RECIPROcity**

- 3308.1 Submission of a current, valid certification for any discipline requiring certification under § 3307 that is issued by EPA or another EPA approved state program is sufficient for certification in the District of Columbia if the applicant meets all other requirements of this section and submits a completed DDOE Application for Lead-Based Paint Certification form.

- 3308.2 An applicant for certification by reciprocity shall:
- (a) Pass a DDOE examination that tests knowledge of the legal requirements specific to the District of Columbia;
  - (b) Have a valid DCRA license to do business in the District of Columbia, if one is required; and
  - (c) Pay the applicable certification fee required by this chapter, along with an additional \$50 fee to cover DDOE costs to verify and confirm valid status of certification issued by EPA or by another EPA approved state program.
- 3308.3 DDOE certification based on reciprocity shall expire on the same date as that of the certification upon which the approval is based, but no more than two (2) years from date of issue by the District government, except that DDOE certification for renovators and dust sampling technicians shall expire no more than five (5) years from date of issue by the District government.

### **3309 DUST SAMPLING TECHNICIAN REQUIREMENTS**

- 3309.1 A dust sampling technician shall:
- (a) Have in their possession at any job site a copy of their DDOE-issued certification card or their EPA-issued certificate; and
  - (b) Comply with the clearance examination requirements under either §§ 3310.4-.8 or §§ 3314.9 and 3314.10, as applicable.
- 3309.2 A dust sampling technician shall not conduct any clearance examination activities as part of producing an initial clearance report for a property for which DDOE has issued an Order to Eliminate Lead-Based Paint Hazards, nor as part of producing a clearance report following an abatement, nor for soil clearance purposes.

### **3310 RENOVATION REQUIREMENTS**

- 3310.1 Except as provided in § 3310.3, an individual, firm, or business entity that performs renovation of a residential property or a child-occupied facility built prior to 1978 and that is compensated for those services shall obtain a renovation permit from DDOE, if:
- (a) The activities contracted for include the removal, repair, or paint stripping of surfaces or building components coated with presumed or identified lead-based paint, including weatherization projects that disturb surfaces or building components coated with presumed or identified lead-based paint, the sum total of which activities disturbs more than five hundred square feet (500 sq. ft.) of painted surface; or

- (b) The contract for the renovation work contains a total charged cost of twenty thousand dollars (\$20,000) or more for the specific activities enumerated in § 3310.1(a).
- 3310.2 The raze or demolition of a building, which is subject to § 3316.4, shall not trigger a requirement for a DDOE-issued renovation permit.
- 3310.3 A renovation permit shall not be required for renovations in residential housing or child-occupied facilities built prior to 1978, in which:
- (a) A written determination has been made by a certified lead-based paint inspector or a certified risk assessor that the components affected by the renovation are free of paint or other surface coatings that contain lead equal to or in excess of one milligram per square centimeter (1.0 mg/ cm<sup>2</sup>) or one half percent (0.5%) by weight, where the firm performing the renovation has obtained a copy of the determination;
- (b) A certified renovator, using an EPA-recognized test kit as defined in 40 CFR § 745.83 and following the kit manufacturer's instructions, has tested each component affected by the renovation and determined that the components are free of paint or other surface coatings that contain lead equal to or in excess of one milligram per square centimeter (1.0 mg/ cm<sup>2</sup>) or one half percent (0.5%) by weight, with the understanding that if the components make up an integrated whole, such as the individual stair treads and risers of a single staircase, the renovator is required to test only one of the individual components, unless the individual components appear to have been repainted or refinished separately; or
- (c) A certified renovator has collected a paint chip sample from each painted component affected by the renovation and a laboratory recognized by EPA pursuant to Section 405(b) of the Toxic Substances Control Act of 1976, effective October 11, 1976, as amended (Pub. L. 94-469, 90 Stat. 2003; 15 USC 2685(b)), as being capable of performing analyses for lead compounds in paint chip samples has determined that the samples are free of paint or other surface coatings that contain lead equal to or in excess of one milligram per square centimeter (1.0 mg/ cm<sup>2</sup>) or one half percent (0.5%) by weight, with the understanding that if the components make up an integrated whole, such as the individual stair treads and risers of a single staircase, the renovator is required to test only one of the individual components, unless the individual components appear to have been repainted or refinished separately.
- 3310.4 A clearance examination shall be performed after the work has been done that required a renovation permit, which in the case of work in a vacant unit shall be at any point prior to re-occupancy of the unit:

- (a) A clearance examination triggered pursuant to this section or § 3316.2(a), or pursuant to any provision under 40 CFR § 745.85, shall consist of dust sampling in each room that contains a work area, on the following surfaces in each sampled room:
    - (1) One (1) floor sample; and
    - (2) For rooms that contain a window, one (1) window sill or one (1) window well sample;
  - (b) For work that involves door replacement in accordance with § 3316.2(a), the floor samples shall be taken within two feet (2 ft.) of any such door, but no window sample shall be required;
  - (c) Whenever a work area is located on the exterior of a property, and whenever a work area involves a window or a door that opens to the exterior of a property, a dust sample shall be taken on any concrete or other rough exterior horizontal surface within the work area(s);
  - (d) A clearance examination performed after covering of soil pursuant to § 3316.2(b) shall consist of a determination by the lead-based paint inspector or risk assessor conducting the clearance examination as to whether the lead-contaminated soil was uniformly covered by at least six inches (6 in.) of clean soil or other appropriate ground cover, and a description in the clearance report of the methodology used by said inspector or risk assessor to make this determination; and
  - (e) A clearance examination shall be performed no sooner than one (1) hour and no later than three (3) business days after the completion of the activities conducted pursuant to the permit or other activities listed in §§ 3316.2(a) and (b), or in the case of work in a vacant unit, at any point prior to re-occupancy of the unit.
- 3310.5 Each environmental sample taken pursuant to this section shall be submitted for analysis to an appropriately accredited lab.
- 3310.6 The clearance examination shall be conducted by a lead-based paint inspector or risk assessor, or, except in clearance cases involving soil clearance, by a dust sampling technician.
- 3310.7 A clearance report produced under this section shall be filed with DDOE within seven (7) business days following the successful clearance examination by the individual, firm, or business entity to which DDOE issued the permit.
- 3310.8 Each clearance report shall contain a copy of the current DDOE-issued certification card belonging to the individual that conducted the clearance examination and the date the clearance report was issued.



- 3310.9 Except as provided in § 3310.10, all work that constitutes renovation work pursuant to 40 CFR § 745.80 *et seq.* and that does not trigger a permit requirement under these regulations shall be conducted in accordance with the rules promulgated by EPA under 40 CFR § 745.85(a) and shall be followed by cleaning verification or a clearance examination in accordance with the rules promulgated by EPA under 40 CFR § 745.85(b).
- 3310.10 The emergency renovations defined in § 3310.12(a) are exempt from the warning sign, containment, waste handling, training, and certification requirements in both these regulations and in 40 CFR §§ 745.85, 745.89 and 745.90, to the extent necessary to respond to the emergency.
- 3310.11 Except as provided in § 3310.12, prior to any renovation activity occurring for compensation in a residential property or in a child-occupied facility where the structure was built prior to 1978, pre-renovation education and documentation thereof shall occur, in accordance with the relevant requirements mandated by 40 CFR § 745.84.
- 3310.12 The information distribution requirements in § 3310.11 do not apply to emergency renovations, which are:
- (a) Renovation activities that were not planned but result from a sudden, unexpected event, such as non-routine failures of equipment, that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment and/or property with significant damage; and
  - (b) Interim controls performed in response to an elevated blood lead level in a resident child.
- 3310.13 Renovation firms shall comply with all recordkeeping and reporting requirements contained in 40 CFR § 745.86.
- 3310.14 A renovation permit may be granted if the applicant submits all of the following to DDOE:
- (a) A completed Renovation Permit Application Form;
  - (b) A copy of the applicant's signed contract for the work, including the charges for all renovation activities under the contract;
  - (c) A copy of the applicant's Scope of Work, detailing the renovation activities applicant is under contract to perform;
  - (d) A copy of a valid DCRA Basic Business License to do business in the District;

- (e) A copy of the EPA-issued or DDOE-issued Renovation Firm certification and a copy of the relevant EPA-issued or DDOE-issued Renovator certification;
- (f) A completed District of Columbia Clean Hands Self-Certification Form; and
- (g) Any other information DDOE requires in its permit application instructions that is relevant to issuance of a renovation permit.

3310.15 DDOE may specify the requirements that apply to work carried out under the permit by describing them on the permit.

3310.16 The use of lead-safe work practices as set forth in § 3302 and the prohibited practices set forth in § 3304 apply to renovation work.

**3311 CERTIFICATION OF BUSINESS ENTITIES PERFORMING LEAD-BASED PAINT ACTIVITIES AND OF FIRMS CONDUCTING RENOVATION ACTIVITIES**

3311.1 To become certified, a business entity or a firm shall comply with all applicable requirements of this section before any employee or sub-contractor of the business entity or firm may conduct a lead-based paint activity, clearance examination, or renovation in a dwelling unit or child-occupied facility built before 1978.

3311.2 The business entity or firm shall be responsible for ensuring that each employee and subcontractor of the business entity conducting a lead-based paint activity, clearance examination, or renovation for the entity, is:

- (a) Certified pursuant to §§ 3307 or 3308;
- (b) In compliance with the provisions of §§ 3302, 3304 and 3310; and
- (c) In compliance with all applicable federal and District laws, regulations, and rules governing the disposal of all waste containing lead.

3311.3 An entity applying for certification as a business that conducts lead-based paint activities or as a firm that conducts renovation activities in the District of Columbia shall:

- (a) Document that the entity has a valid DCRA license, if required, to do business in the District;
- (b) Submit documentation to DDOE that proves that the entity has liability insurance for at least one million dollars (\$1,000,000), which the entity shall maintain for the entire period of the DDOE business entity certification;

(c) Execute a District of Columbia Clean Hands Self-Certification Form stating that paragraph (c) above has been met; and

(d) Pay the applicable certification fee required under § 3322.

3311.4 The business entity or firm shall comply with the recordkeeping requirements of D.C. Official Code § 8-231.01 *et seq.*

3311.5 A business entity or firm's certification shall expire after five (5) years.

### **3312 EXCEPTIONS TO THE CERTIFICATION REQUIREMENT**

3312.1 The requirement in § 3307.1 that an individual be certified prior to engaging in any lead-based paint activity, does not apply to the following:

(a) Individuals who perform lead-based paint activities or renovations in a residence which they own, provided that the residence is occupied solely by the owner or the owner's immediate family, and provided that there is no child under age six (6) and no pregnant woman residing therein;

(b) Performance of maintenance, repair, or renovation work by an individual or entity that results in disturbances of lead-based paint in a total of two square feet (2 sq. ft.) or less of surface area per room, or a total of twenty square feet (20 sq. ft.) or less of exterior surface;

(c) Individuals who perform maintenance, repair, painting, and renovation work that does not disturb painted surfaces; and

(d) Individuals who perform risk assessment and lead-based paint inspections for litigation or other forensic purposes, in compliance with all work practice rules established by DDOE pursuant to this chapter, provided such individuals possess the appropriate certification issued by EPA or by an EPA-approved state program.

### **3313 DISCLOSURE REQUIREMENTS AND TENANT RIGHTS FORM**

3313.1 The owner of a dwelling unit constructed before 1978 shall disclose to the purchaser or tenant of the dwelling unit information reasonably known to the owner about the presence of any of the following conditions in the unit:

(a) Lead-based paint;

(b) Lead-based paint hazards; and

(c) Pending actions ordered by a District government agency pursuant to the Acts or this chapter.

- 3313.2 The disclosures shall be provided on the lead disclosure form issued by DDOE, shall be provided before the purchaser or tenant is obligated under any contract to purchase or lease the dwelling unit, shall be signed and dated by the owner, and an opportunity provided for the purchaser or tenant to sign and date.
- 3313.3 The owner of a dwelling unit constructed before 1978, which unit will be occupied or regularly visited by a child under the age of six (6) years or by a pregnant woman, shall provide to the tenant an accurately and fully completed lead disclosure form and a clearance report issued within the previous twelve (12) months, or as otherwise provided in § 3313.5. The disclosures required by this subsection shall be provided before the tenant is obligated under any contract to lease the dwelling unit.
- 3313.4 If a tenant of a dwelling unit constructed before 1978, in which unit a person at risk resides or regularly visits, notifies the owner of the property in writing that a person at risk resides in or regularly visits the dwelling unit, the owner of the dwelling unit shall provide to the tenant within thirty (30) days a clearance report issued within the previous twelve (12) months, or as otherwise provided in § 3313.5.
- 3313.5 In lieu of providing the disclosure form and clearance report required by §§ 3313.3 and 3313.4, an owner may provide to, or make the following available for review by, the tenant:
- (a) A report from a risk assessor or lead-based paint inspector certifying that the dwelling unit is a lead-free unit; provided, that for the purposes of this subsection, the term “lead-free unit” shall mean the definition of lead-free unit in effect at the time of unit certification, including such cases as a prior multifamily property lead-based paint inspection, conducted pursuant to the 1997 amendments to the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, or any more recent version thereof, where the lead-based paint inspector made a determination that the property itself is a lead-free property, including all units contained within such property; or
  - (b) Three (3) clearance reports issued at least twelve (12) months apart and within the previous seven (7) years; provided, that the property was not, and is not, subject to any housing code violation that occurred during the past five (5) years or any that is outstanding.
- 3313.6 The owner of a dwelling unit shall provide notice to its tenants of their rights under the Acts on a Tenant Rights form issued by DDOE, whenever a tenant executes or renews a lease for the unit and whenever the owner provides notice of a rent increase.
- 3313.7 A tenant shall have the right to provide information to DDOE concerning deteriorated paint or other lead-based paint hazards within a property. This right

of the tenant is protected by tenant provisions set forth in D.C. Official Code § 42-3505.02.

3313.8 The owner of a dwelling unit who learns of the presence of lead-based paint or lead-based paint hazards in that dwelling unit shall:

- (a) Notify the tenant of the presence of lead-based paint within ten (10) days after discovering its presence; and
- (b) Provide the tenant with:
  - (1) The Lead Warning Statement described in 40 CFR § 745.113; and
  - (2) The lead hazard information pamphlet described in the Residential Lead-Based Paint Hazard Reduction Act of 1992, effective October 28, 1992, as amended (Pub. L. 102-550, 106 Stat. 3672; 42 U.S.C. § 4852d), provided, that the Lead Warning Statement and lead hazard information pamphlet need not be submitted if they have been given to the tenant within the prior twelve (12) months.

3313.9 An owner shall maintain copies of all lead-related reports for a property or any part thereof and make the reports available to tenants, tenants' agents, and government officials for review and photocopying at reasonable hours and at a location reasonably close to the property.

3313.10 An owner shall document on what date the Tenant Rights form referenced in § 3313.6 was provided to the tenant by signing and dating a copy of the form and requesting the tenant do the same, and shall make such information available to DDOE for review and photocopying at reasonable hours and at a location reasonably close to the property.

### **3314 CLEARANCE REQUIREMENTS AT CHANGE IN OCCUPANCY OF RENTAL UNITS**

3314.1 Before a change in the occupancy of a residential rental unit and before the execution of a lease, where a prospective occupant household informs the property owner that the household includes a pregnant individual or a child under six (6) years of age, the owner of the unit shall:

- (a) Provide the prospective tenant with a clearance report issued not more than twelve (12) months before the change in occupancy;
- (b) Give the prospective tenant an acknowledgment form issued by DDOE to sign and date as confirmation of receipt of the passing clearance report; and

- (c) Retain a copy of the acknowledgement form for at least six (6) years, which shall be readily accessible to DDOE during that period.

3314.2 Upon written request by a tenant in a residential rental unit who is pregnant or has a child under six (6) years of age living at or regularly visiting the residence, the owner of said unit shall:

- (a) Provide the occupant with a clearance report issued not more than twelve (12) months before the date of the request or more than thirty (30) calendar days after receipt of the written request;
- (b) Ask the tenant to sign and date an acknowledgement of receipt of the clearance report; and
- (c) Retain a copy of the acknowledgement form for at least six (6) years, which shall be accessible to DDOE during that period.

3314.3 The clearance report required by this section may be issued by a dust sampling technician, lead-based paint inspector, or risk assessor.

3314.4 An owner may satisfy the clearance report requirements of this section by submitting to the tenant:

- (a) A report from a risk assessor or lead-based paint inspector certifying that the unit is a lead-free unit, in accordance with §§ 3314.5, 3314.6 or 3314.7, as applicable; or
- (b) Three (3) passing clearance reports issued at least twelve (12) months apart from each other by a dust sampling technician, lead-based paint inspector, or risk assessor, provided that the three (3) passing clearance reports were all issued within the previous seven (7) years and the property owner or property manager is not currently, or was not during the previous five (5) years, subject to any housing code or any DDOE violation enforcement orders.

3314.5 A single-family home shall qualify as a “lead-free unit” provided the owner documents that all representative interior and exterior painted surfaces have been tested by a lead-based paint inspector or risk assessor and do not contain lead-based paint.

3314.6 To qualify as a “lead-free unit” in a multifamily property:

- (a) The owner shall document that all representative interior unit painted surfaces and all representative exterior painted surfaces that can reasonably be considered as the unit’s exterior surfaces have been tested by a lead-based paint inspector or risk assessor and do not contain lead-based paint. For purposes of this paragraph, painted surfaces that can reasonably be considered as the unit’s exterior surfaces include balcony

and terrace components, exterior window and door components, and any accessible exterior wall surfaces that are part of the structure of the unit;

- (b) The owner shall document that any interior floor surface located outside the unit within twenty feet (20 ft.) of the front or rear door has been found to be free of lead-contaminated dust, as confirmed by a dust sampling technician, lead-based paint inspector, or risk assessor, after taking at least one (1) dust sample immediately outside the door and another dust sample for every ten feet (10 ft.) of floor surface from the door; and
- (c) The multifamily property shall have an Operations and Maintenance Plan that includes specific reference to a specialized cleaning process that ensures approaches to lead-free units remain lead safe over time.

3314.7 In the alternative, a unit may qualify as a “lead-free unit” in a multifamily property if an owner provides documentation that:

- (a) A lead-based paint inspection of the property, performed in accordance with the 1997 amendments to the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, or any more recent version thereof, has resulted in a determination by a certified risk assessor or lead-based paint inspector that the property is a lead-free property; or
- (b) Lead-based paint that is present inside the unit has been enclosed so that a lead-based paint inspection of a unit, performed by a certified lead-based paint inspector or risk assessor, does not detect any lead-based paint.

3314.8 An owner whose unit is deemed to be a “lead-free unit” pursuant to § 3314.7(b) shall be exempt from the clearance requirements under § 3314, but shall remain subject to the disclosure requirements of the Acts and this chapter, and shall:

- (a) Disclose the presence of the enclosed lead-based paint whenever appropriate under the Acts and this chapter; and
- (b) As part of each such required disclosure, make available for review, upon written request of a tenant, a current copy of the property’s Operations and Maintenance Plan, which shall contain a section that describes the process by which the owner intends to ensure that the lead-based paint remains enclosed over time.

3314.9 For purposes of this section, a clearance report shall include:

- (a) The date that the clearance examination was conducted;
- (b) A statement by the individual who conducted the clearance examination that the individual:

- (1) Was granted unobstructed access to all painted areas in the unit;
  - (2) Did not see paint deterioration on any component or fixture on the interior of the unit;
  - (3) Did not see paint deterioration on any component or fixture on the exterior portion of a property that can reasonably be considered the unit's exterior surfaces in the case of multifamily property, in conformance with § 3314.6(a); and
  - (4) Did not see paint deterioration on any component or fixture on the exterior of any single-family property to which this section applies;
- (c) Dust sampling results that pass the clearance requirements of this chapter in accordance with the following dust sampling protocol:
- (1) One (1) floor sample in each room, taken close to a door or another potential likely source of lead dust; and
  - (2) One (1) window sill or well sample in each room containing a window;
- (d) The analytical result for each environmental sample submitted for lab analysis, including any blank or spike sample submitted;
- (e) A floor plan of the unit that displays where each environmental sample was taken;
- (f) A chain of custody sheet with all fields completed, that lists each environmental sample submitted to a lab for analysis, along with the time of day that the samples were collected; and
- (g) The signature of the individual who conducted the clearance examination and a copy of that individual's current DDOE-issued certification card.

3314.10 Each environmental sample taken pursuant to this section shall be submitted for analysis to an appropriately accredited lab.

### **3315 RISK REDUCTION USING INTERIM CONTROLS**

3315.1 Before any individual performs interim controls to eliminate lead-based paint hazards in the District of Columbia such person shall be trained in the lead-safe work practices set forth in § 3302.

3315.2 A certificate of completion from an EPA- or DDOE-accredited training provider or from another EPA-authorized, state-accredited training provider shall serve as proof of receipt of the lead-safe work practices training required by these regulations. An individual shall provide proof of training in lead-safe work



practices upon request by DDOE at the job site. A business entity shall ensure that its workers comply with these standards.

- 3315.3 Documentation proving Certified Renovator status, or Abatement Worker or Abatement Supervisor certification status, shall satisfy the requirements of §§ 3315.1 and 3315.2, provided such documentation is from an EPA- or DDOE-accredited training provider or from another EPA-authorized, state-accredited training provider.
- 3315.4 Whenever non-abatement activities are conducted to address lead-based paint hazards pursuant to an Order to Eliminate Lead-Based Paint Hazards, a clearance examination shall be required:
- (a) No sooner than one (1) hour after completion of such interim controls, but no more than three (3) business days after such completion, and again between thirty (30) and thirty-six (36) months, as specified by DDOE in the Order, after completion of the interim controls activities; or
  - (b) No sooner than one (1) hour after completion of such interim controls, but no more than three (3) business days after such completion, and again within such timeframe that is specified by DDOE in the Order, which may include a requirement for multiple Clearance Reports over time.
- 3315.5 An initial clearance report pertaining to the elimination of lead-based paint hazards identified in an Order issued by DDOE shall be issued only by a risk assessor. Any subsequent clearance report may be issued by either a risk assessor, a lead-based paint inspector, or a dust sampling technician.
- 3315.6 Each clearance report shall contain a copy of the current DDOE-issued certification card belonging to the individual that conducted the clearance examination and the date the clearance report was issued.
- 3315.7 Notice to DDOE that a dust test will be performed as part of a clearance examination pursuant to § 3315.4 shall be provided by fax, in person, or via the DDOE website, on a DDOE-specified form, submitted to DDOE at least twenty-four (24) hours prior to conducting the dust test, or as soon as practicable, whichever is sooner.
- 3315.8 A copy of each clearance report shall be submitted to DDOE by the property owner, within seven (7) business days of its issuance, either in PDF format by email, or by mail, a courier service, or in person.

## **3316 LEAD-BASED PAINT HAZARD ABATEMENT REQUIREMENTS**

- 3316.1 An individual or business entity shall not commence or perform any abatement activity on any residential property or child-occupied facility without first applying for and receiving an abatement permit from DDOE, except for those activities listed in § 3316.2.

- 3316.2 The following activities shall at minimum require the use of individuals trained in lead-safe work practices as described in § 3302, as documented by proof available at the work site of either Certified Renovator status or Abatement Worker or Abatement Supervisor certification status, and, except for § 3316.2(c), shall be followed by a clearance examination pursuant to §§ 3310.4(a) through 3310.8:
- (a) Door replacement, provided it does not include replacing ancillary door components, such as the casing, door stop, jamb, or threshold;
  - (b) Covering of any lead-contaminated soil that contains less than one thousand parts per million (1,000 ppm) of lead; and
  - (c) An abatement activity involving less than two square feet (2 sq. ft. per room of deteriorated paint on an interior surface, or less than twenty square feet (20 sq. ft) of deteriorated paint on an exterior surface.
- 3316.3 The raze or the demolition of a pre-1978 building involving painted surfaces within or on the property shall be subject to the following requirements:
- (a) All painted components either shall be presumed to be painted with lead-based paint, or shall be tested by a lead-based paint inspector or risk assessor to determine whether or not lead-based paint is present;
  - (b) Provided the building is structurally sound, lead-safe work practices shall be used in conformance with § 3302, and all components containing presumed or identified lead-based paint shall be disposed of in a manner consistent with the disposal of lead-contaminated waste; and
  - (c) The prohibited practices enumerated in § 3304 shall not be used.
- 3316.4 The raze or the demolition of a pre-1978 building, involving presumed or identified lead-based paint within or on the property, shall only be undertaken after a lead abatement permit is issued for such activity by DDOE, if the property in question is within one hundred feet (100 ft.) of a child-occupied facility, or, in the case of a demolition that is limited to one or several units within a multifamily property, if one or more of those units is on a floor that also contains an occupied unit.
- 3316.5 Performance of encapsulation is an abatement activity that shall be limited to those encapsulant products that have been subjected to nationally recognized third-party testing that documents that the product in question, when applied in accordance with its instructions, shall form an effective barrier for no fewer than twenty (20) years.
- 3316.6 Encapsulation shall not be used as a technique to eliminate lead-based paint hazards on friction or impact surfaces when such hazards have been identified as part of a Notice of Violation and Order to Eliminate Lead-Based Paint Hazards.

- 3316.7 An abatement permit may be granted if the applicant submits all of the following to DDOE:
- (a) A completed Lead-Based Paint Hazard Abatement Permit Application;
  - (b) A copy of the applicant's signed contract for the work, including the charges for all lead abatement activities under the contract and the signature of each party to the contract;
  - (c) A copy of the applicant's Scope of Work, describing the lead abatement activities that the applicant is under contract to perform;
  - (d) A copy of a risk assessment or lead inspection report, or other data source that identifies the exact location of the lead-based paint and lead-based paint hazards to be abated;
  - (e) A copy of a Certificate of Liability Insurance, proving the applicant's current policy coverage for at least one million dollars (\$1,000,000) for individual environmental or lead claims, which the applicant shall maintain throughout the entire period that the abatement permit is in effect;
  - (f) The requirement for the one million dollars (\$1,000,000) of liability insurance coverage may be waived for an applicant who is seeking an abatement permit for work limited to the applicant's own home; provided that the home is not part of a multi-family property, that there are no tenants living in the applicant's home, and that the work does not involve the demolition or raze of a pre-1978 building;
  - (g) A copy of the current D.C. lead certification card for the certified supervisor who will manage the abatement activities, and a copy of the business entity certification card;
  - (h) A copy of a valid District of Columbia Department of Consumer and Regulatory Affairs (DCRA) license to do business in the District;
  - (i) A completed District of Columbia Clean Hands Self-Certification Form; and
  - (j) Any other information DDOE requires in its permit application instructions as relevant to issuance of an abatement permit.
- 3316.8 DDOE may specify the requirements that apply to work carried out under the permit by describing them on the permit.
- 3316.9 Except as pursuant to § 3316.2, abatement shall only be performed by an individual who is currently certified by DDOE as a lead abatement worker or supervisor.

3316.10 Except when an entire building has been razed, the issuance of an abatement permit pursuant to § 3316.4 triggers a requirement that the individual or business entity to whom the permit was issued submit to DDOE a clearance report no later than seven (7) business days after completion of the permit-related activities, to close out the permit, as follows:

- (a) A clearance examination shall be performed no sooner than one (1) hour and no later than three (3) business days after the completion of the abatement activities, and shall be repeated until the clearance examination is passed and a clearance report is issued;
- (b) The clearance examination may be performed by a risk assessor or by a lead-based paint inspector, unless DDOE has required that the clearance examination be performed by a risk assessor;
- (c) In the case of work that occurs on a floor in a multifamily property that also contains an occupied unit, the clearance examination shall consist of:
  - (1) A visual inspection of the common area on each such floor to confirm that no visible paint debris is present between the front door of each unit where such work is undertaken and the entry door of any occupied unit on such floor; and
  - (2) Dust sampling in the common area on each such floor, within two feet (2 ft.) from the entry door of each unit where such work is undertaken, and within two feet (2 ft.) from the entry door of either all occupied units on such floor, or at least three (3) of the occupied units, whichever is fewer, provided that the risk assessor selects those units most likely to have been affected by dust migration resulting from the work;
- (d) Notice to DDOE that a dust test will be performed shall be provided whenever the dust test is related to a clearance examination resulting from an Order to Eliminate Lead-Based Paint Hazards, and shall be provided to DDOE by fax, in person, or via the DDOE website, on a DDOE-specified form, submitted to DDOE at least twenty-four (24) hours prior to conducting the dust test, or as soon as practicable, whichever is sooner;
- (e) Each environmental sample taken during a clearance examination shall be analyzed by an appropriately accredited lab, and the total samples submitted to the lab shall include as a quality assurance measure one (1) blank sample for lab analysis for each permit issued pursuant to § 3316.4; and
- (f) No other raze or demolition activity shall be undertaken at the property in question until a clearance report has been issued and submitted to DDOE, except that demolition activities on floors where no occupied units are located may continue in the interim.

3316.11 The issuance of an abatement permit in all cases other than a permit issued pursuant to § 3316.4 triggers a requirement that the individual or business entity to whom the permit was issued submit to DDOE a clearance report no later than seven (7) business days after completion of the abatement activities, to close out the permit, as follows:

- (a) A clearance examination shall be performed no sooner than one (1) hour and no later than three (3) business days after the completion of the abatement activities, and shall be repeated until the clearance examination is passed and a clearance report is issued;
- (b) If there is no Order to Eliminate Lead-Based Paint Hazards, the clearance examination may be performed by a dust sampling technician, a lead-based paint inspector, or by a risk assessor, whether or not employed by the owner;
- (c) If there is no Order to Eliminate Lead-Based Paint Hazards, the clearance examination shall consist of:
  - (1) A visual inspection of each work area, to ensure paint is in intact condition;
  - (2) A visual inspection of each work area, to ensure there is no visible dust or debris;
  - (3) Dust sampling in each room that contains a work area, on the following surfaces in each sampled room:
    - (A) One (1) floor sample; and
    - (B) For rooms that contain a window, one (1) window sill or one (1) window well sample;
  - (4) Whenever a work area is located on the exterior of a property, and whenever a work area involves a window or a door that opens to the exterior of a property, a dust sample on any concrete or other rough exterior horizontal surface within the work area(s); and
  - (5) Soil sampling if any abatement activity included lead-contaminated bare soil remediation, or if exterior work to eliminate a lead-based paint hazard was performed within ten feet (10 ft.) of a bare soil area, provided such sampling occurs on the same property;
- (d) Each environmental sample taken during a clearance examination shall be analyzed by an appropriately accredited lab and shall include as a quality assurance measure one (1) blank sample for lab analysis for each unit or property subject to the clearance examination, or in the case of a clearance

examination that spans more than one (1) day, one (1) blank sample for lab analysis per day for each property subject to the clearance examination; and

- (e) Each clearance report shall contain a copy of the current DDOE-issued certification card belonging to the individual that conducted the clearance examination and the date the clearance report was issued.

### **3317 ACCESS TO PROPERTIES**

3317.1 DDOE may enter a residence or child-occupied facility between the hours of 7:30 a.m. and 7:30 p.m. if DDOE reasonably believes that activities are being or have been conducted in violation of the Acts or any of these regulations, or upon reasonable belief that there is an imminent threat to the health and safety of the occupants.

3317.2 The tenant's consent to enter a residence is required before entry by DDOE, unless DDOE has obtained an administrative search warrant. Search warrants authorizing entry for inspections are issued by the Superior Court pursuant to D.C. Official Code § 11-941.

3317.3 For purposes of this section, a property owner or an owner's employee or representative shall seek access to an occupied residential rental dwelling unit only after providing the tenant with a written request for permission to enter the unit at a reasonable hour, at least forty-eight (48) hours before the proposed time of entry. Such notification shall include:

- (a) The proposed date and time of entry;
- (b) The reason access is needed, including what inspection or work will be conducted, and the particular area(s) of the premises to be accessed;
- (c) The training or certification requirements applicable to the workers who will be performing the inspection or work;
- (d) A statement to the effect that the tenant may request proof of training or certification before allowing an inspector or worker to access the unit or proceed with their work; and
- (e) A request that the tenant return a DDOE-issued consent form provided to the tenant by the property owner or the owner's agent pursuant to § 3317.4, prior to the proposed time of entry.

3317.4 Along with the written request for permission to enter the unit pursuant to § 3317.3, the property owner or the owner's agent shall provide the tenant with a DDOE-issued consent form that the tenant may use to grant or deny consent to the requested entry, or to set forth reasonable conditions for such consent, including an alternative date or dates for such entry.

- 3317.5 A property owner or owner's agent shall meet the tenant's reasonable conditions for access under § 3317.4.
- 3317.6 Except as provided in § 3317.8, if the tenant fails to return a consent form to the owner that grants access to the dwelling unit or sets reasonable conditions for same, and continues to deny the owner access to the dwelling unit for seven (7) days or more after the original written request for access was made, the owner shall be exempt from meeting the requirements of the Acts that are relevant to the requested access, until the tenant either provides written notice of the tenant's willingness to grant access or otherwise freely grants access, or until the tenant no longer occupies the unit, whichever happens first.
- 3317.7 Except as provided in § 3317.8, a property owner who complies with the conditions proposed by the tenant in accordance with § 3317.4 and whose tenant still refuses to grant access to the dwelling unit shall be exempt from meeting the requirements of the Acts that are relevant to the requested access, until the tenant either provides written notice of the tenant's willingness to grant access or otherwise freely grants access, or until the tenant no longer occupies the unit, whichever happens first.
- 3317.8 A property owner shall verify that workers engaging in lead-based paint activities on the owner's behalf are trained or certified pursuant to these regulations and that such requirements are correctly and clearly articulated in accordance with § 3317.3, and a tenant may deny access to an inspector or worker engaging in lead-based paint activities who is unable to provide proof of such training or certification.
- 3317.9 A tenant shall allow access to his or her dwelling unit to the unit owner or the owner's employee or representative to facilitate any work or inspection required under this chapter, provided all other conditions required by §§ 3317.3, 3317.4, 3317.5, and 3317.8 are met.

**3318 NOTICE OF VIOLATION OR NOTICE OF INFRACTION, AND ORDER TO ELIMINATE LEAD-BASED PAINT HAZARDS**

- 3318.1 DDOE may take steps to determine the existence of a lead-based paint hazard whenever DDOE has reason to believe that there is a risk that a lead-based paint hazard is present in a dwelling unit, an accessible common area of a multifamily property, or a child-occupied facility such as a day care center or kindergarten program that is regularly attended by children under the age of six (6) years constructed prior to 1978.
- 3318.2 To determine whether a lead-based paint hazard is present, DDOE's investigation of a dwelling unit, accessible common area, or a child-occupied facility pursuant to § 3318.1 shall be followed by a report to the owner and the tenant, and may include:

- (a) A visual inspection; and
- (b) Any other form of lead hazard evaluation.

3318.3 If a lead-based paint hazard is identified, DDOE may issue a written Notice of Violation or Notice of Infraction, and an Order to Eliminate Lead-Based Paint Hazards (collectively “Notice and Order”), to the property owner or to any other person. A Notice and Order shall:

- (a) Identify the violation;
- (b) Specify the measures needed to correct the violation, including the time for compliance;
- (c) Order any other action necessary to protect the health and safety of the occupants, including relocation pursuant to § 3319, if necessary;
- (d) Include an invoice charging the recipient of the Notice and Order for the costs associated with the risk assessment that resulted in the identification of lead-based paint hazards; and
- (e) In the case of a Notice of Infraction, include an assessment of a fine for each violation being cited.

3318.4 An owner, individual, firm, or business entity may object to a notice or order by requesting a hearing within fifteen (15) calendar days of service. If service is by first class mail, a request for a hearing may be filed within twenty (20) days of service. If specific instructions are not on the notice or order, the owner, individual, firm, or entity shall file a written request for a hearing, including the grounds for the objection, in accordance with Rules of Practice and Procedure of the Office of Administrative Hearings set forth in Title 1 DCMR Chapter 28.

3318.5 If DDOE orders the owner to eliminate a hazard by lead-based paint hazard abatement, the owner shall:

- (a) Comply with the DDOE Order within thirty (30) calendar days of its receipt, in conformance with D.C. Official Code § 8-231.15(a) unless extended for good cause pursuant to § 3318.9;
- (b) Obtain a permit pursuant to § 3316 before beginning abatement work;
- (c) Ensure that each person performing an abatement activity:
  - (1) Is certified as required by this chapter; and
  - (2) Adheres to the lead-safe work practice requirements under § 3302 while performing the work; and



- (d) Submit a copy of the clearance report to DDOE and, in the case of rental housing, a copy to the tenant, that:
  - (1) Has been prepared by a risk assessor, subject to the conditions in D.C. Official Code § 8-231.11(f)(1);
  - (2) Is submitted to DDOE and to the tenant within seven (7) business days of its issuance by said risk assessor; and
  - (3) Complies with the clearance report requirements established under § 3318.7.

3318.6 If DDOE allows the owner to apply interim controls because abatement is not deemed essential to eliminate a hazard given the particular circumstances, the owner shall:

- (a) Comply with the DDOE Order within thirty (30) calendar days of its receipt, in conformance with D.C. Official Code § 8-231.15(a), unless extended for good cause pursuant to § 3318.9;
- (b) Ensure that each person working to eliminate the lead-based paint hazard:
  - (1) Is certified as required by this chapter; or
  - (2) Has been trained in the lead-safe work practices established under § 3302; and
  - (3) Adheres to those lead-safe work practices while performing the work;
- (c) Comply with the rules for application of interim controls under § 3315; and
- (d) Submit a clearance report to DDOE, and in the case of rental housing, to the tenant, that:
  - (1) Has been prepared by a risk assessor, subject to the conditions in D.C. Official Code § 8-231.11(f)(1), except as otherwise provided in § 3315.5;
  - (2) Is submitted to DDOE and to any affected tenant within seven (7) business days of its issuance by the individual who signed the report; and
  - (3) Complies with the clearance report requirements under § 3318.7 and, if applicable, under § 3315.4.

3318.7 If DDOE has issued an Order to Eliminate Lead-Based Paint Hazards, the clearance examination shall be performed no sooner than one (1) hour after the completion of lead-based paint hazard control activities, and no later than three (3) business days after completion, and shall be performed as follows:

- (a) The clearance examination shall include the following:
  - (1) A visual inspection of each work area to ensure paint is in an intact condition and to ensure any underlying condition contributing to paint failure that was identified in the Notice of Violation or of Infraction has been repaired;
  - (2) Photos to document that each work area where non-intact paint conditions had been identified in the Notice and Order has been made intact;
  - (3) A visual inspection of each work area to ensure there is no visible dust or debris;
  - (4) Dust sampling in each room that contains a work area, and if fewer than four (4) rooms contain a work area, in additional rooms until at least four (4) rooms are sampled, that shall include either a child's bedroom, a children's play room, a living room, the bathroom used by the child, or the kitchen, on the following surfaces in each sampled room:
    - (A) A floor sample; and
    - (B) A window sill or a window well sample from rooms that contain a window;
  - (5) A floor dust sample within two feet (2 ft.) of the unit's front door and a floor dust sample within two feet (2 ft.) of the unit's rear door;
  - (6) Whenever a work area is located on the exterior of a property, and whenever a work area involves a window or a door that opens to the exterior of a property, a dust sample on any concrete or other rough exterior horizontal surface within the work area(s);
  - (7) If in a multifamily property, additional floor dust samples in the common area outside the unit within two feet (2 ft.) of the front door and within two feet (2 ft.) of the rear door of each unit where lead-based paint hazard elimination work occurred, provided the rear door does not open up to the property exterior; and
  - (8) Soil sampling if lead-contaminated bare soil was identified, or if exterior work to eliminate a lead-based paint hazard was

performed within ten feet (10 ft.) of a bare soil area, provided such sampling occurs on the same property;

- (b) Before proceeding with the clearance examination, the risk assessor performing the clearance examination shall review the following documents to establish the extent and scope of the lead hazard elimination work, and any other pertinent requirements:
  - (1) Abatement Permit;
  - (2) Lead-based Paint Inspection Survey or Risk Assessment Report;
  - (3) Project Scope of Work; and
  - (4) Notice of Violation or of Infraction, and Order to Eliminate Lead-Based Paint Hazards;
- (c) Notice to DDOE that a dust test will be performed as part of a clearance examination pursuant to § 3318.5 shall be provided by fax, in person, or via the DDOE website, on a DDOE-specified form, submitted to DDOE at least twenty-four hours (24) prior to conducting the dust test, or as soon as practicable, whichever is sooner;
- (d) The results of each clearance examination shall be transmitted to the property owner by the individual reporting these results as soon as practicable, and no later than seven (7) business days after completion of the clearance examination;
- (e) If the property does not pass the clearance examination, the owner shall address the condition causing the failure until the property successfully passes clearance;
- (f) All environmental samples taken during a clearance examination shall be analyzed by an appropriately accredited lab and shall include as a quality assurance measure one (1) blank sample for lab analysis for each unit or property subject to a clearance examination; and
- (g) Each clearance report shall include:
  - (1) A list of the documents reviewed pursuant to § 3318.7(b);
  - (2) A room by room narrative that provides details about what specific steps were taken during the clearance examination, and the result of each such step;
  - (3) Photos taken pursuant to § 3318.7(a)(2), with a caption for each photo, describing the location depicted;

- (4) Analytical result for each environmental sample submitted for lab analysis, including any blank or spike sample submitted, including the lead concentration in the prepared spike;
- (5) A chain of custody sheet that lists each environmental sample submitted to a lab for analysis, along with the date and time of day the samples were taken;
- (6) A floor plan of the unit or property that displays where each environmental sample was taken, including the specific location of any soil sampling;
- (7) The reason or reasons why the unit or property did not pass a previous clearance examination, if applicable;
- (8) The date of the clearance examination and the time it was performed;
- (9) The signature of the individual who performed the clearance examination, along with a copy of his or her current DDOE-issued certification card; and
- (10) The date the clearance report was sent or provided to the property owner.

3318.8 A clearance examination following elimination of a lead-based paint hazard ordered by the District, or after such work is performed in response to a child with an elevated blood lead level, shall not be conducted by:

- (a) A risk assessor or lead-based paint inspector who is related to the owner or any tenant by blood or marriage;
- (b) A risk assessor or lead-based paint inspector who is an employee or owner of the abatement firm performing the work;
- (c) A risk assessor or lead-based paint inspector who is an employee or owner of an entity in which the abatement firm has a financial interest; or
- (d) A dust sampling technician, except as provided for under § 3315.5.

3318.9 The deadline specified in §§ 3318.5 and 3318.6 may be extended by DDOE, in increments of a maximum of thirty (30) days, provided the owner:

- (a) Requests in writing an extension from DDOE and submits such written request no fewer than five (5) calendar days prior to the existing deadline for compliance;

- (b) Explains in the written deadline extension request the reason why more time is needed; and
- (c) Provides in the written deadline extension request a summary of steps taken to date, sufficient to demonstrate to the satisfaction of DDOE that:
  - (1) The owner intends in good faith to comply with the Order; and
  - (2) Providing more time to the owner to comply with the Order is not likely to endanger the health and safety of any occupants of the property subject to said Order.

### **3319 REQUIREMENTS FOR TEMPORARY RELOCATION OF TENANTS**

3319.1 A property owner shall take all steps necessary to provide temporary comparable alternative living arrangements for an affected tenant whenever DDOE requires relocation of the tenant due to the presence of lead-based paint hazards at a residential rental property, and shall:

- (a) Provide the tenant with at least fourteen (14) days of written notice about the specifics of the proposed relocation, including contact information and the address of the temporary unit, unless a shorter time period is ordered by DDOE, or is mutually agreed to in writing by the owner and the tenant;
- (b) Provide the tenant with a written, signed statement on a DDOE-issued form, that the tenant has the right to return to the unit once the unit has passed a clearance examination, under the same terms of agreement that exist under the current tenancy;
- (c) Make all reasonable efforts to minimize the duration of any temporary relocation;
- (d) Determine whether there are any appropriate temporary relocation units that do not contain any lead-based paint hazards and that are located within the same property in which the tenant currently resides, and offer same to the tenant;
- (e) Make all reasonable efforts to determine whether there are any appropriate temporary relocation units available within the same school district or ward and that are close to public transportation, as appropriate, and offer same to the tenant if a unit as described in paragraph (d) above is not available; or
- (f) Offer the tenant other reasonably located, appropriate, and available temporary relocation units if no such unit described in paragraphs (d) or (e) is available.

- 3319.2 A property owner who is ordered to relocate a tenant shall pay all reasonable temporary relocation expenses that may be required until the tenant's dwelling unit has passed a clearance examination, and a reasonable amount of time has passed to allow the tenant to return to the dwelling unit, which shall include:
- (a) Moving and hauling expenses;
  - (b) Payment of a security deposit;
  - (c) The cost of replacement housing, including alternative arrangements identified by the tenant and agreed to by said property owner, if the owner has no available temporary relocation unit that satisfies § 3319.1(d-f), provided that the tenant continues to pay the rent on the dwelling unit from which the tenant has been relocated; and
  - (d) Installation and connection of utilities and appliances.
- 3319.3 The property owner shall exercise due diligence in making all reasonable efforts to minimize the duration of temporary relocations.
- 3319.4 The property owner shall comply with all relocation requirements within fourteen (14) calendar days of the receipt of a written order from DDOE requiring temporary relocation of a tenant, unless the order specifies a different deadline for such measures.
- 3319.5 A tenant may elect to make alternative arrangements for temporary relocation without any interference from a property owner.
- 3319.6 Whenever DDOE determines that an imminent threat to a tenant's health and safety exists due to the presence of lead-based paint hazards, DDOE may initiate tenant relocation to a hotel or make other temporary arrangements for lead safety for the tenant, in advance of the owner receiving a DDOE Order to Relocate, or prior to the deadline to which the owner is subject pursuant to § 3319.1, and in such cases DDOE shall notify the owner in writing of the action taken, within seven (7) business days.
- 3319.7 If DDOE incurs expenses when it takes action pursuant to § 3319.6, the property owner shall reimburse DDOE for all such expenses based upon a DDOE invoice.

### **3320 ENFORCEMENT ACTIONS AND COST REIMBURSEMENT**

- 3320.1 If an owner, individual, firm, or business entity fails to comply with any document issued in accordance with the procedures set forth in § 3318 or violates any other provision of the Acts or this chapter, and such failure is likely to result in harm to either human health or the environment, DDOE may take any reasonable steps needed to prevent such harm from occurring and shall require reimbursement by said owner, individual, firm, or business entity for all reasonable costs as set forth on a DDOE invoice.

- 3320.2 DDOE may enforce a violation of the Acts or this chapter, by issuing one or more of the following:
- (a) Notice of Violation;
  - (b) Notice of Infraction;
  - (c) Cease and Desist Order;
  - (d) Order to Eliminate Lead-Based Paint Hazards;
  - (e) Notice of suspension, revocation, or denial in accordance with § 3321; or
  - (f) Another order necessary to protect human health or the environment, or to implement this chapter.
- 3320.3 Each notice and order shall:
- (a) Identify the violation;
  - (b) Specify the measures needed to correct the violation, including the time for compliance;
  - (c) Order any other action necessary to protect the health and safety of the occupants;
  - (d) Include an invoice charging the recipient of the notice or order for the costs associated with the lead-based paint hazard evaluation that resulted in the identification of lead-based paint hazards; and
  - (e) In the case of a Notice of Infraction, include an assessment of a fine for each violation being cited.
- 3320.4 An owner, individual, firm, or business entity may object to a notice or order by requesting a hearing within fifteen (15) calendar days of service. If service is by first class mail, a request for a hearing may be filed within twenty (20) days of service. If specific instructions are not on the notice or order, the owner, individual, firm, or entity shall file a written request for a hearing, including the grounds for the objection, in accordance with Rules of Practice and Procedure of the Office of Administrative Hearings set forth in Title 1 DCMR Chapter 28.
- 3320.5 DDOE may issue a Cease and Desist Order to take effect immediately, requiring an owner, individual, firm, or business entity to correct a condition which is an imminent and substantial danger to the public health or restraining an owner, individual, firm, or business entity from engaging in any unauthorized activity that immediately and substantially endangers the public health. A Cease and Desist Order shall:

- (a) Describe the nature of the violation;
- (b) Take effect at the time and on the date signed; and
- (c) Identify the corrective actions to be taken or actions that must be immediately suspended.

3320.6 A hearing request does not stay the effective date of a Cease and Desist Order. If a hearing is not requested within the fifteen (15) day time period, the Order becomes final and remains in effect until DDOE determines that the corrective actions have alleviated the dangerous conditions.

3320.7 In addition to imposing injunctive relief through a Cease and Desist Order under § 3320.5, DDOE may impose administrative sanctions for any infractions under this chapter or the Acts through the use of civil fines, penalties, and fees pursuant to D.C. Official Code, Title 2, Chapter 18.

3320.8 The District may also initiate a civil action in the Superior Court of the District of Columbia to:

- (a) Seek recovery of any corrective action costs incurred by the District government caused by any violation of the Acts or this chapter;
- (b) Impose civil penalties up to \$25,000 for each day of each violation; or
- (c) Secure a temporary restraining order, preliminary injunction, or other relief necessary for enforcement of this chapter or the Acts.

3320.9 Any owner, individual, training provider, firm or business entity that knowingly or willingly violates the provisions of the Acts or this chapter may also be subject to a criminal penalty of not more than \$25,000 for each day of each violation, or imprisonment for not more than one (1) year, or both.

3320.10 Any notice or order shall be served by personal service on an owner, individual, firm or business entity or his or her authorized agent in the same manner as a summons in a civil action, which includes first class mail, or by registered or certified mail to his or her last known address or place of residence.

### **3321 NOTICE OF SUSPENSION OR REVOCATION, OR DENIAL OF A PERMIT, ACCREDITATION, OR CERTIFICATION**

3321.1 After providing notice and opportunity for a hearing, DDOE may suspend, revoke, modify, or refuse to issue, renew, or restore a permit, certification or accreditation issued to an individual, firm, business entity or training provider under this chapter, if DDOE finds that the applicant or holder:

- (a) Has failed to comply with a provision of the Acts or a rule in this chapter;



- (b) Has misrepresented facts relating to a lead-based paint activity to a client, customer, or DDOE;
- (c) Has made a false statement or misrepresentation material to the issuance, modification, or renewal of a certification, permit, or accreditation;
- (d) Has submitted a false or fraudulent record, invoice, or report;
- (e) Has a history of repeated violations of District or federal law or regulation;
- (f) Has had a certificate, permit, or accreditation denied, revoked, or suspended either by DDOE or by another state or jurisdiction;
- (g) Has failed to comply with federal or District lead-based paint statutes or regulations;
- (h) As a renovation firm, has failed to maintain or has falsified records that are required to be maintained to document compliance with 40 CFR § 745.86;
- (i) As a training provider or as an instructor, has provided inaccurate information or inadequate training;
- (j) Has committed any of the violations described in 40 CFR § 225(g); or
- (k) Does not possess proof of required accreditation, as prescribed by DDOE.

3321.2 In addition to the bases listed in § 3321.1, DDOE may revoke or suspend a business entity or firm certification if it has had its authorization to do business in the District of Columbia revoked or suspended.

3321.3 An action to suspend, revoke, or refuse to issue, renew, or restore a permit, a certification or an accreditation shall be conducted in accordance with the following procedure:

- (a) The notice of proposed suspension, revocation, or denial shall be in writing and shall include the following:
  - (1) The name and address of the applicant for, or holder of, the permit, certification or accreditation;
  - (2) A statement of the proposed action and the proposed effective date and duration of a proposed refusal to issue, renew, or restore a permit, certification or accreditation, whether for an individual, firm, or a business entity;
  - (3) A statement of the reasons for the proposed action in compliance with the requirements of D.C. Official Code § 8-231.14;

- (4) The method for requesting a hearing to appeal the decision by DDOE before it becomes final; and
- (5) Any additional information that DDOE may decide is appropriate; and
- (b) If the individual, firm, business entity or training provider requests a hearing pursuant to this section, DDOE shall provide the owner, individual, firm, or business entity an opportunity to submit a written statement in response to DDOE's statement of the legal and factual basis, and to provide any other explanations, comments, and arguments it deems relevant to the proposed action.

3321.4 An individual, firm, business entity or training provider whose certification or accreditation has been suspended, revoked, or denied by DDOE shall not be eligible to apply for any certification or accreditation available under this chapter until a period of ninety (90) days has passed after the effective date of such suspension, revocation or denial.

### **3322 FEES FOR CERTIFICATION, PERMITTING, AND ACCREDITATION**

3322.1 Initial and renewal certification fees for the disciplines of lead-based paint inspector, risk assessor, abatement supervisor, and lead project designer shall be set at three hundred fifty dollars (\$350), for both initial certification and each subsequent renewal, unless the course completion certificate provided to DDOE as part of the certification application process is not from a DDOE-accredited training provider, in which case the fee shall be four hundred fifty dollars (\$450).

3322.2 The certification fee for a lead abatement worker, renovator, and dust sampling technician shall be set at one hundred dollars (\$100), for both initial certification and each subsequent renewal, unless the course completion certificate provided to DDOE as part of the certification process is not from a DDOE-accredited training provider, in which case the fee shall be one hundred fifty dollars (\$150).

3322.3 The certification fee for either a renovation firm or business entity shall be set at three hundred dollars (\$300), for both initial certification and each subsequent renewal, though no such certification is needed if the renovation firm or business entity provides documentation of current certification status issued by the EPA.

3322.4 The certification fee for a renovation firm or business entity seeking simultaneous certification as both a renovation firm and as a business entity certified to perform lead-based paint activities shall be set at five hundred fifty dollars (\$550), for both initial certification and each subsequent renewal, though no such certification is needed if the renovation firm or business entity provides documentation of current dual certification status issued by EPA.

3322.5 The fee for a lead abatement permit is fifty dollars (\$50), plus three percent (3%) of the total agreed-upon contract price for the lead abatement portion of the work, provided the total cost of the permit shall not exceed \$500.

3322.6 The fee for a renovation permit is fifty dollars (\$50), plus two percent (2%) of the total agreed-upon contract price for the portion of the work that encompasses the specific activities listed in § 3310.1(a), provided the total cost of the permit shall not exceed \$500.

3322.7 Initial, refresher course, and renewal accreditation fees are as follows, apply regardless of the language in which the course is taught, are capped not to exceed a total cost of five thousand dollars (\$5,000) per training provider for any given accreditation application to DDOE, and are valid for three (3) years of accreditation:

(a) Initial training course accreditation fee schedule:

Lead-Based Paint Inspector: \$850

Risk Assessor: \$850

Abatement Worker: \$850

Abatement Supervisor: \$850

Lead Project Designer: \$500

Renovator: \$850

Dust Sampling Technician: \$500

(b) Refresher training course accreditation fee schedule:

Lead-Based Paint Inspector: \$650

Risk Assessor: \$650

Abatement Worker: \$650

Abatement Supervisor: \$650

Project Designer: \$300

Renovator: \$650

Dust Sampling Technician: \$300

(c) Renewal of initial training course accreditation fee schedule:

Lead-Based Paint Inspector:	\$600
Risk Assessor:	\$600
Abatement Worker:	\$600
Abatement Supervisor:	\$600
Project Designer:	\$400
Renovator:	\$600
Dust Sampling Technician:	\$400

(d) Renewal of refresher course accreditation fee schedule:

Lead-Based Paint Inspector:	\$500
Risk Assessor:	\$500
Abatement Worker:	\$500
Abatement Supervisor:	\$500
Project Designer:	\$250
Renovator:	\$500
Dust Sampling Technician:	\$250

3322.8 All certification, permitting, and accreditation fees shall be subject to periodic revision, as deemed advisable by DDOE.

3322.9 DDOE shall assess a twenty-five dollar (\$25) fee to provide a replacement certification card or accreditation letter.

**3399 DEFINITIONS**

3399.1 When used in this chapter, the following terms shall have the meanings ascribed (some of the definitions were codified in the Acts, thus indicated as [Statutory], and are reprinted below for regulatory efficiency):

**Abatement** – a set of measures, except interim controls, that eliminates lead-based paint hazards by either the removal of paint and dust, the enclosure or encapsulation of lead-based paint, the replacement of painted surfaces or fixtures, or the removal or covering of soil, and all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures. [Statutory]

**Accredited training provider** – a training provider that has been approved by the Mayor to provide training for individuals who conduct lead-based paint activities. [Statutory]

**Business entity** – a partnership, firm, company, association, corporation, sole proprietorship, government, quasi-government entity, nonprofit organization, or other business concern. [Statutory]

**Child-occupied facility** – a building, or portion of a building, constructed prior to 1978, which as part of its function receives children under the age of six (6) on a regular basis, and is required to obtain a certificate of occupancy as a precondition to performing that function. The term "child-occupied facility" may include a preschool, kindergarten classroom, and child development facility licensed under subchapter II of Chapter 20 of Title 7 of the D.C. Official Code. The location of a child-occupied facility as part of a larger structure does not make the entire structure a child-occupied facility. Only the portion of the facility occupied or regularly visited by children under age six (6) shall be considered the child-occupied facility. [Statutory]

**Clearance examination** – an evaluation of a property to determine whether the property is free of any deteriorated lead-based paint and underlying condition, or any lead-based paint hazard, underlying condition, lead-contaminated dust, and lead-contaminated soil hazards, that is conducted by a risk assessor, a lead-based paint inspector, or in accordance with limitations specified by statute or by rule, a dust sampling technician. [Statutory]

**Clearance report** – a report issued by a risk assessor, a lead-based paint inspector, or a dust sampling technician that finds that the area tested has passed a clearance examination, and that specifies the steps taken to ensure the absence of lead-based paint hazards, including confirmation that any encapsulation performed as part of a lead hazard abatement strategy was performed in accordance with the manufacturer's specifications. [Statutory]

**Containment** – a system, process, or barrier used to contain lead-based paint hazards inside a work area. [Statutory]

**Day** – a calendar day. [Statutory]

**Demolition** – the removal or destruction of a part of a building, such as the walls within one or several units in a multifamily property, or the gutting of an entire building that leaves the exterior shell of the structure in place.

**Deteriorated paint** – paint that is cracking, flaking, chipping, peeling, chalking, not intact, or otherwise separating from the substrate of a building

component, except that pinholes and hairline fractures attributable to the settling of a building shall not be considered deteriorated paint. [Statutory]

**Director** – the Director of the District Department of the Environment (DDOE).

**Dust action level** – the concentration of lead that constitutes a lead-based paint hazard for dust and requires lead-based paint hazard elimination. [Statutory]

**Dust sampling technician** – an individual who:

- (a) Has successfully completed an accredited training program;
- (b) Has been certified by the District to perform a visual inspection of a property to confirm that no deteriorated paint is visible at the property, and to sample for the presence of lead in dust for the purposes of certain clearance testing and lead dust hazard identification; and
- (c) Provides a report explaining the results of the visual inspection and dust sampling. [Statutory]

**Dwelling unit** – a room or group of rooms that form a single independent habitable unit for permanent occupation by one (1) or more individuals that has living facilities with permanent provisions for living, sleeping, eating, and sanitation. The term "dwelling unit" does not include:

- (a) A unit within a hotel, motel, or seasonal or transient facility, unless such unit is or will be occupied by a person at risk for a period exceeding thirty (30) days;
- (b) An area within the dwelling unit that is secured and accessible only to authorized personnel;
- (c) Housing for the elderly, or a dwelling unit designated exclusively for persons with disabilities, unless a person at risk resides or is expected to reside in the dwelling unit or visit the dwelling unit on a regular basis; or
- (d) An unoccupied dwelling unit that is to be demolished; provided, that the dwelling unit will remain unoccupied until demolition. [Statutory]

**Elevated blood lead level** – the concentration of lead in a sample of whole blood equal to or greater than ten micrograms of lead per deciliter (10 µg/dL) of blood, or such more stringent standard as may be established by the U.S. Centers for Disease Control and Prevention as the appropriate level of concern, or adopted by the Mayor by rule. [Statutory]

**Encapsulation** – the application of a covering or coating that acts as a barrier between the lead-based paint and the environment, and that relies for its

durability on adhesion between the encapsulant and the painted surface and on the integrity of the existing bonds between paint layers and between the paint and the substrate. [Statutory]

**Enclosure** – the use of rigid, durable construction materials that are mechanically fastened to the substrate to act as a barrier between lead-based paint and the environment. [Statutory]

**EPA** – the United States Environmental Protection Agency.

**Exterior surfaces** – means:

- (a) All surfaces that are attached to the outside of a property;
- (b) All structures that are appurtenances to a property;
- (c) Fences that are a part of the property; and
- (d) For a property within a multi-unit dwelling, all painted surfaces in stairways, hallways, entrance areas, recreation areas, laundry areas, and garages that are common to individual dwelling units or located on the property. [Statutory]

**Interim controls** – a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

**Lead-based paint** – any paint or other surface coating containing lead or lead in its compounds in any quantity exceeding one half percent (0.5%) of the total weight of the material or more than one milligram per square centimeter (1.0 mg/cm<sup>2</sup>), or such more stringent standards as may be specified in federal law or regulations promulgated by EPA or the United States Department of Housing and Urban Development (HUD), which shall be adopted by the Mayor by rule. [Statutory]

**Lead-based paint activities** – the identification, risk assessment, inspection, abatement, use of interim controls, or elimination of lead-based paint, lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil, and all planning, project designing, and supervision associated with any of these activities. [Statutory]

**Lead-based paint hazard** – any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, deteriorated lead-based paint or presumed lead-based paint, or lead-based paint or presumed lead-based paint that is disturbed without containment. [Statutory]

**Lead-based paint inspector or inspector** – an individual who has been trained by an accredited training provider and certified by the District to conduct lead inspections. For the purpose of clearance testing, a lead-based paint inspector also samples for the presence of lead in dust and in bare soil. [Statutory]

**Lead-contaminated dust** – surface dust based on a wipe sample that contains a mass per area concentration of lead equal to or exceeding:

- (a) For dust action levels or for the purpose of clearance examination:
  - (1) Forty micrograms per square foot (40 µg/sq. ft. on floors; or
  - (2) Two hundred fifty micrograms per square foot (250 µg/sq. ft.) on interior windowsills;
- (b) For the purpose of clearance examination:
  - (1) Four hundred micrograms per square foot (400 µg/sq. ft. on window troughs; or
  - (2) Eight hundred micrograms per square foot (800 µg/sq. ft. on concrete or other rough exterior surfaces; or
- (c) Such more stringent standards as may be:
  - (1) Specified in federal law;
  - (2) Specified in regulations promulgated by the EPA or HUD; or
  - (3) Adopted by DDOE by rule. [Statutory]

**Lead-contaminated soil** – bare soil on real property that contains lead in excess of four hundred parts per million (400 ppm), or such other more stringent level specified in federal law or regulations promulgated by EPA or HUD, and adopted by the Mayor by rule. [Statutory]

**Lead-disclosure form** – the form developed by DDOE for a property owner to disclose an owner's knowledge of any lead-based paint or of any lead-based paint hazards, and information about any pending actions ordered by the Mayor pursuant to this law, to tenants, purchasers, or prospective tenants or purchasers. [Statutory]

**Lead-free property** – a property that contains no lead-contaminated soil, and the interior and exterior surfaces do not contain any lead-based paint or other surface coatings that contain lead equal to or in excess of one milligram per square centimeter (1.0 mg/cm<sup>2</sup>). [Statutory]



**Lead-free unit** – a unit for which the interior and exterior surfaces appurtenant to the unit do not contain any lead-based paint or other surface coatings that contain lead equal to or in excess of one milligram per square centimeter (1.0 mg/cm<sup>2</sup>), and for which the approaches thereto remain lead-safe. The Mayor, by rule, may establish a method to ensure that approaches to lead-free units remain lead-safe. [Statutory]

**Lead project designer** – an individual who has been trained by an accredited training provider and certified by the District to review lead-based paint inspection reports and risk assessment reports and to develop detailed plans to abate lead-based paint and eliminate lead-based paint hazards.

**Lead-safe work practices** – a prescribed set of activities that, taken together, ensure that any work that disturbs a painted surface on a structure constructed prior to 1978, generates a minimum of dust and debris, that any dust or debris generated is contained within the immediate work area, that access to the work area by non-workers is effectively limited, that the work area is thoroughly cleaned so as to remove all lead-contaminated dust and debris, and that all such dust and debris is disposed of in an appropriate manner, all in accordance with the methods and standards established by DDOE by rule consistent with applicable federal requirements, as they may be amended. [Statutory]

**Owner** – a person, firm, partnership, corporation, guardian, conservator, receiver, trustee, executor, legal representative, registered agent, or the federal government, who alone or jointly and severally with others, owns, holds, or controls the whole or any part of the freehold or leasehold interest to any property, with or without actual possession. [Statutory]

**Person at risk** – a child under age six (6) years or a pregnant woman. [Statutory]

**Presumed lead-based paint** – paint or other surface coating affixed to a component in or on a dwelling unit or child-occupied facility, constructed prior to 1978. [Statutory]

**Raze** – the complete destruction of an entire building.

**Regularly visits** – a child under the age of six (6) years or a pregnant woman who spends or is expected to spend any amount of time at a residential dwelling unit, a single-family property, or a child-occupied facility, at least two (2) different days within any week, provided that each visit lasts at least three (3) hours and the combined annual visits last at least sixty (60) hours in a given calendar year, and provided the property owner or the administrator of the child-occupied facility is notified or otherwise aware of such presence.

**Relocation expenses** – reasonable expenses directly related to relocation to temporary replacement housing that complies with the requirements of this chapter, including:

- (a) Moving and hauling expenses;
- (b) Payment of a security deposit;
- (c) The cost of replacement housing; provided, that the tenant continues to pay the rent on the dwelling unit from which the tenant has been relocated; and
- (d) Installation and connection of utilities and appliances. [Statutory]

**Renovation** – the modification of any existing structure or portion thereof that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement. The term "renovation" includes the removal, modification, or repair of painted surfaces or painted components, the removal of building components, weatherization projects, and interim controls that disturb painted surfaces. [Statutory]

**Renovator** – an individual who either performs or directs workers who perform renovations. A certified renovator is a renovator who has successfully completed a renovator course accredited by EPA or by the District of Columbia. [Statutory]

**Risk assessment** – an on-site investigation to determine and report the existence, nature, severity, and location of conditions conducive to lead poisoning, including:

- (a) The gathering of information regarding the age and history of the housing and occupancy by persons at risk;
- (b) A visual inspection of the property;
- (c) Dust wipe sampling, soil sampling, and paint testing, as appropriate;
- (d) Other activity as may be appropriate;
- (e) Provision of a report explaining the results of the investigation; and
- (f) Any additional requirements as determined by the Mayor. [Statutory]

**Risk assessor** – an individual who has been trained by an accredited training program and certified by the District to conduct risk assessments. [Statutory]

**Underlying condition** – the source of water intrusion or other problem that is causing paint to deteriorate which may be damaging to the substrate of a painted surface. [Statutory]

**Work area** – the space that a certified risk assessor, abatement worker or supervisor, a certified renovator or a certified project designer determines is sufficient to contain all dust and debris generated by work that disturbs paint.

**TITLE 22 DCMR (HEALTH), Subtitle B (PUBLIC HEALTH AND MEDICINE), is amended as follows:**

**CHAPTER 73 (CHILDHOOD LEAD POISONING PREVENTION) is amended as follows:**

**Subsection 7301.1 is amended to read as follows:**

7301.1 Each health care provider or health care facility that has obtained parental consent shall, as part of a well-child care visit, perform a blood lead level (BLL) screening test on every child who resides in the District of Columbia and who is served by the provider or facility, unless an identical test was performed not more than twelve (12) months before the well-child visit. Blood lead level screening tests shall be performed according to the following schedule:

- (a) Once between the ages of six (6) months and fourteen (14) months;
- (b) Once between the ages of twenty-two (22) and twenty-six (26) months; and
- (c) At least twice if a child over the age of twenty-six (26) months has not previously been tested for BLL. The tests for children over the age of twenty-six (26) months shall be conducted before the child attains the age of six (6) years and shall be conducted at least twelve (12) months apart, or according to a schedule determined appropriate by the health care provider or health care facility.

**Subsection 7303.2 is amended to read as follows:**

7303.2 Each laboratory that analyzes a blood sample taken from a child residing in the District of Columbia shall, within a week after completion of the analysis, submit a report that meets the requirements in § 7303.3, as follows:

- (a) The laboratory shall submit a written report to the health care provider or the health care facility where the sample was taken;

- (b) The laboratory shall submit a report to the Childhood Lead Poisoning Prevention Program (Program), through the Program's electronic reporting system; and
- (c) The laboratory shall immediately notify the health care provider or the health care facility and the Program of the results by telephone or fax if the child's BLL equals or exceeds ten micrograms of lead per deciliter (10 µg/dL).

Additional copies of this rulemaking may be obtained by either: (1) visiting DDOE's website, [www.ddoe.dc.gov](http://www.ddoe.dc.gov), and clicking on "Regulation & Law," then "Public Notices & Hearings," then clicking on the announcement for this rulemaking, and following directions to download the document in PDF "cut-and-paste" format; (2) stopping by DDOE's offices and asking for a copy at the 5<sup>th</sup> floor reception desk at the following address (mention "DDOE Lead Rules"); or (3) writing DDOE Lead and Healthy Housing Division, 1200 First Street, N.E., 5<sup>th</sup> Floor, Washington, DC 20002, "Attention: Lead Rules, requesting a copy" on the outside of the letter.

Those federal regulations incorporated by reference in the rulemaking can be obtained in hard copy at the Office of the Federal Register (OFR), 800 North Capitol St., NW, Ste. 700, Washington, DC 20001 or the Library of Congress, 101 Independence Ave., SE, Washington, DC 20540, and electronically on the OFR or the U.S. Government Printing Office (GPO) websites. OFR's website address is [www.ofr.gov](http://www.ofr.gov) and GPO's website address is [www.gpoaccess.gov](http://www.gpoaccess.gov).

**DISTRICT OF COLUMBIA PUBLIC LIBRARY****NOTICE OF FINAL RULEMAKING**

The District of Columbia Public Library Board of Trustees (Board), pursuant to the authority set forth in 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, as amended (29 Stat. 244, ch. 315, § 5; D.C. Official Code § 39-105 (2001 ed.)); Section 3205(jjj) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 39-105 (2001 ed.)); Section 2 of the District of Columbia Public Library Board of Trustees Appointment Amendment Act of 1985, effective September 5, 1985 (D.C. Law 6-17; D.C. Official Code § 39-105 (2001 ed.)); and the Procurement Reform Amendment Act of 1996, effective April 12, 1997, as amended (D.C. Law 11-259; § 39-105 (2001 ed.)); hereby gives notice of its intent to amend the following §§ 810.1 through 810.6 of Chapter 8 (Public Library) of Title 19 (Amusement, Parks, and Recreation) of the District of Columbia Municipal Regulations (DCMR).

The amended rules will uphold the District of Columbia Public Library (DCPL) policy to provide and maintain a safe and secure environment in which every customer can attain equitable access to information, expanded opportunities and an increased quality of life. The guidelines will act as rules of conduct for library customers, in order to deter and /or minimize the effect of unacceptable behavior, by defining such behavior so that individuals may conduct themselves in a manner consistent with the purpose and functions of DCPL.

Through D.C. Official Code § 39-105 (2012 Supp.), the Board designated the Chief Librarian to establish rules and manage the day-to-day operations of the library. The Library Rules Committee of the DCPL introduced the proposed amendments to 19 DCMR § 810 at a meeting held March 12, 2013. At a meeting held March 15, 2013, the Chief Librarian approved the proposed new amendments to the Behavior Guidelines Response Matrix. No comments have been received nor have any changes been made to the text of the proposed rules, as published in the Notice of Proposed Rulemaking in the *D.C. Register* on June 14, 2013 at 60 DCR 09074.

These final rules will become effective upon publication of this notice in the *D.C. Register*.

**Chapter 8, PUBLIC LIBRARY, of Title 19, AMUSEMENT, PARKS AND RECREATION, of the DCMR is amended as follows:**

**Section 810, Behavior Guidelines Response Matrix §§ 810.1 through 810.4 of Chapter 8, PUBLIC LIBRARY, of Title 19, AMUSEMENT, PARKS AND RECREATION, are amended to read as follows:**

Add a new § 810 to Chapter 8, Title 19 of the DCMR as follows:

## **19-810 Behavior Rules Governing the Use of the District of Columbia Public Library**

### **810.1 INTRODUCTION**

The District of Columbia Public Library's behavior rules have a threefold purpose: to protect the rights and safety of library customers, to protect the rights and safety of staff members, and to preserve the library's materials, facilities, and property.

The DC Public Library supports the rights of all individuals to free and equal access to information and use of the library without discrimination, intimidation, threat of harm or invasion of privacy. The DC Public Library is dedicated to providing friendly, courteous and respectful service, and an enjoyable, clean, and comfortable environment for all Library users.

For everyone's safety and protection, the DC Public Library reserves the right to inspect an individual's belongings to include purses, backpacks, bags, parcels, shopping bags, briefcases, and other items to prevent unauthorized removal of library materials and equipment or for the health and safety of staff and other customers.

### **810.2 DEFINITIONS AND SCOPE**

These behavior rules shall apply to all buildings, interior and exterior, and all grounds controlled and operated by the DC Public Library (such buildings and grounds are hereafter referred to as the "premises") and to all persons entering in or on the premises.

Listed below are the library's behavior rules. Persons who violate these rules may be removed from the premises and excluded from all library premises for the period of time listed below, by authority of the District of Columbia Public Library.

### **810.3 ENFORCEMENT**

Authorized library staff, Library Police, security guards and/or the Metropolitan Police Department officers may intervene to stop prohibited activities and behaviors. Failure to comply with these rules may result in: 1)

withdrawal of a person's permission to remain on Library premises; and/or 2) issuance of a Notice of Barring from Library property for a period of one day to five (5) years, as provided in policies and procedures issued by the Chief Librarian. A violation of law may also result in arrest and prosecution. Violations of law and/or these rules may also result in the restriction and/or termination of Library privileges, including the use of Library computers and other equipment, and facilities. Authorized personnel may base a Notice of Barring on personal observation or investigation. Barred parties may have their photographs or video captured by DC Public Library staff to enforce the bar.

#### **810.4 ADMINISTRATIVE REVIEW OF NOTICES OF BARRING**

An individual who receives a Notice of Barring may request an administrative review of a barring that is greater than seven (7) days. This request must be made within ten (10) business days of the date on the barring notice. A request for review should be submitted in writing to:

Director of Public Safety  
Martin Luther King Jr. Memorial Library  
901 G. Street NW  
Washington, D.C. 20001.

#### **810.5 BEHAVIOR RULES**

For the safety and comfort of the public and staff, and to create an environment conducive for library business the following activities are prohibited on library property and facilities:

##### **(a) CATEGORY ONE INFRACTIONS:**

**Any person(s) who violates rules 1-5 while in or on library premises will be immediately removed and excluded from all DC Public Library premises. Any person so excluded shall lose all library privileges from one (1) to five (5) years and the incident will be reported to the appropriate law enforcement agency.**

1. Committing or attempting to commit any activity that would constitute a violation of any Federal or District criminal statute or ordinance.
2. Directing a specific threat of physical harm against an individual, group of individuals or property.
3. Engaging in sexual conduct/activity, including, but not limited to, the physical manipulation or touching of a person's sex organs through a person's clothing in an act of apparent sexual stimulation or gratification.
4. Being under the influence of any controlled substance or intoxicating liquor or beverage.
5. Possessing, selling, distributing, or consuming any alcoholic beverage, except as allowed at a library approved event.

**(b) CATEGORY TWO INFRACTIONS:**

**Any person(s) who violates rules 6-13 while in or on library premises may first be given a warning at the discretion of library staff. Subsequent offenses by that person will result in that person's immediate removal and exclusion from all DC Public Library premises. Any person so excluded shall lose all library privileges from six (6) months to one (1) year. Repeated violations of category two infractions may lead to category one barring periods (1 year to 5 years).**

6. Engaging in conduct that disrupts or interferes with the normal operation of the library, or disturbs library staff or customers, including but not limited to, conduct that involves the use of abusive or threatening language or gestures, conduct that creates unreasonable noise, or conduct that consists of loud or boisterous physical behavior or talking.
7. Engaging in conduct that can be considered bullying as defined by the Youth Bullying Prevention Act of 2012, effective September 14, 2012 (D.C. Law 19-167; 59 DCR 7820).



8. Using library material, equipment, furniture, fixtures, or buildings in a manner inconsistent with the customary use thereof; or in a destructive, abusive or potentially damaging manner; or in a manner likely to cause personal injury to themselves or others.
9. Failure to comply with the reasonable direction of a library staff member.
10. Soliciting, petitioning, or distributing written materials or canvassing for political, charitable or religious purposes inside a library building, including the entrances or grounds or in a manner on the library premises that unreasonably interferes with or impedes access to the library.
11. Smoking or other use of tobacco in the library or within 25 feet of any library building (including electronic-cigarettes).
12. Violating the library's rules for *Acceptable Use of the Internet and Library Public Computers*.
13. Entering or attempting to enter a Library building while barred (*i.e.*, trespassing). Any customer who trespasses is prohibited from use of all DC Public Library facilities and services. Customers or persons returning to a DC Public Library facility during a period of barring may be arrested and prosecuted for unlawful entry pursuant to DC Official Code § 22-3302 (2001 ed. & 2012 Supp.).

**(c) CATEGORY THREE INFRACTIONS:**

**Any person(s) who violates rules 14-30 while in or on library premises may be given a warning at the discretion of library staff. Offenses by that person will result in that person's immediate removal and exclusion from all DC Public Library premises. Any person so excluded shall lose all library privileges for seven (7) days. Repeated violations of category three infractions may lead to category two barring periods (6 months to 1 year).**

14. Interfering with the free passage of library staff or customers in or on library premises, including, but not limited to, placing objects

such as bicycles, skateboards, backpacks or other items in a manner that interferes with free passage.

15. Placing personal belongings on or against buildings, furniture, equipment or fixtures in a manner that interferes with library staff or customer use of the library facility, or leaving personal belongings unattended.
16. Bringing bicycles or other similar devices inside library buildings, including, but not limited to, vestibules or covered doorways if no bicycle rack is provided within that area.
17. Operating roller skates, skateboards or other similar devices in or on library premises.
18. Parking vehicles on library premises for purposes other than library use. Vehicles parked in violation of this rule may be towed at the owner's expense.
19. Consuming food or drink that creates a nuisance or disrupts library use because of odor, garbage or spills. Non-alcoholic beverages in covered containers and food are only allowed in designated areas.
20. Bringing animals inside library buildings (with the exception of service animals), except as allowed at a library-approved event, or leaving an animal tethered and unattended on library premises.
21. Taking library materials into restrooms if the materials have not been checked out.
22. Bringing in items excluding personal items (purse, laptop, and briefcase) that occupy floor space in excess of 9" L x 14" W x 22" H. Items are measured in totality and must fit easily into a measuring box of the above dimensions. Bedrolls, blankets (except for use by babies and infants), and frame backpacks are prohibited. Bringing large duffel bags and plastic bags measuring over 12' x 36' and bringing infested personal items into the library.
23. Lying down or sleeping, to include the appearance of sleeping in the restrooms or on any floor, couch, table, or seat in the Library

and on the premises, and by blocking aisles, exits, or entrances by sitting or lying down in them.

24. Improperly using library restrooms, including, but not limited to, bathing, shaving, washing hair and changing clothes.
25. Using personal electronic equipment at a volume that disturbs others, including, but not limited to, pagers, stereos, televisions, cellular telephones, computers and tablets.
26. Leaving one or more children eight (8) years old or under, who reasonably appear to be unsupervised or unattended, anywhere in or on library premises. [Please see Unattended Children Policy]
27. Adults and teens are prohibited from using the children's area, unless accompanying a child twelve (12) years old or younger.
28. Adults and children are prohibited from using the teen area unless accompanying a teen age thirteen (13) – nineteen (19).
29. Adults and teens are prohibited from using any restroom designated for children. Children's restrooms are for the sole use of children twelve (12) years old or younger, and their caregivers.
30. Children and teens eighteen (18) and younger who are not accompanied by an adult during regular school hours are considered truant. Students must provide written proof from school authorities excusing the students from school in order to enter the library or be on library premises on school days between 9 a.m. – 2:30 p.m.

**(d) CATEGORY FOUR INFRACTIONS**

**Any person(s) who violates rules 31 and 32 while in or on library premises will be excluded from the premises until the problem is corrected.**

**Repeated violations of category four infractions may lead to category three barring periods (6 months to 1 year).**

31. Entering library buildings with bare feet or a bare chest.
32. Any person creating or emanating an odor that can be detected by a reasonable person, from six (6) feet away and/or constitutes a public nuisance for other customers, will be asked to leave the library until the situation can be corrected.

**810.6** Library customers who wish to request a reasonable modification of these Guidelines because of a disability or health problem may contact Library staff or may call the ADA Coordinator at 202-727-1101.

**DISTRICT OF COLUMBIA TAXICAB COMMISSION**

**NOTICE OF FINAL RULEMAKING**

The District of Columbia Taxicab Commission (Commission), pursuant to the authority set forth in Sections 8(b)(1) (C), (D), (E), (F), (G), (I) and (J), 14, 20 and 20a of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1) (C), (D), (E), (F), (G), (I) and (J) (2009 Repl.)); D.C. Official Code § 50-313 (2009 Repl.; 2012 Supp.); D.C. Official Code § 50-319 (2009 Repl.); and D.C. Official Code § 50-320 (2012 Supp.); D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2012 Supp.); and Section 12 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1920, and for other purposes, approved July 11, 1919 (41 Stat. 104; D.C. Official Code § 50-371 (2009 Repl.)); hereby gives notice of its intent to amend Chapter 4 (Taxicab Payment Service Providers) of the District of Columbia Municipal Regulations (DCMR)

This rulemaking was adopted as emergency and proposed rulemaking by the Commission on May 24, 2013, took effect on an emergency basis on May 31, 2013, and was published on June 7, 2013 in the *D.C. Register* at 60 DCR 8681. The Commission received comments after the comment period, which expired on July 8, 2013. The Commission considered those comments, including new issues not previously considered, and decided to publish these rules as final with one clarifying change to Subsection 409.6 as a result of the late submitted comments.

The rules provided necessary updates to the regulatory framework to implement the modern taximeter system (MTS), preventing legal incongruities that will halt the implementation of the MTS, and providing the residents and visitors the consumer and safety improvements intended by the D.C. Council. This final rulemaking was adopted on July 17, 2013 and will take effect upon publication in the *D.C. Register*.

**Chapter 4, TAXICAB PAYMENT SERVICE PROVIDERS, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR, is amended to read as follows:**

**CHAPTER 4 TAXICAB PAYMENT SERVICES**

**400 APPLICATION AND SCOPE**

400.1 The purpose of this chapter is to establish substantive rules for the administration and operation of payment service providers (PSPs) who provide the modern taximeter systems (MTSs) required by § 603 of this title, and for the integration of MTSs with registered dispatch services, including rules applicable to both PSPs and dispatch services, to ensure the safety of passengers and operators, for consumer protection, and to collect a taxicab passenger surcharge.

400.2 The provisions of this chapter shall be interpreted to comply with the language and intent of the District of Columbia Taxicab Commission Establishment Act of

1985, effective March 25, 1986 (D.C. Law 6-97, D.C. Official Code §§ 50-301 *et seq.*).

400.3 In the event of a conflict between a provision of this chapter and a provision of another chapter of this title, the more restrictive provision shall control.

#### **401 GENERAL REQUIREMENTS**

401.1 Each person interested in being licensed by the Office of Taxicabs (Office) as a PSP to market an MTS to taxicab owners pursuant to § 603 shall apply for and obtain approval of its proposed MTS under this chapter.

401.2 Each person interested in providing digital payment service to taxicab companies and independent owners shall apply for and obtain a certificate of operating authority that includes such service pursuant to Chapter 16.

401.3 Each PSP and each digital dispatch service (DDS) shall comply with the integration requirements of § 408.16 for the processing of digital payment, not later than the implementation date set forth in § 603.2. Prior to the implementation date, each DDS shall be permitted to process digital payments without integration. Where a PSP and DDS are affiliated businesses, the PSP shall comply with all applicable provisions of this Chapter without regard to the form of payment, including ensuring that the passenger surcharge will be collected from the passenger and paid to the District for every trip.

401.4 Beginning on the implementation date set forth in § 603.2, no PSP shall fail or refuse to participate in processing digital payments in the manner required by this chapter, where the taxicab company or independent owner that uses an MTS unit provided by the PSP chooses to offer digital payment to its passengers.

401.5 All costs associated with an MTS shall be the responsibility of the PSP, but may be allocated by a written agreement among the PSP, the taxicab companies and independent owners to whom the PSP markets its MTS units, or any other person, including costs for:

- (a) Development (including those which may arise in the review process under § 404 and those associated with adding the passenger console and safety feature required by § 603.8 (n));
- (b) Integration, pursuant to § 408.16;
- (c) Service and support;
- (d) Upgrade or modification (including costs to remain in compliance with any amendment to a provision of this title);

- (e) Installation;
- (f) Repair and maintenance; and
- (g) Compliance with an Office order.

401.6 Nothing in this chapter shall be construed to solicit or create a contractual relationship between the District of Columbia and any person.

#### **402 RELATED SERVICES**

402.1 A person may operate a PSP and one or more affiliated businesses, provided each affiliated business is operated in compliance with all applicable provisions of this title and other applicable laws.

#### **403 PROPOSED MODERN TAXIMETER SYSTEMS – APPLICATIONS BY PSPs**

403.1 No person shall operate as a PSP, process an in-vehicle payment for a taxicab trip, market MTS units, or allow another person to use its MTS units, unless such person is a PSP with current approval of its MTS under this chapter. The approval of a PSP's modern taximeter system under this chapter shall constitute the PSP's operating authority under this title.

403.2 Each person seeking approval of a proposed MTS shall file with the Office an application that includes the following information (including such documentation as required by the Office):

- (a) The PSP's name, business address, and business telephone number, and the name(s) of its owner and operator;
- (b) The name, business address, and business telephone number of each affiliated business;
- (c) A brief narrative describing the proposed MTS and demonstrating that it would meet:
  - (1) The MTS equipment requirements of § 603.8, including the requirement of § 603.8(n) that a passenger console be incorporated not later than December 1, 2013, and the requirement of § 603.8(n)(3) that a safety feature be incorporated not later than June 1, 2014; and
  - (2) The MTS service and support requirements of § 603.9;

- (d) A certification that the PSP owns the rights to, or holds licenses to use, all the intellectual property used by the proposed MTS;
- (e) The forms of in-vehicle payment that the PSP proposes to offer, in addition to cash (such as near-field communications);
- (f) Information showing the PSP is in compliance with federal and District licensing, permitting, registration, anti-discrimination, and taxation requirements applicable to a business operating in the District;
- (g) The address and telephone number for the PSP's bona fide administrative office or for its registered agent authorized to accept service of process, information showing that the PSP's bona fide administrative office, if any, is in compliance with all laws, rules, and regulations concerning the operation of a place of business in the District, and an indication of whether a place of business would be shared with an affiliated business;
- (h) The customer service telephone number that the PSP will provide for passengers;
- (i) The technical support telephone number that the PSP will provide for taxicab owners and operators;
- (j) The URL for the PSP's website, if any;
- (k) The trade name for the MTS and for each service offered by an affiliated business;
- (l) A certification that the PSP is in compliance with the Clean Hands Before Receiving a License or Permit Act of 1996 ("Clean Hands Act"), effective May 11, 1996 (D.C. Law 11-118, D.C. Official Code § 47-2862);
- (m) An initial inventory of the vehicles and operators associated with the PSP, as required by § 408.12;
- (n) Information showing the PSP will collect from the passenger and pay to the District the passenger surcharge for each taxicab trip, as required by § 408.15;
- (o) A sample agreement used by the PSP to associate with taxicab companies, independent owners, and operators;
- (p) The name of each dispatch service with which the PSP is associated, if any;



- (q) Information showing the PSP will be in compliance with the integration requirements of § 408.16; and
- (r) Such other information related to establishing compliance with this chapter as the Office may require at the time of application or during the review process.

403.3 Each application shall be made under penalty of perjury, and shall be accompanied by an application fee of one-thousand dollars (\$1,000) and by a surcharge bond.

403.4 A request for approval may be denied if an application contains or was submitted with materially false information provided orally or in writing for the purpose of inducing approval.

#### **404 REVIEW PROCESS**

404.1 The PSP shall bear the burden of establishing to the satisfaction of the Office that its proposed MTS meets all the requirements of this chapter and §§ 603.8 and 603.9.

404.2 An applicant may be scheduled for one or more demonstrations of its proposed MTS equipment, where the Office's technical staff shall examine and test the equipment and ask questions of the PSP's technical staff, who shall attend.

404.3 A request for approval may be denied if the applicant does not cooperate with the Office during the review process, or if applicant provides materially false information orally or in writing during the review process for the purpose of inducing approval.

404.4 The Office may use any information or documentation it acquired from the applicant during an MTS pre-approval process, if such process was used by the PSP. Pre-approval of a proposed MTS shall not entitle a PSP to approval under this chapter.

#### **405 DECISION TO GRANT OR DENY**

405.1 The Office shall complete the review process and issue its decision to grant or deny approval of a proposed MTS within thirty (30) days after the application is filed, provided however, that such period may be extended by the Office for no more than ten (10) days with notice to the PSP whenever the Office has five (5) proposed MTSs under review.

405.2 If the Office denies approval on any ground, it shall state the reasons for its decision in writing.

405.3 A decision to deny approval may be appealed to the Chief of the Office within fifteen (15) business days, and, otherwise, shall constitute a final decision of the Office. The Chief shall issue a decision on such appeal within thirty (30) days. A timely appeal of a denial shall extend an existing MTS approval pending the Chief's decision. A decision of the Chief to affirm or reverse a denial shall constitute a final decision of the Office. A decision of the Chief to remand to the Office for further review of the MTS shall extend an existing MTS approval pending the final decision of the Office.

405.4 An approval shall continue in effect for twelve (12) months, during which time no substantial change shall be made to an approved MTS without written approval from the Office. A PSP shall promptly inform the Office of a proposed substantial change that would require written approval. A PSP's integration with a DDS, including the submission of a proposed integration agreement, shall not constitute a substantial change.

405.5 Each approved MTS shall be listed on the Commission's website.

#### **406 RENEWAL APPLICATIONS**

406.1 Each approved MTS shall be submitted for renewal of its approval at least sixty (60) days prior to the expiration of the approval, unless the Office provides otherwise in writing. The procedures applicable to new applications shall apply to renewal applications, except as otherwise required by the Office.

406.2 An approval shall continue in force and effect beyond its expiration period during such time as an application for re-approval is pending in proper form.

406.3 Renewal of MTS approval shall require that the MTS be in compliance with all applicable provisions of this title, and other applicable laws in effect at the time renewal is sought.

#### **407 SUSPENSION OR REVOCATION OF APPROVAL**

407.1 The approval of an MTS may be suspended or revoked by the Office with reasonable notice and an opportunity to be heard if the Office learns that the MTS or the associated owners or operators using are not in substantial compliance with this title, or if that the MTS is being used in a manner that poses a significant threat to passenger or operator safety, or consumer protection.

#### **408 OPERATING REQUIREMENTS APPLICABLE TO PSPs AND DDSs**

408.1 Each PSP shall operate in compliance with this chapter and Chapters 6 and 8 of this title, and other applicable laws.

- 408.2 Each DDS that provides dispatch or digital payment for taxicabs shall operate in compliance with this chapter and Chapters 8 and 16 of this title, and other applicable laws.
- 408.3 Each PSP shall comply with all applicable federal and District licensing, permitting, registration, anti-discrimination, and taxation requirements for a business operating in the District.
- 408.4 Each PSP shall either maintain a bona fide administrative office, consisting of a physical office in the District, in the same manner required of a taxicab company under Chapter 5 of this title and in compliance with all laws, rules, and regulations concerning the operation of a place of business in the District, or shall maintain a registered agent authorized to accept service of process, provided, however, that a PSP operated by a person that provides another service regulated by this title requiring such person to maintain a bona fide administrative office in the District shall operate such bona fide administrative office as a bona fide administrative office for the PSP as well. Each PSP may share a place of business with its affiliated businesses provided the place of business is in compliance with this Title and other applicable laws, including the requirement for a certificate of occupancy provided by the Department of Consumer and Regulatory Affairs.
- 408.5 Each PSP shall maintain a customer service telephone number for passengers with a “202” prefix or a toll-free area code that shall be available during normal working hours 365 days per year.
- 408.6 Each PSP shall maintain a technical support telephone number for vehicle owners and operators with a “202” prefix or a toll-free area code that shall be available 24 hours per day, 365 days per year.
- 408.7 Each PSP shall operate only in compliance with §§ 508-513 of this title, to the same extent as if the PSP were a taxicab company.
- 408.8 Each PSP shall:
- (a) Store its business records in a safe and secure manner, and in compliance with industry best practices and applicable federal and District law;
  - (b) Make its business records available for inspection and copying during regular business hours at the Office or at its bona fide administrative office, if maintained, within five (5) business days of its receipt of a written demand from the Office; and
  - (c) Retain its business records for at least five (5) years.
- 408.9 Each PSP and its owners, operators, officers, employees, agents, and representatives shall, at all times, cooperate with the instructions of public vehicle

enforcement inspectors, other law enforcement officers, other authorized officials of the Office, and General Counsel to the Office, including a request in connection with a possible violation of this title or other applicable law by any person seeking an operator's identification (Face Card) number or a vehicle's PVIN, previously reported in anonymous format under § 603.

- 408.10 Each PSP shall notify the Office if it learns of a security breach as to which a report must be made pursuant to the Consumer Personal Information Security Breach Notification Act of 2006, effective March 8, 2007 (D.C. Law 16-237; D.C. Official Code §§ 28-3851, *et seq.*) or other applicable law.
- 408.11 Each PSP shall allow each passenger to make his or her choice of in-vehicle payment or digital payment, to the extent required by this chapter, and no minimum payment shall be required.
- 408.12 Each PSP shall remain in compliance with all MTS service and support requirements in Chapter 6 and all requirements of this chapter throughout the period that its MTS has a current and valid approval from the Office.
- 408.13 Each PSP shall pay each taxicab company or independent owner with which it is associated the portion of such PSP's revenue to which such taxicab company or independent owner is entitled within twenty-four (24) hours or one (1) business day of when such revenue is received by the PSP.
- 408.14 PSP inventory requirements.
- (a) Each PSP shall maintain an accurate inventory of its associated vehicles and operators containing the following information—
- (1) For each vehicle: the name of and contact information for its owner(s), including work and cellular telephone numbers; the vehicle's PVIN, make, model, and year of manufacture; certification by the PSP that the vehicle is in compliance with the insurance requirements of Chapter 9 of this title; an indication of whether the vehicle is wheelchair accessible; an indication with whether the vehicle is in active use; and, if the vehicle is associated with a taxicab company, association, or fleet, the name of and contact information for such company, association, or fleet; and
  - (2) For each operator: the name of and contact information for such operator, including work and cellular telephone numbers; his or her DCTC operator license (Face Card) number; an indication of whether such operator is actively using the MTS; and, if he or she is associated with a taxicab company, association, or fleet, the name of and contact information for such company, association, or fleet.

- (b) The Office may remove a vehicle or operator from a PSP's inventory at any time with reasonable notice and an opportunity to be heard if a vehicle or operator on the inventory is not legally authorized to operate, or in the event an MTS unit is not legally authorized for use (such as where a vehicle inspection reveals the MTS unit has been tampered with).

408.15 Passenger surcharge collection and payment by PSPs and DDSs.

- (a) Each PSP shall comply with paragraph (c) of this subsection.
- (b) Each DDS that is required to collect the taxicab passenger surcharge pursuant to § 408.16 shall comply with paragraph (c) of this subsection.
- (c) Each person required to comply with this subsection shall:
  - (1) If it is a DDS, it shall provide a surcharge bond to the Office at the time of its application for a certificate of operating authority under Chapter 16 that includes processing digital payments for taxicabs;
  - (2) Collect the surcharge as an authorized additional charge under § 801.7(b)(2) for each taxicab trip;
  - (3) Remit to the District, at the end of each seven (7) day period, a payment to the D.C. Treasurer in the amount of all the surcharges it has collected during such period; and
  - (4) Send via email at the time of its payment a report to the Office certifying its payment to the District and providing a basis for the amount of such payment.
- (d) Each person that participates in providing service for a taxicab trip, regardless of whether it is required by paragraph (a) or (b) to collect and pay the passenger surcharge, shall cooperate with the Office to resolve any discrepancy concerning a passenger surcharge owed or paid to the District by any person, and, if the Office is unable to resolve such discrepancy within thirty (30) days, the Office may, in its discretion, make a claim against the surcharge bond deposited by any person that participated, as necessary and appropriate to satisfy the amount of the discrepancy.
- (e) A surcharge bond provided to the Office by a PSP or by a DDS shall be returned within thirty (30) days following an event that causes such business to lose its operating authority under this title, provided, however, that the surcharge bond shall not be returned while there remains a discrepancy concerning a passenger surcharge owed or paid to the District by any person.

408.16 Digital payment requirements. Each PSP and each DDS shall comply with the following requirements for integration of their services, except that this section shall not apply to a digital payment where the PSP and the DDS are affiliated businesses.

(a) Integration mandated.

(1) Each PSP shall:

- (A) Allow each taxicab company and independent owner to which it provides its MTS to associate with one or more DDSs with current operating authority under Chapter 16 that extends to providing digital payment;
- (B) Integrate as provided in this section with each DDS that has existing operating authority under Chapter 16 for digital payment, within sixty (60) days of receiving approval of its MTS under this chapter, and, thereafter, shall remain integrated while both businesses continue to have operating authority; and
- (C) Integrate as provided in this section with each DDS that obtains new operating authority under Chapter 16 for digital payment, within sixty (60) days of when the DDS obtains such authority and, thereafter, shall remain integrated while both businesses continue to have operating authority.

(2) Each DDS shall:

- (A) Integrate as provided in this section with each PSP that has approval for its MTS under this chapter, within sixty (60) days of receiving operating authority under Chapter 16 for digital payment and, thereafter, shall remain integrated while both businesses continue to have operating authority; and
- (B) Integrate as provided in this section with each PSP that obtains approval of a new MTS under this chapter, within sixty (60) days of such approval and, thereafter, shall remain integrated while both businesses continue to have operating authority.

(3) Prior to a deadline by which a PSP or DDS is required to integrate under by paragraph (a)(1) or (a)(2) of this subsection, each digital

payment shall be processed by the PSP and any DDS participating in a transaction may charge a separate booking or dispatch fee as permitted by § 801;

- (4) Each PSP and each DDS required to integrate under paragraph (a)(1) or (a)(2) of this subsection shall integrate and maintain integration at its own cost and expense, but may allocate such cost and expense as provided in an integration agreement; and
- (5) Any PSP or DDS that fails to integrate or to maintain integration as required by this subsection shall be subject to civil penalties, including the modification, suspension, or revocation of its operating authority as provided in this chapter.

(b) Integration requirements.

- (1) Each PSP and each DDS may execute an integration agreement pursuant to paragraph (b)(3) of this subsection.
- (2) Minimum requirements for integration. Where a PSP and a DDS have not executed an integration agreement pursuant to paragraph (b)(3), they shall integrate in a manner that allows them to do the following for each taxicab trip where a digital payment is selected by the passenger, in the following order:
  - (A) At the end of the trip, the operator shall indicate through the MTS unit that the trip is complete and the method of payment is digital payment;
  - (B) The PSP shall transmit to the DDS through an application program interface:
    - (i) The amount of the taximeter fare and any gratuity amount; and
    - (ii) The same data required to be transmitted to the TCIS for the trip, pursuant to § 603.9 (c), including the unique trip number assigned by the PSP;
  - (C) The PSP shall transmit to the TCIS the data required by § 603.9;
  - (D) The DDS shall process the total charge for the digital payment;

- (E) The DDS shall collect the passenger surcharge and make a payment to the District, in the manner required by § 408.15(c);
  - (F) The owner of the vehicle shall pay the integration service fee to the PSP; and
  - (G) The DDS shall transmit to the TCIS the same data required to be transmitted by the PSP under § 603.9(c), provided however that the DDS may transmit the location information required by § 603.9(c)(7) generalized to census tract level.
- (3) Alternative requirements for approved integration agreements. In lieu of complying with paragraph (b)(2) of this subsection, any DDS and any PSP may negotiate an integration agreement that allocates the obligations set forth in paragraph (b)(2) in any reasonable, reliable, verifiable, and commercially reasonable manner that meets the following requirements:
- (A) The parties shall submit the integration agreement to the Office for its review. Approval of the agreement shall be granted where the Office determines that all of the following requirements are met:
    - (i) The passenger surcharge will be collected from the passenger and paid to the District for every trip, which shall require a DDS to comply with § 408.15 if the agreement requires the DDS to collect the surcharge from passengers and make the payments to the District;
    - (ii) The MTS requirements in Chapter 6 will be met, including those for the collection and reporting of trip data and validation of the operator;
    - (iii) Each party will be in compliance with all applicable provisions of this title, except for those in paragraph (b)(2) of this subsection; and
    - (iv) The agreement and its implementation will not threaten the safety of passengers, operators, or the public, or consumer protection.
  - (B) Each integration agreement shall be reviewed and a decision to approve or reject the agreement shall be made



within ten (10) business days, and, in the event of a denial, shall be subject to the appeal procedures in § 405 applicable to MTS review, and, thereafter, shall constitute final decisions of the Office.

- (C) If an integration agreement is approved, the parties to such agreement shall comply with its terms while both parties continue to have operating authority, and shall immediately notify the Office in the event the agreement has been terminated, nullified, or rendered void or unenforceable, providing to the Office the date and time at which such event occurred, and, thereafter, the parties shall comply with the provisions of paragraph (b)(2) of this subsection.

## **409 PROHIBITIONS**

- 409.1 No PSP shall participate in a transaction involving taxicab service in the District where the fare, rates, charges, or payment does not comply with the applicable provisions of this title, including this chapter, and §§ 603 and 801.
- 409.2 No PSP shall allow its associated operators to limit service or refuse to provide service based on a person's choice of payment method.
- 409.3 No PSP shall allow its associated operators to access a passenger's payment card information after the payment has been processed.
- 409.4 No PSP shall allow its MTS to be used by an operator or vehicle not on its inventory at the time the trip is booked by dispatch or by street hail.
- 409.5 No PSP shall allow its MTS to be used by any person for a taxicab trip unless the PSP pays the taxicab passenger surcharge to the Office.
- 409.6 No person shall operate as a PSP, process an in-vehicle payment for a taxicab trip, or sell, lease, lend, or otherwise provide an MTS unit to any person in the District, unless such person is a PSP with current approval of its MTS under this chapter.
- 409.7 No PSP may alter or attempt to alter its legal obligations under this title or to impose an obligation on any person that is contrary to public policy or that threatens passenger or operator safety, or consumer protection.
- 409.8 A PSP shall not associate with a taxicab operator who provides service with a vehicle that displays on its exterior the name, logo, insignia, or other unique branding of a taxicab fleet or association, if such fleet or association does not agree to the operator's association with the PSP, and:

- (a) For thirty (30) days following the effective date of this rulemaking, such fleet or association is providing credit card processing services to its associated operators; or
- (b) After thirty (30) days following the effective date of this rulemaking, such fleet or association has filed an application for approval as a PSP under this chapter or has been approved as a PSP under this chapter.

- 409.9 A PSP shall not allow its associated taxicab companies, independent owners, or taxicab operators to associate with a dispatch service that is not a licensed dispatch service.
- 409.10 No PSP or DDS shall participate in processing a payment or otherwise providing service to a passenger who chooses to pay by digital payment, except in the manner required by all applicable provisions of this chapter.
- 409.11 No PSP or DDS shall fail or refuse to participate in processing a digital payment in the manner required by all applicable provisions of this chapter, including, without limitation, a failure to maintain integration as required by § 408.16.
- 409.12 No PSP or DDS shall associate with or integrate with a PSP or DDS that does not have the operating authority required by a provision of this title, or that is operated in violation of this title.

#### **410 ENFORCEMENT**

- 410.1 The enforcement of this chapter shall be governed by the procedures in Chapter 7 of this title. If, at the time of violation, the procedures in Chapter 7 do not extend in their terms to PSPs or DDSs, such procedures shall be applied to a PSP or a DDS as if such PSP or DDS were a taxicab owner or operator.
- 410.2 If, at the time of a violation, the procedures in Chapter 7 do not extend in their terms to a person regulated by this chapter, violations of this chapter shall be enforced as if such person were a taxicab owner or operator.

#### **411 PENALTIES**

- 411.1 A PSP or DDS that violates this chapter or an applicable provision of another chapter of this title is subject to:
- (a) A civil fine of two hundred fifty dollars (\$250) for the first violation of a provision, which shall double for the second violation of the same provision, and triple for each subsequent violation of the same provision thereafter;

- (b) Confiscation of an MTS unit or unapproved equipment (including any fixed or mobile hardware component such as a smartphone, mobile data terminal, tablet, or attached payment card reader) used in connection with the violation:
- (c) Suspension, revocation, or non-renewal of the Office's approval of its MTS (if a PSP) or modification, suspension, revocation, or non-renewal of its certificate of operating authority under Chapter 16 (if a DDS);
- (d) Any combination of the sanctions listed in (a)-(c) of this subsection.

## 499 DEFINITIONS

499.1 The terms "digital dispatch," "digital dispatch service or DDS," "dispatch," and "telephone dispatch" shall have the meanings ascribed in Chapter 16 of this title.

499.2 When used in this chapter, the following words and phrases shall have the meanings ascribed:

**"Affiliated"** - common ownership.

**"Approved MTS"** - an MTS that has been approved for use by the Office under this chapter.

**"Associated"** - a voluntary relationship of employment, contract, joint venture, or agency. For purposes of this chapter, an association not in writing shall be ineffective for compliance purposes.

**"Association"** - a group of taxicab owners organized for the purpose of engaging in the business of taxicab transportation for common benefits regarding operation, color scheme, or insignia.

**"Authorized MTS installation business"** - a business authorized by the Office under this title to install one or more approved MTSs.

**"Cash payment"** - a payment to the operator by the passenger inside the vehicle using cash. A cash payment is a form of in-vehicle payment.

**"Cashless payment"** - a payment to the operator by the passenger inside the vehicle other than by cash, which shall include a payment by payment card, and may include another form of non-cash payment that a PSP is approved to provide to passengers pursuant to § 403.2(e) (such as near-field communication and voucher). A cashless payment is not a "digital payment," as such term is defined in this section.

**“Clean Hands Act”** - the Clean Hands Before Receiving a License or Permit Act of 1996, effective May 11, 1996 (D.C. Law 11-118, D.C. Official Code § 47-2862).

**“Commission”** or **“DCTC”** - the District of Columbia Taxicab Commission.

**“Digital payment”** - a payment processed outside the vehicle using a payment card, which may include a payment card on file, or using a direct debit transaction. A digital payment is not a “cashless payment,” as such term is defined in this section.

**“District”** - the District of Columbia.

**“District of Columbia Taxicab Commission (DCTC) License”** - the taxicab vehicle license issued pursuant to D.C. Official Code § 47-2829(d).

**“Face Card”** or **“DCTC Identification Card”** or **“Identification Card”** - the taxicab or public vehicle-for-hire operator license issued pursuant to D.C. Official Code § 47-2829(e).

**“Fleet”** - a group of twenty (20) or more taxicabs having a uniform color scheme and having unified control by ownership or by association.

**“Gratuity”** - a voluntary payment by the passenger after service is rendered, which, if made, shall be included as part of the total charge under § 801.9, in the amount determined only by the passenger.

**“Group Riding”** - a group of two (2) or more passengers composed prior to the booking by dispatch or street hail and whose trip has a common point of origin, and different or common destinations.

**“Independent taxicab”** - a taxicab operated by an individual owner.

**“Independently operated taxicab”** - a taxicab operated by an individual owner that is not part of a fleet, company, or association, and that does not operate under the uniform color scheme of any fleet, company, or association.

**“Individual Riding”** - the transportation of a single passenger for an entire trip.

**“Integration”** - a commercial arrangement between a PSP and a DDS for the real-time sharing of electronic information between such businesses that complies with industry best practices and allows each of them to meet all obligations imposed by this chapter.

**“Integration Agreement”** - an agreement between a PSP and a DDS to allocate the rights and obligations pertaining to integration under this chapter.

**“Integration service fee”** - a one dollar (\$1) fee paid by the taxicab company or independent owner to the PSP for the use of the MTS when a digital payment is made.

**“In-Vehicle Payment”** - a payment made to the operator by the passenger inside the vehicle, consisting only of a cash payment or a cashless payment.

**“License”** shall have the meaning ascribed to it in the D.C. Administrative Procedure Act, D.C. Official Code § 2-502.

**“License Act”** - D.C. Official Code § 47-2829.

**“Limousine”** shall have the meaning ascribed to it by § 1299.1.

**“Loitering”** - waiting around or in front of a hotel, theater, public building, or place of public gathering or in the vicinity of a taxicab or limousine stand that is occupied to full capacity; stopping in such locations, except to take on or discharge a passenger; or unnecessarily slow driving in front of a hotel, theater, public building, or place of public gathering or in the vicinity of a taxicab or limousine stand that is occupied to full capacity.

**“Modern taximeter system”** or **“MTS”** - a technology solution that combines taximeter equipment and PSP service and support in the manner required by this chapter and § 603.

**“MTS unit”** - the MTS equipment installed in a particular vehicle.

**“Notice”** - notice of transfer under § 507.

**“Office”** - Office of Taxicabs.

**“Office order”** - an administrative issuance by the Office to a class of persons or vehicles regulated by a provision of this title or other applicable law that: adopts a form; issues a guideline or protocol applicable to persons other than employees of the Office; provides guidance concerning a provision of this title; or takes any action that the Office deems necessary for purposes of administration, enforcement, or compliance.

**“Operator”** - a person who operates a public vehicle-for-hire.

**“Owner”** - a person, corporation, partnership, or association that holds the legal title to a public vehicle-for-hire, the registration of which is required in the District of Columbia. If the title of a public vehicle-for-hire is subject to a

lien, a mortgagor may also be considered an owner.

**“Passenger surcharge”** - the passenger surcharge required to be collected from passengers and remitted to the District for each trip in a taxicab, in an amount established by § 801.

**“Payment card”** - any major credit or debit card including Visa, MasterCard, American Express, and Discover.

**“Payment information on file”** - any payment card, direct debit, or pre-paid account that allows a person authorized to process a recurring payment, to process such payment without requiring the person authorizing the payment to present the original payment information.

**“Payment service provider”** or **“PSP”** - a business that offers an MTS, which, if approved by the Office, may operate such MTS pursuant to this chapter and § 603.

**“Person”** shall have the meaning ascribed to it in the D.C. Administrative Procedure Act, D.C. Official Code § 2-502.

**“Personal service”** - assistance or service requested by a passenger that requires the taxicab operator to leave the vicinity of the taxicab.

**“Public vehicle-for-hire”** - any private passenger motor vehicle operated in the District as a taxicab, limousine, or sedan, or any other private passenger motor vehicle that is used for the transportation of passengers for hire but is not operated on a schedule or between fixed termini and is operated exclusively in the District, or a vehicle licensed pursuant to D.C. Official Code § 47-2829, including taxicabs, limousines, and sedans.

**“Public Vehicle-for-hire Identification Number”** or **“PVIN”** - a unique number assigned by the Office of Taxicabs to each public vehicle-for-hire.

**“Sedan”** shall have the meaning ascribed to it in § 1299.1.

**“Shared Riding”** - a group of two (2) or more passengers, arranged by a starter at Union Station, Verizon Center, or Nationals Park, or other locations designated by an administrative order of the Office, that has common or different destinations.

**“Street”** - a roadway designated on the Permanent System of Highways of the District as a public thoroughfare.

**“Surcharge Account”** - an account established and maintained by the PSP with the Office for the purpose of processing the Passenger Surcharge.

**“Surcharge Bond”** - a security bond of fifty-thousand dollars (\$50,000) payable to the D.C. Treasurer for the purpose of securing a person’s payment of a passenger surcharge to the District, which remains effective throughout the period when such person has operating authority under this title and for one (1) year thereafter.

**“Taxicab”** - a public vehicle-for-hire that operates pursuant to Chapter 6 and other applicable provisions of this title, having a seating capacity for eight (8) or fewer passengers, exclusive of the driver, and operated or offered as a vehicle for passenger transportation for hire.

**“Taxicab Commission Information System”** or **“TCIS”** - the information system operated by the Office.

**“Taxicab company”** - a taxicab company that operates pursuant Chapter 5 and other applicable provisions of this title.

**“Taximeter fare”** - the fare established by § 801.7.

**“Washington Metropolitan Area”** - the area encompassed by the District; Montgomery County, Prince Georges County, and Frederick County in Maryland; Arlington County, Fairfax County, Loudon County, and Prince William County and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park in Virginia.

**DISTRICT OF COLUMBIA TAXICAB COMMISSION****NOTICE OF FINAL RULEMAKING**

The District of Columbia Taxicab Commission (Commission), pursuant to the authority set forth in Sections 8(b)(1) (C), (D), (E), (F), (G), (I) and (J), 14, 20, and 20a of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1) (C), (D), (E), (F), (G), (I), and (J) (2009 Repl.)); D.C. Official Code § 50-313 (2009 Repl.; 2012 Supp.); D.C. Official Code § 50-319 (2009 Repl.); and D.C. Official Code § 50-320 (2012 Supp.); D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2012 Supp.); and Section 12 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1920, and for other purposes, approved July 11, 1919 (41 Stat. 104; D.C. Official Code § 50-371 (2009 Repl.)); hereby gives notice of its intent to amend Chapter 6 (Taxicab Parts and Equipment) of the District of Columbia Municipal Regulations (DCMR)

This rulemaking was adopted as emergency and proposed rulemaking by the Commission on May 24, 2013, took effect on an emergency basis on May 31, 2013, and was published on June 7, 2013 in the *D.C. Register* at 60 DCR 8692. The Commission received comments after the comment period, which expired on July 8, 2013. The Commission considered those comments, including new issues not previously considered, and decided to publish these rules as final without any changes.

The rules provided necessary updates to the regulatory framework to implement the modern taximeter system (MTS), preventing legal incongruities that will halt the implementation of the MTS, and providing the residents and visitors consumer and safety improvements. This final rulemaking was adopted on July 17, 2013 and will take effect upon publication in the *D.C. Register*.

**Chapter 6, TAXICAB PARTS AND EQUIPMENT, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR, is amended as follows:****Section 600, APPLICATION AND SCOPE, is amended to read as follows:**

- 600.5           The enforcement of this chapter shall be governed by the procedures set forth in Chapter 7 of this title.
- 600.6           If, at the time of a violation, the procedures in Chapter 7 do not extend in their terms to a person regulated by this chapter, violations of this chapter shall be enforced as if such person were a taxicab owner or operator.

**Section 603, MODERN TAXIMETER SYSTEMS, is amended as follows:****Section 603.4 is amended to read as follows:**



603.4 Dispatch services. Each taxicab company, independent owner, or operator may associate with one or more dispatch services to receive telephone or digital dispatches, provided the DDS used is in compliance with Chapter 16 and all other applicable requirements of this Title and other applicable laws. Each taxicab company and independent owner may associate with one or more digital dispatch services to provide digital payment, provided the digital dispatch service is in compliance with Chapters 4, 8, and 16. It shall be the responsibility of each taxicab company and independent owner to report to the Office any occasion when they have personally observed a PSP or DDS failing or refusing to comply with the integration requirements of Chapter 4 for the processing of digital payments.

**Section 603.6 is amended to read as follows:**

603.6 All costs associated with obtaining an MTS unit, including installation and certification (including those associated with adding the passenger console and safety feature required by § 603.8(n)), operation, compliance with a provision of this title or other applicable law, compliance with an Office order, repair, lease, service and support, maintenance, and upgrade, shall be the responsibility of the taxicab company or independent owner, but may be allocated by written agreement among the taxicab company or independent owner, the PSP that provides it, or any other person.

**Section 603.9 is amended to read as follows:**

603.9 MTS service and support requirements.

Each MTS shall function with the service and support of the PSP, which shall at all times operate in compliance with Chapter 4, and shall maintain a data connection to each MTS unit that shall:

- (a) Validate the status of the operator's DCTC license (Face Card) in real-time by connecting to the Taxicab Commission Information System (TCIS) to ensure the license is not revoked or suspended, and that the operator is in compliance with the insurance requirements of Chapter 9;
- (b) Validate the status of the taximeter component of the MTS unit (such as hired, vacant, or time-off) in real-time to ensure that it cannot be used until the prior trip and the payment process connected with it have ended;
- (c) Transmit to the TCIS every twenty-four (24) hours via a single data feed consistent in structure across all PSPs, in a manner as established by the Office, the following data:
  - (1) The date;

- (2) The operator identification (Face Card) number and PVIN, reported in a unique and anonymous manner allowing the PSP to maintain a retrievable record of the operator and vehicle;
  - (3) The name of the taxicab company, association, or fleet if applicable;
  - (4) The PSP-assigned tour ID number and time at beginning of tour of duty;
  - (5) The time and mileage of each trip;
  - (6) The time of pickup and drop-off of each trip;
  - (7) The geospatially-recorded place of pickup and drop-off of each trip which may be generalized to census tract level;
  - (8) The number of passengers;
  - (9) The unique trip number assigned by the PSP;
  - (10) The taximeter fare and an itemization of the rates and charges pursuant to § 801;
  - (11) The form of payment (cash payment, cashless payment, voucher, or digital payment), and, if a digital payment, the name of the DDS;
  - (12) The time at the end of each tour of duty;
- (d) Provide the Office with the information necessary to insure that the PSP pays and the Office receives the taxicab passenger surcharge for each taxicab trip, regardless of how the fare is paid; and
  - (e) Allow the PSP to comply with the integration and other requirements for processing digital payments pursuant to § 408.16.

**DISTRICT OF COLUMBIA TAXICAB COMMISSION****NOTICE OF FINAL RULEMAKING**

The District of Columbia Taxicab Commission (Commission), pursuant to the authority set forth in Sections 8(b)(1) (C), (D), (E), (F), (G), (I) and (J), 14, 20 and 20a of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1) (C), (D), (E), (F), (G), (I) and (J) (2009 Repl.)); D.C. Official Code § 50-313 (2009 Repl.; 2012 Supp.); D.C. Official Code § 50-319 (2009 Repl.); and D.C. Official Code § 50-320 (2012 Supp.); D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2012 Supp.); and Section 12 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1920, and for other purposes, approved July 11, 1919 (41 Stat. 104; D.C. Official Code § 50-371 (2009 Repl.)); hereby gives notice of its intent to amend Chapter 8 (Operation of Taxicabs) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking was adopted as emergency and proposed rulemaking by the Commission on May 24, 2013, took effect on May 31, 2013, and was published on June 7, 2013 in the *D.C. Register* at 60 DCR 8711. The Commission received comments after the comment period, which expired on July 8, 2013. The Commission considered those comments, including new issues not previously considered, and decided to publish these rules as final without any changes.

The rules provide necessary updates to the regulatory framework to implement the modern taximeter system (MTS), preventing legal incongruities that will halt the implementation of the MTS, and providing the residents and visitors the consumer and safety improvements intended by the D.C. Council. This final rulemaking was adopted on July 17, 2013 and will take effect upon publication in the *D.C. Register*.

**Chapter 8, OPERATION OF TAXICABS, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR, is amended as follows:**

**Section 801, PASSENGER RATES AND CHARGES, is amended to read as follows.**

**801 PASSENGER RATES AND CHARGES**

- 801.1 No person regulated by this title shall charge a rate, charge, or fare for taxicab service in the District in excess of the amounts established by this section.
- 801.2 No person regulated by this title shall charge any amount for a taxicab trip before service is rendered.
- 801.3 No person regulated by this title shall participate in providing taxicab service where any person regulated by this title manually enters any amount into any device, other than an authorized additional charge under § 801.7(b), or a gratuity, if any.

- 801.4 Each taxicab company, independent owner, and taxicab operator shall charge the taximeter fare, except for hourly contracts pursuant to § 801.7(a)(4), and shall accept only cash, cashless payments, and vouchers.
- 801.5 A dispatch fee of not more than two dollars (\$2) may be charged by a licensed telephone dispatch service, which shall be included in the taximeter fare as an authorized additional charge.
- 801.6 A dispatch, booking or similar fee may be charged by a licensed digital dispatch service, which shall not be included in the taximeter fare.
- 801.7 Taximeter fare. Each taximeter fare shall consist only of the following time and distance charges under paragraph (a) of this subsection and the authorized additional charges, if any, under paragraph (b) of this subsection.
- (a) Time and distance charges. The time and distance charges that shall be automatically generated by each taximeter for a taxicab trip are established as follows:
- (1) Three dollars and twenty-five cents (\$3.25) upon entry (drop rate) and first one-eighth (1/8) of a mile;
  - (2) Twenty-seven cents (\$0.27) for each one-eighth (1/8) of a mile after the first one-eighth (1/8) of a mile;
  - (3) The wait rate is twenty-five dollars (\$25.00) per hour. Wait time begins five (5) minutes after time of arrival at the place the taxicab was dispatched. No wait time shall be charged for premature response to a dispatch. Wait time shall be charged for time consumed while the taxicab is stopped or slowed to a speed of less than ten (10) miles per hour for longer than sixty (60) seconds and for time consumed for delays or stopovers en route at the direction of the passenger. Wait time shall be calculated in sixty (60) second increments. Wait time does not include time lost due to taxicab or operator inefficiency.
  - (4) The rate for an hourly contract in a taxicab shall be thirty-five dollars (\$35) for the first one (1) hour or fraction thereof, and eight dollars and seventy-five cents (\$8.75) for each additional fifteen (15) minutes or fraction thereof.
- (b) Authorized additional charges. The only additional charges that may be included in taximeter fares are the following:
- (1) A fee for telephone dispatch, if any, which shall be two dollars (\$2.00);

- (2) A taxicab passenger surcharge, which shall be twenty-five cents (\$.25) (per trip, not per passenger);
- (3) A charge for delivery service (messenger service and parcel pick-up and delivery), which shall be at the same rate as for a single passenger unless the vehicle is hired by the hour pursuant to § 801.4;
- (4) An airport surcharge or toll paid by the taxicab operator, if any, which shall be charged in the same amount that was paid;
- (5) An additional passenger fee, if there is more than one (1) passenger, which shall be one dollar (\$1.00) regardless of the number of additional passengers (the total fee shall not exceed one dollar (\$1.00)); and
- (6) A snow emergency fare when authorized under § 804.

801.8 Group or shared riding. In cases where more than one (1) passenger enters a taxicab at the same time on a pre-arranged basis (group riding or shared riding) bound for common or different destinations, in addition to any applicable charges set out in this section, the fare shall be charged as follows: As each passenger arrives to his or her destination, the fare then due shall be paid by the passenger(s) leaving the taxicab. There shall be a new flag drop and the passenger(s) remaining in the group shall pay in the same manner until the last passenger(s) arrives at his or her destination and the final taxicab fare is then paid. There shall be a new flag drop for each leg (or separate destination) of the trip.

801.9 Total charges. The total charges to a passenger for a taxicab trip shall not exceed the following:

- (a) Where the passenger chooses to make an in-vehicle payment: the taximeter fare plus a gratuity, if any; and
- (b) Where the passenger chooses to make a digital payment: the taximeter fare, any gratuity, and any fee charged by a DDS pursuant to § 801.6.

801.10 Passengers accompanied by animals.

- (a) Service animals.

A service animal (such as a guide dog, signal dog, or other animal trained to assist or perform tasks for an individual with a disability) accompanying a passenger shall be carried without charge.

- (b) Animals other than service animals.
  - (1) When securely enclosed in a carrier designed for that purpose, small dogs or other small animals may accompany a passenger without charge. Other animals not so enclosed may be carried at the discretion of the operator.
  - (2) An operator may refuse to transport any passenger traveling with a small dog or other small animal if the operator presents to the passenger an exemption certificate from the Office that certifies that such operator suffers from a diagnosed medical condition, such as allergies, which prevents such operator from traveling with such small dogs or other animals;
  - (3) No operator shall have a personal pet or animal of any kind in a public vehicle-for-hire while holding the vehicle out for hire or transporting passengers; and
  - (4) An operator may request an exemption certificate from the Office that certifies that such operator suffers from a documented diagnosed medical condition, such as allergies, which prevents such operator him or her from traveling with such small dogs or other small animals securely enclosed in a carrier designed for that purpose. Without such exemption certificate, an operator may not refuse to transport any passenger traveling with a small dog or other small animal that is securely enclosed in such carrier. Each exemption certificate shall be on a form prescribed by the Office and notarized by an appropriately licensed medical professional (for example, a general practitioner or allergist). Each exemption certificate shall be renewed at each renewal of the DCTC operator's license.

801.11 A device for the aid of a disabled person, such as a folding wheelchair, when accompanying a passenger with a disability, shall be carried without charge. There shall be no additional charge for loading or unloading such device.

**Section 803, CUSTOMER RECEIPTS FOR SERVICE, is amended to read as follows:**

**803 RECEIPTS FOR TAXICAB SERVICE**

803.1 At the end of each taxicab ride, the taxicab operator shall provide the passenger with a receipt containing the following information:

- (a) The taxicab name and telephone number;
- (b) The date of the trip;

- (c) The taxicab number;
- (d) The operator’s DCTC operator Identification (Face Card) number;
- (e) The trip number;
- (f) The start and end time of the trip;
- (g) The mileage of the trip;
- (h) The total charges established by § 801.9, itemized to show the taximeter fare, any authorized additional charges, the passenger surcharge and gratuity, if any;
- (i) The form of payment, including whether the payment was made by cash payment, credit card (and type), digital payment, mobile payment, voucher or account;
- (j) Last four digits of any applicable payment card number and the transaction authorization code;
- (k) The following information:  
DCTC COMPLAINTS LINE AND WEBSITE ADDRESS  
PH: 855-484-4967, TTY 711  
[www.dctaxi.dc.gov](http://www.dctaxi.dc.gov)

803.2 When payment is made by a cash or cashless payment, a printed receipt shall be provided using the vehicle’s MTS printer component. If the printer component malfunctions while printing a receipt, the operator shall provide the passenger with a handwritten receipt and the vehicle shall then be out of service until the printer component is operational.

803.3 When payment is made by digital payment, the operator shall provide the passenger with the passenger’s choice of a printed receipt or an electronic receipt sent to the passenger via email address or SMS text message not later than when the passenger exits the vehicle.

803.4 In the case of messenger or parcel delivery service, the operator shall provide the customer with a written invoice describing the article(s) transported.

**Section 813, [RESERVED], is amended to read as follows:**

**813 ASSOCIATION OR FLEET CONSENT**

813.1 An operator who provides service with a vehicle that displays on its exterior the

name, logo, insignia, or other unique branding of a taxicab fleet or association shall obtain the consent of such taxicab fleet or association prior to the operator’s association with:

- (a) A PSP, for thirty (30) days following the effective date of this rulemaking, if such fleet or association is providing credit card processing services to its associated operators; or after thirty (30) days following the effective date of this rulemaking, such fleet or association has filed an application or been approved as a PSP under Chapter 4; and
- (b) A DDS, for thirty (30) days following the effective date of this rulemaking, if such fleet or association is operating a dispatch service limited to its associated vehicles; or after thirty (30) days following the effective date of this rulemaking, such fleet or association has filed an application or received operating authority as a DDS under Chapter 16.

**Section 825, TABLE OF CIVIL FINES AND PENALTIES, is amended as follows:**

**Section 825.2 is amended by amending the current rows of infractions related to “Animals” and “Services Animals” to read as follows:**

<b>INFRACTION</b>	<b>FINE/PENALTY(\$)</b>
<b><u>Animals</u></b>	
Failure to comply with § 801.10(b)	\$50
<b><u>Animals, Service</u></b>	
Failure to comply with § 801.10(a)	\$100



## OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

## ERRATA NOTICE

The Administrator of the Office of Documents and Administrative Issuances (ODAI), pursuant to the authority set forth in Section 309 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1203; D.C. Code § 2-559 (2001)), hereby gives notice of a correction to the *D.C. Register*. The Public Service Commission of the District of Columbia (Commission) issued a Notice of Proposed Rulemaking regarding the proposed tariff of Washington Gas Light Company's (WGL) Rights-of-Way (ROW) Surcharge, published at 60 DCR 9766-9767 (June 28, 2013) (Notice). The Notice revised the Reconciliation Factor for WGL's ROW Surcharge.

The last sentence of Paragraph 5 of the Notice mistakenly reads "Pepco's Surcharge Update" instead of "WGL's Surcharge Update." Therefore, in accordance with the intent of the Commission, the Notice is corrected to read as follows:

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

## NOTICE OF PROPOSED RULEMAKING

**GAS TARIFF 00-2, IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY'S RIGHTS-OF-WAY SURCHARGE GENERAL REGULATIONS TARIFF, P.S.C.-D.C. No. 3**

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Section 34-802 of the District of Columbia Code and in accordance with Section 2-505 of the District of Columbia Code,<sup>1</sup> of its intent to act upon the proposed Surcharge Update of Washington Gas Light Company (WGL)<sup>2</sup> in not less than thirty (30) days after the date of publication of this Notice of Proposed Rulemaking (NOPR) in the *D.C. Register*.

2. The Rights-of-Way (ROW) Surcharge contains two components, the ROW Current Factor and the ROW Reconciliation Factor. On May 22, 2013, pursuant to D.C. Code § 10-1141.06,<sup>3</sup> WGL filed a Surcharge Update to revise the ROW Reconciliation Factor.<sup>4</sup> In the

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<sup>1</sup> D.C. Official Code § 34-802 (2001 ed.) and D.C. Official Code § 2-505 (2001 ed.).

<sup>2</sup> *GT00-2, In the Matter of Washington Gas Light Company's Rights-of-Way Surcharge General Regulations Tariff, P.S.C.-D.C. No. 3*, (GT00-2) Rights-of-Way Reconciliation Factor Surcharge Filing of Washington Gas Light Company (Surcharge Update), filed May 22, 2013.

<sup>3</sup> D.C. Official Code § 10-1141.06 (2001) states that, "Each public utility company regulated by the Public

Surcharge Update, WGL sets forth the process to be used to recover from its customers the D.C. ROW fees paid by WGL to the District of Columbia government in accordance with the following tariff page:

**GENERAL SERVICES TARIFF, P.S.C.-D.C. No. 3**

**Section 22**

**3<sup>rd</sup> Revised Page 56**

3. WGL's Surcharge Update shows that the ROW Current Factor is 0.0329 with the ROW Reconciliation Factor of (0.0051) for the prior period, which yields a net factor of 0.0278.<sup>5</sup> In addition, WGL expresses its intent to collect the surcharge beginning with the June 2013 billing cycle.<sup>6</sup> The Company has a statutory right to implement its filed surcharges. However, if the Commission discovers any inaccuracies in the calculation of the proposed surcharge, WGL could be subject to reconciliation of the surcharges.

4. This Surcharge Update may be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., Second Floor, West Tower, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday as well as on the Commission's web site at [www.dcpsc.org](http://www.dcpsc.org). Copies of the tariff are available upon request, at a per-page reproduction cost.

5. Comments on the Surcharge Update must be made in writing to Brinda Westbrook-Sedgwick, Commission Secretary, at 1333 H Street, N.W., Second Floor, West Tower, Washington, D.C. 20005. All comments must be received within thirty (30) days of the date of publication of this NOPR in the *D.C. Register*. Persons wishing to file reply comments may do so no later than forty-five (45) days of the date of publication of this NOPR in the *D.C. Register*. Once the comment period has expired, the Commission will take final rulemaking action on WGL's Surcharge Update.

Any questions or comments regarding this notice shall be addressed by mail to the Administrator, Office of Documents, and Administrative Issuances, 441 4<sup>th</sup> Street, N.W., Suite 520 South, Washington, D.C. 20001, or via telephone at (202) 727-5090.

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Service Commission shall recover from its utility customers all lease payments which it pays to the District of Columbia pursuant to this title through a surcharge mechanism applied to each unit of sale and the surcharge amount shall be separately stated on each customer's monthly billing statement."

<sup>4</sup> *GT00-2*, Surcharge Update at 1.

<sup>5</sup> *Id.* at 2.

<sup>6</sup> *Id.* at 1.

**DISTRICT OF COLUMBIA  
DEPARTMENT OF INSURANCE, SECURITIES, AND BANKING**

**NOTICE OF PROPOSED RULEMAKING**

The Commissioner of the Department of Insurance, Securities, and Banking, pursuant to the authority set forth in Section 22 of the Captive Insurance Company Act of 2004, effective March 17, 2005 (D.C. Law 15-262; D.C. Official Code §§ 31-3931.21 (2009 Repl.)), hereby gives notice of his intent to adopt the following amendments to Chapter 37 (Captive Insurance Companies), of Subtitle A (Insurance), Title 26 (Insurance, Securities and Banking), of the District of Columbia Municipal Regulations (DCMR), in not less than thirty days from the date of the publication of this notice in the *D.C. Register*.

The amended rules mandate that domestic captive insurers must hold at least one annual meeting in the District, mandate that captive insurers adopt a code of ethics, clarify the Commissioner's discretion to require an insurer to file a Form C in non-domiciliary jurisdictions, and exempt all reinsurance agreements that were effective on or prior to January 1, 2011, from the requirements of Section 3773.

**Chapter 37, CAPTIVE INSURANCE COMPANIES, of Subtitle A, INSURANCE, Title 26, INSURANCE, SECURITIES AND BANKING, of the District of Columbia Municipal Regulations is amended as follows:**

**A new Section 3709 is added to read as follows:**

**3709 Board Meetings**

3709.1 The board of directors of a captive insurer shall meet at least annually in the District of Columbia (District). The board of directors may permit any or all directors to participate in any regular or special meeting by the use of any means of communication which allows all directors participating to simultaneously hear each other during the meeting. A director participating in a meeting by such means of communication shall be deemed present in person at the meeting.

3709.2 A meeting of the Board of Directors shall be deemed to have taken place in the District if notice of the meeting delineates a location physically located in the District at which at least one Director, Officer, Assistant Officer, official of an approved Captive Manager, or approved captive attorney is physically present.

**Section 3712 is amended to read as follows:**

3712.1 Each captive insurer licensed in the District shall adopt a code of ethics. Each officer, director and key employee of the captive insurer shall be subject to the code of ethics, which shall include, at a minimum, the following requirements:

- (a) Honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;
- (b) Full, fair, accurate, timely and understandable disclosure in the periodic reports required to be filed by the insurer with the Department;
- (c) Compliance with all applicable District laws, regulations and orders of the Commissioner;
- (d) The prompt internal reporting of violations to an appropriate person or persons identified in the code of ethics; and
- (e) Accountability for adherence to the code of ethics.

3712.2 Each director, officer and key employee shall certify in writing annually that he or she is in compliance with the captive insurer's code of ethics. A record of such certification shall be maintained by the captive insurer and made available to the Department upon request.

**Section 3760.1 is amended to read as follows:**

3760.1 An insurer required to file an annual registration statement pursuant to Section 6 of the Holding Company Act shall also furnish the required information on Form C, hereby made a part of these regulations. An insurer shall file a copy of Form C in each jurisdiction in which the insurer is authorized to do business within thirty (30) days of filing such form with the Commissioner, if requested by the Commissioner of that jurisdiction, or if required to do so pursuant to the federal Liability Risk Retention Act.

**A new Subsection 3773.12 is added to read as follows:**

3773.12 The requirements of this section shall not apply to reinsurance agreements that were effective on or before January 1, 2011, and received prior approval pursuant to D.C. Official Code § 31-3931.08.

Persons desiring to comment on these proposed rules should submit comments in writing to Dana Sheppard, Associate Commissioner, Risk Finance Bureau, Department of Insurance, Securities, and Banking, 810 First Street, N.E., Suite 701, Washington, D.C. 20002. Comments must be received 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 from the Department at the address above.

**DISTRICT OF COLUMBIA TAXICAB COMMISSION****NOTICE OF SECOND EMERGENCY AND PROPOSED RULEMAKING**

The District of Columbia Taxicab Commission (Commission), pursuant to the authority set forth in Sections 8(b)(1) (C), (D), (E), (F), (G), (I) and (J), 14, 20 and 20a of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1) (C), (D), (E), (F), (G), (I) and (J) (2009 Repl.); D.C. Official Code § 50-313 (2009 Repl.; 2012 Supp.); D.C. Official Code § 50-319 (2009 Repl.); and D.C. Official Code § 50-320 (2012 Supp.); D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2012 Supp.); and Section 12 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1920, and for other purposes, approved July 11, 1919 (41 Stat. 104; D.C. Official Code § 50-371 (2009 Repl.)); hereby gives notice of its intent to create a new Chapter 16 (Dispatch Services) of Title 31 (Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

Proposed rules amending Chapter 16 were originally approved by the Commission for publication on February 13, 2013, and published in the *D.C. Register* on March 15, 2013, at 60 DCR 3774. The Commission held a public hearing on the proposed rules on March 29, 2013, to receive oral comments on the proposed rules. A second notice of proposed rulemaking was published in the *D.C. Register* on May 10, 2013, at 60 DCR 6723. A notice of emergency and proposed rulemaking was adopted by the Commission on May 24, 2013, and was published on June 7, 2013 in the *D.C. Register* at 60 DCR 8714. Those emergency rules took effect on May 31, 2013. This second emergency and proposed rulemaking supersedes the first emergency and proposed rulemakings published at 60 DCR 8714.

This Second Emergency and Proposed Rulemaking is necessary for the immediate preservation and promotion of the public peace, safety, and welfare of the residents of and visitors to the District of Columbia by updating and clarifying the complete regulatory framework that implements the modern taximeter system (MTS), as it pertains to the dispatch of taxicabs. This rulemaking has been drafted to regulate digital dispatch services only as authorized by the Fund Amendment Act and contains only “rules and regulations that are necessary for the safety of customers and drivers or consumer protection,” which “protect personal privacy rights of customers and drivers,” which “[will] not result in the disclosure of confidential business information,” and which “[will] allow providers to limit the geographic location of trip data to individual census tracts”. These rules will also comply fully with the Taxicab Service Improvement Amendment Act of 2012, effective October 22, 2012 (D.C. Law 19-184; 59 DCR 9431) (“Improvement Act”), and the Public Vehicle for Hire Innovation Amendment Act of 2013, effective April 23, 2013 (D.C. Law 19-270; 60 DCR 1717) (“Innovation Act”), both of which are expected to be applicable on October 1, 2013 (pursuant to Sections 7007, 7017, and 10001 of the Fiscal Year 2014 Budget Support Act of 2013, passed on second reading on June 26, 2013 (to be enrolled version of Bill 20-199); and Sections 7007, 7017, and 11001 of the Fiscal Year 2014 Budget Support Emergency Act of 2013, passed on emergency basis on June 26, 2013 (Enrolled version of Bill 20-337)).

Final regulations pertaining to MTS were adopted by the Commission on May 17, 2013, published in the *D.C. Register* on May 17, 2013 at 60 DCR 6993 - 7021, following two comment periods, public hearings held on February 15 and April 17, 2013, and the review and consideration of numerous public comments. Those rules, in Chapters 4, 6, and 8, of Title 31 of the DCMR, reference dispatch and digital payment for taxicabs, functions provided by the digital dispatch services that are the subject of this Rulemaking. This Second Emergency and Proposed Rulemaking is therefore critical in order to prevent legal incongruities that would otherwise halt the implementation of the MTS, including, without limitation, the requirement in § 1604 that a dispatch service obtain a certificate of operating authority from the Office of Taxicabs. In the absence of such a requirement, the Office of Taxicabs would have no enforceable, predictable, reliable, or consistent means of knowing that a dispatch service is operating in the District of Columbia, that it has dispatched a taxicab, that it has processed a digital payment, that it has integrated with a payment service provider (PSP) that operates an MTS as required by Chapter 4, that it has collected the taxicab passenger surcharge as required by Chapter 4, or that it is otherwise in compliance with the provisions of this title applicable to it and other businesses directly involved in the public vehicle-for-hire industry in the District of Columbia.

This rulemaking also updates and clarifies the complete regulatory framework that implements the digital payment system (DPS), as it pertains to the dispatch of sedan class vehicles. Third proposed regulations pertaining to DPS were published in the *D.C. Register* on July 12, 2013, at 60 DCR 10114 - 10139 following three comment periods, a public hearing held March 29, 2013, and the review and consideration of numerous public comments. Those rules, proposed to amend Chapters 12 and 14, reference dispatch and digital payment for sedans, functions also provided by the digital dispatch services that are the subject of this rulemaking. This rulemaking shall not be enforced by the Office of Taxicabs with respect to sedans unless and until final rulemaking pertaining to Chapters 12 and 14 are approved by the Commission and published in the *D.C. Register*, and, then, only in the manner and at such time as provided in such rulemaking.

This notice of emergency and proposed rulemaking was adopted by the Commission on July 17, 2013. The emergency rules shall take effect upon publication in the *D.C. Register* and remain in effect for one hundred twenty (120) days after the date of adoption (expiring November 25, 2013), unless earlier superseded by an amendment or repeal by the Commission, or the publication of final rulemaking, whichever occurs first.

The Commission also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *D.C. Register*.

**Chapter 16, DISPATCH SERVICES, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR, is added to read as follows:**

## **CHAPTER 16 DISPATCH SERVICES**

### **1600 APPLICATION AND SCOPE**

- 1600.1 This chapter establishes substantive rules governing dispatch services for public vehicles-for-hire, including rules to ensure the safety of passengers and operators, for consumer protection, and to collect a passenger surcharge.
- 1600.2 The provisions of this chapter shall be interpreted to comply with the language and intent of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-301, *et seq.*).
- 1600.3 In the event of a conflict between a provision of this chapter and a provision of another chapter of this title, the more restrictive provision shall control.

## **1601 GENERAL REQUIREMENTS**

- 1601.1 No person shall provide telephone or digital dispatch, or digital payment, for public vehicles-for-hire in the District, except in compliance with this chapter, all applicable provisions of this title, and other applicable laws.
- 1601.2 Nothing in this chapter shall be construed to solicit or create a contractual relationship between the District of Columbia and any person.
- 1601.3 Implementation of regulations applicable to dispatch services and associated owners and operators. Beginning on September 1, 2013, each dispatch service shall:
- (a) Operate in compliance with § 1603; and
  - (b) Maintain current operating authority from the Office under § 1604 that extends to all services it provides in the District;
- 1601.4 No person regulated by this title shall associate with, integrate with, or conduct a transaction in cooperation with, a dispatch service that does not have current operating authority for the public vehicle-for-hire service in which the dispatch service is engaged.

## **1602 RELATED SERVICES**

- 1602.1 A person may operate a dispatch service and one or more affiliated businesses, provided each affiliated business is operated in compliance with all applicable provisions of this title and other applicable laws.
- 1602.2 All provisions of this title applicable to digital dispatch services (DDS) shall apply equally to each DDS regardless of whether such DDS receives payment from the passenger or the operator in connection with dispatch services.

**1603 OPERATING REQUIREMENTS FOR ALL DISPATCH SERVICES**

- 1603.1 No dispatch service shall operate in the District except in compliance with all provisions of this section.
- 1603.2 Each dispatch service that provides digital services for sedans shall operate in compliance with this chapter and Chapter 14 of this title.
- 1603.3 Each dispatch service that participates in providing taxicab service shall operate in compliance with this chapter and Chapters 6 and 8 of this title.
- 1603.4 Each dispatch provided by a dispatch service shall comply with the definition of “dispatch”.
- 1603.5 Each gratuity charged by a dispatch service shall comply with the definition of “gratuity”.
- 1603.6 Each digital dispatch service that processes digital payments shall:
- (a) Comply with the requirements for passenger rates and charges set forth in § 801 for taxicab service and § 1402 for sedan service;
  - (b) If the payments are processed for taxicab service, comply with the integration, payment, and passenger surcharge requirements of § 408;
  - (c) Provide receipts as required by § 803 for taxicab service and § 1404 for sedan service;
  - (d) Use technology that meets Open Web Application Security Project (“OWASP”) security guidelines, complies with current standards of the PCI Security Standards Council (“Council”) for payment card data security, if such standards exist, and, if not, then with current guidelines of the Council for payment card data security, and, for direct debit transactions, complies with the rules and guidelines of the National Automated Clearing House Association; and
  - (e) Promptly inform the Office of a security breach requiring a report under the Consumer Personal Information Security Breach Notification Act of 2006, effective March 8, 2007 (D.C. Law 16-237, D.C. Official Code §§ 28-3851, *et seq.*), or other applicable law.
- 1603.7 Each dispatch shall clearly provide the person seeking service with the option to request an available wheelchair-accessible vehicle.
- 1603.8 Each dispatch service shall maintain a bona fide administrative office or a registered agent authorized to accept service of process, provided, however, a



dispatch service operated by a taxicab company required to maintain such an office pursuant to Chapter 5 of this title shall operate its dispatch service at that location or another bona fide administrative office.

1603.9 Each dispatch service shall maintain a customer service telephone number for passengers with a “202” prefix or a toll-free area code, or an email address posted on its website that is answered or replied to during normal business hours.

1603.10 Each dispatch service shall maintain a website with current information that includes:

- (a) The name of the dispatch service;
- (b) Contact information for its bona fide administrative office or registered agent authorized to accept service of process;
- (c) Its customer service telephone number or email address, and;
- (d) The following statement prominently displayed:

<p>Public vehicle-for-hire services in Washington, DC  are regulated by the DC Taxicab Commission  2041 Martin Luther King Jr., Ave., SE, Suite 204  Washington, DC. 20020  www.dctaxi.dc.gov  dctc3@dc.gov 1-855-484-4966 TTY: 711</p>
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- (e) A statement of how the fare is calculated for each class of service it offers, which shall include a statement of the rates and charges allowed by § 1402, and, for sedan service, shall indicate whether the dispatch service uses demand pricing and, if so, how such pricing affects its rates.

1603.11 Each dispatch service shall comply with §§ 508 through 513, to the same extent as if it were a taxicab company.

1603.12 Each dispatch service shall provide its service throughout the entire District.

1603.13 Each dispatch service shall require through its terms of service that each vehicle operator with which it is associated fully perform the service agreed to in a dispatch, including picking up the passenger at the agreed time and location, except for a bona fide reason not prohibited by § 819.5 or other applicable provision of this title.

1603.14 A dispatch service shall not:

- (a) Release information to any person that would result in a violation of the personal privacy of the passenger or the person requesting service, or that would threaten the safety of a passenger or an operator; or
- (b) Permit access to real-time information about the location, apparent gender, or number of passengers awaiting pick up by a person not authorized by the dispatch service to receive such information.

This subsection shall not limit access to information by the Office or a District enforcement official.

1603.15 A dispatch service shall not transmit to the operator any information about the destination of a trip, except for the jurisdiction of the destination, until the trip has been booked.

1603.16 Each dispatch service shall store its business records in compliance with industry best practices and all applicable laws, make its business records available for inspection and copying as directed by the Office, and retain its business records for five (5) years.

1603.17 Each dispatch service shall be in compliance with all applicable provisions of this title and other laws applicable to public vehicles-for-hire, including all reciprocal agreements between governmental bodies in the Washington Metropolitan Area governing public vehicle-for-hire service such as those in § 828.

1603.18 Each DDS that provides digital services for sedans shall:

- (a) Maintain with the Office an accurate and current inventory of the vehicles and operators associated with the DDS to use its system in the manner required by § 1403; and
- (b) Collect from the passenger and pay to the District the sedan passenger surcharge in the manner required by § 1403.

**1604 CERTIFICATE OF OPERATING AUTHORITY**

1604.1 No dispatch service shall participate in providing a public vehicle-for-hire service in the District without a current certificate of operating authority issued by the Office pursuant to this section that expressly includes all services it offers, except for a taxicab company with existing operating authority under Chapter 5 of this title, which, as of the effective date of this rulemaking, is operating a telephone dispatch service.

1604.2 An applicant seeking an initial certificate of operating authority from the Office shall provide the following information (including such documentation as required by the Office):

- (a) Its name and contact information;
- (b) The name of and contact information for each public vehicle-for-hire business or service associated with, or operated by an owner of, the dispatch service, including any payment service provider (PSP), and any business or service operated or offered outside the District,
- (c) A technical description of the dispatch or payment solution, digital payment system, or both, offered by the DDS, including the trade names and software applications, platforms, and operating systems used;
- (d) A sample of each agreement or policy, including any user agreement or privacy policy, applicable to the DDS's association with vehicle owners and operators, and with persons seeking public vehicle-for-hire services;
- (e) An indication by the applicant of whether the dispatch service intends to offer dispatch of sedans, and whether it intends to offer dispatch services or digital payments for taxicabs, or both;
- (f) If it will be dispatching sedans, its initial operator and vehicle inventory pursuant to § 1403;
- (g) A certification by the applicant that the DDS owns the right to, or holds licenses to, all the intellectual property used by the dispatch service for all technology used for the dispatch or payment solution or the digital payment system it provides; and
- (h) Such other information and documentation as the Office may require to determine that the dispatch or payment solution (for taxicabs), or digital payment system (for sedans), meets all applicable requirements.

1604.3 Each application under § 1604.2:

- (a) Shall be provided under penalty of perjury;
- (b) Shall be accompanied by the surcharge bond required by § 403.3 (if the dispatch service is a DDS is required to collect a passenger surcharge for taxicab service), or by § 1403, if the dispatch service is a DDS that will be dispatching sedans, provided, however, that a DDS shall not be required to deposit a more than one (1) surcharge bond if the DDS collects and pays passenger surcharges for both taxicabs and for sedans; and
- (c) Shall be accompanied by a fee of five hundred dollars (\$500), except that the fee for an application to amend an existing certificate of operating

authority under § 1604.5, regardless of the number of services proposed to be added to the existing certificate, shall be three hundred dollars (\$300).

- 1604.4 Each certificate of operating authority shall continue in force and effect for twenty four (24) months, during which time no substantial change may be made to a DDS's dispatch or payment solution for taxicabs, or digital payment system for sedans, without written approval from the Office. A DDS shall inform the Office of a proposed substantial change to its dispatch or payment solution or digital payment system for sedans, that would require written approval at least thirty (30) days prior to the change, and shall notify the Office of any other change in the information contained in the certification or its supporting documentation, such as contact information, within seven (7) days of the change.
- 1604.5 Each DDS with current operating authority under this section may at any time file an application to amend its operating authority to include additional services it wishes to market to public vehicle-for-hire owners and operators.
- 1604.6 Each DDS with current operating authority under this section shall file to renew its operating authority at least sixty (60) days prior to the expiration thereof, by providing the information or documentation required for an initial application to the extent required by the Office. Operating authority shall continue in force and effect beyond its expiration period during such time as an application to renew is pending acceptance in proper form.
- 1604.7 A DDS that maintains current operating authority under this section shall annually provide, beginning on the first (1<sup>st</sup>) day of the thirteenth (13<sup>th</sup>) month after its operating authority was issued:
- (a) A report on the wait times and fares charged to passengers seeking wheelchair-accessible service in the prior twelve (12) months; and
  - (b) A list of incidents in the prior twelve (12) months that involved an allegation or dispute concerning the following matters, which shall include an indication of whether the allegation or dispute has been resolved:
    - (1) A payment, where the dispute involved fifty dollars (\$50) or more;
    - (2) Fraud or criminal activity; or
    - (3) Violations of the anti-discrimination rules of Chapter 5 of this title.
- 1604.8 The Office may arrange one (1) demonstration for each of the DDS's dispatch or payment solutions for taxicabs, or its digital payment system for sedans, where the Office's technical staff may examine and test the equipment and ask questions of the DDS's technical staff, who shall attend the demonstration.

- 1604.9 The Office shall determine whether to grant or deny an application within fourteen (14) days after it is filed, provided however, that such period may be extended by the Office for no more than ten (10) days with notice to the DDS.
- 1604.10 If the Office grants an application, it shall provide notice to the DDS in writing.
- 1604.11 If the Office denies an application, it shall state the reasons for its decision in writing. A decision to deny may be appealed to the Chief of the Office within fifteen (15) business days, and, otherwise, shall constitute a final decision of the Office. The Chief shall issue a decision within thirty (30) days. A timely appeal of a denial shall extend an existing certificate pending the Chief's decision. A decision of the Chief to affirm or reverse a denial shall constitute a final decision of the Office. A decision of the Chief to remand to the Office for further review of the filing shall extend an existing certificate pending the final decision of the Office.
- 1604.12 The name of each DDS with current operating authority, and the name of each service included in such authority, including any dispatch or payment solutions for taxicabs, or a digital payment system for sedans, shall be listed on the Commission's website.
- 1604.13 Operating authority may be temporarily or indefinitely suspended by the Office with reasonable notice and an opportunity to be heard if the Office learns that any of the DDS's services, or the persons using it, are not in substantial compliance with this title, or if a DDS's digital payment system, or its dispatch or payment solution, is being used in a manner that poses a significant threat to passenger or operator safety, or consumer protection.

## **1605 PROHIBITIONS**

- 1605.1 No person shall dispatch a public vehicle-for hire or process a digital payment for a public vehicle-for-hire in the District except as provided in this chapter.
- 1605.2 No person shall operate a dispatch service without a valid and current certificate of operating authority that extends to all the services it provides in the District.
- 1605.3 No dispatch service shall dispatch or process digital payments except as provided in this chapter and Chapter 8 (for taxicabs), and this chapter and Chapter 14 (for sedans), and all other applicable provisions of this title and other applicable laws.
- 1605.4 No dispatch services shall dispatch or process payments of sedan service in the District unless the payment, and the fare, including the rates, charges, and gratuity, if any, comply with the applicable provisions of § 1603.6, and the DDS collects the sedan passenger surcharge and received by the District.

- 1605.5 No dispatch service may alter or attempt to alter its legal obligations under this title or to impose an obligation on any person or limit the rights of any person in a manner that is contrary to public policy or that threatens passenger or operator safety or consumer protection.
- 1605.6 A DDS shall not provide digital dispatches to a taxicab operator who provides service with a vehicle that displays on its exterior the name, color scheme, or other unique branding of a taxicab fleet or association, if such fleet or association does not agree to the operator's association with the DDS, and—
- (a) For thirty (30) days following the effective date of this rulemaking, such fleet or association is operating a dispatch service limited to its associated vehicles; or
  - (b) After thirty (30) days following the effective date of this rulemaking, such fleet or association has filed for or received registration for a DDS limited to its associated vehicles.
- 1605.7 No DDS shall provide digital payment for taxicabs except as provided in Chapter 4.
- 1605.8 No DDS shall provide digital payment for taxicabs which allows the operator to manually enter fare information into any device except as permitted by § 801.
- 1605.9 No fee charged by a DDS in addition to a taximeter fare shall be processed by a payment service provider, or displayed on or paid using any component of an MTS unit, provided, however, that such a fee may be processed by a payment service provider or displayed on or paid using a component of an MTS unit pursuant to an integration agreement between the DDS and the PSP that has been approved by the Office pursuant to § 408.16 (b) (3) as meeting all other the requirements of Chapter 4, this Chapter, and all other applicable provisions of this title, and incorporates reasonable measures to avoid passenger confusion between regulated and non-regulated rates and charges.

## **1606 ENFORCEMENT**

- 1606.1 The enforcement of any provision of this chapter shall be governed by the procedures set forth in Chapter 7 of this title. If, at the time of violation, the procedures in Chapter 7 do not extend in their terms to DDSs, violations of this chapter shall be enforced as if such DDS were a taxicab owner or operator..

## **1607 PENALTIES**

- 1607.1 A dispatch service that violates this chapter shall be subject to:

- (a) A civil fine of five hundred dollars (\$500) for the first violation of a provision, one-thousand dollars (\$1,000) for the second violation of the same provision, and one-thousand five-hundred dollars (\$1,500) for each subsequent violation of the same provision;
- (b) Suspension, revocation, or non-renewal of a Certificate of Registration or Certificate of Operating Authority;
- (c) Any penalty available under Chapter 6 in connection with the service and support of an MTS for the operation of taxicabs or under Chapter 14 in connection with the service and support of a sedan payment system (SPS) for the operation of sedans; or
- (d) Any combination of the sanctions listed in this Subsection.

## 1699 DEFINITIONS

- 1699.1 The terms “cashless payment,” “modern taximeter system,” “MTS,” “MTS unit”, “payment service provider”, “PSP”, and “taximeter fare” shall have the meanings ascribed in Chapter 4 of this title.
- 1699.2 The term “sedan” shall have the meaning ascribed to it in Chapter 12 of this title.
- 1699.3 The terms “sedan payment system,” and “SPS” shall have the meanings ascribed to them in Chapter 14 of this title.
- 1699.4 The term “person” and “license” shall have the meanings ascribed to them in the D.C. Administrative Procedure Act, D.C. Official Code § 2-502.
- 1699.5 The following words and phrases shall have the meanings ascribed:
- “**Affiliated**” - common ownership.
- “**Associated**” - a voluntary relationship of employment, contract, joint venture, or agency. For purposes of this chapter, an association not in writing shall be ineffective for compliance purposes.
- “**Booked**” - agreed and accepted by the customer.
- “**Customer**” - a person that requests public vehicle-for-hire service, including a passenger, or any other person that requests service on behalf of a passenger.
- “**Dispatch**” - booking public vehicle-for-hire service through an advance reservation consisting of a request for service from a person seeking service, an offer of service by the dispatch service, an acceptance of

service by the person seeking service, and an acknowledgement by the dispatch service that includes an estimated time of arrival of a booked vehicle.

**“Dispatch or payment solution”** - any reasonable technology solution that allows a DDS to provide taxicabs with digital dispatch service, digital payment service, or both.

**“Digital dispatch”** - dispatch via computer, mobile phone application, text, email, or Web-based reservation.

**“Digital dispatch service” or “DDS”** - a business that provides digital dispatch of taxicabs, sedans, or both.

**“Digital payment”** - a non-cash payment processed by a digital dispatch service and not by the vehicle operator, such as a payment by a payment card (a credit or debit card), processed through a mobile- or Web-based application. A digital payment does not mean a “cashless payment” as such term is defined in Chapter 6 of this title.

**“Digital services”** - digital dispatch or digital payment for a public vehicle-for-hire.

**“Dispatch service”** - a business that offers telephone or digital dispatch.

**“District enforcement official”** - a public vehicle enforcement inspector or other authorized official, employee, or general counsel of the Office, or a law enforcement official authorized to enforce a provision of this title.

**“Office order”** - an administrative issuance by the Office to a class of persons or vehicles regulated by a provision of this Title or other applicable law that: adopts a form; issues a guideline or protocol applicable to persons other than employees of the Office; provides guidance concerning a provision of this Title; or takes any action that the Office deems necessary for purposes of administration, enforcement, or compliance.

**“Passenger surcharge”** - the passenger surcharge required to be collected from passengers and remitted to the District for each trip in a taxicab or sedan, as required by Chapters 4, 6, and 8, for taxicabs, and by this chapter and Chapter 14 for sedans.

**“Substantial change”** - (1) a replacement of an existing DDS dispatch or payment solution for taxicabs, or digital payment system for sedans, or (2) a material change in the DDS’s manner of compliance with § 1603.6 (a)-(d) (other than a change in non-regulated rates and charges established by the DDS) or with § 1603.7. A substantial change does not include an



application, operating system, or service update, or other routine modification or improvement.

**“Surcharge bond”** - a security bond of fifty-thousand dollars (\$50,000) payable to the D.C. Treasurer that is effective throughout the period when the dispatch service has operating authority and for one (1) year thereafter.

**“Telephone dispatch”** - dispatch via telephone.

**“Telephone dispatch service”** - a business that provides telephone dispatch for taxicabs.

Copies of the proposed rulemaking can be obtained at [www.dcregs.dc.gov](http://www.dcregs.dc.gov) or by contacting Jacques Lerner, General Counsel and Secretary to the Commission, District of Columbia Taxicab Commission, 2041 Martin Luther King, Jr., Avenue, S.E., Suite 204, Washington, D.C. 20020. All persons desiring to file comments on the proposed rulemaking should submit written comments via e-mail to [dctc@dc.gov](mailto:dctc@dc.gov) or by postal mail or hand delivery to the DC Taxicab Commission, 2041 Martin Luther King, Jr., Ave., S.E., Suite 204, Washington, D.C. 20020, Attn: Jacques Lerner, General Counsel and Secretary to the Commission. Comments should be filed within thirty (30) days after publication of this notice in the *D.C. Register*.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

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**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2013-129  
July 17, 2013

**SUBJECT:** Designation of Special Event Areas – Citi Open Tennis Tournament

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(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(11) (2012 Supp.), and pursuant to 19 DCMR 1301-8, it is hereby **ORDERED** that:

1. The following public space areas shall be designated as Special Event Areas to accommodate activities associated with the Citi Open Tennis Tournament:
  - a. On Friday, July 26, 2013, commencing at 6:00 a.m. and continuing until 6:00 p.m., Maryland Avenue, S.W. between 3<sup>rd</sup> Street, S.W. and Independence Avenue, S.W., shall be closed to vehicular traffic.
  - b. Commencing at 6:00 a.m. and continuing until 6:00 p.m., on Friday, July 26, 2013, the west curbside lane of 3<sup>rd</sup> Street, S.W. between Jefferson Drive, S.W. and Independence Avenue, S.W.; and the north curbside lane of Independence Avenue, S.W. between Maryland Avenue, S.W. and 3<sup>rd</sup> Street, S.W., shall be closed to vehicular traffic;
  - c. Commencing at 3:30 p.m. and continuing until 8:00 p.m., on Friday, July 26, 2013, the east curbside lane of 14<sup>th</sup> Street, N.W. between Pennsylvania Avenue (E Street), N.W. and D Street, N.W. and the north curbside lane of Pennsylvania Avenue, N.W. between 13<sup>th</sup> Street, N.W. and 14<sup>th</sup> Street, N.W., shall be closed to vehicular traffic;
  - d. On Tuesday, July 30, 2013, commencing at 10:00 a.m. and continuing until 3:30 p.m., the west curbside lane of east 17<sup>th</sup> Street, N.W. between K Street, N.W. and I Street, N.W., shall be closed to vehicular traffic.

2. The designated areas shall be operated and overseen by the Office of the Deputy Mayor for Public Safety and Justice.
3. This Order is authorization for the use of the designated streets and curb lanes only, and the named operator shall secure and maintain all other licenses and permits applicable to the activities associated with the operation of the event. All building, health, life, safety, and use of public space requirements shall remain applicable to the Special Event Area designated by this Order.
4. **EFFECTIVE DATE:** This Order shall become effective immediately.

  
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VINCENT C. GRAY  
MAYOR

ATTEST   
\_\_\_\_\_  
CYNTHIA BROCK-SMITH  
SECRETARY OF THE DISTRICT OF COLUMBIA

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

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**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2013-130  
July 18, 2013

**SUBJECT:** Appointments and Reappointment – Public Charter School Board

**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 4082 of the Fiscal Year 2011 Budget Support Act of 2010, effective September 24, 2010, D.C. Law 18-223, D.C. Official Code § 38-1802.14 (2012 Supp.), it is hereby **ORDERED** that:

1. **HERBERT R. TILLERY**, who was nominated by the Mayor on April 12, 2013, and approved by the Council of the District of Columbia pursuant to Proposed Resolution 20-0193 on July 10, 2013, is appointed as a member of the Public Charter School Board (“Board”), replacing Brian Jones, to complete the remainder of an unexpired term to end February 24, 2017.
2. **BARBARA B. NOPHLIN**, who was nominated by the Mayor on April 12, 2013, and approved by the Council of the District of Columbia pursuant to Proposed Resolution 20-0194 on July 10, 2013, is appointed as a member of the Board, replacing William Marshall, to complete the remainder of an unexpired term to end February 24, 2015.
3. **SARA MEAD**, who was nominated by the Mayor on April 12, 2013, and approved by the Council of the District of Columbia pursuant to Proposed Resolution 20-0195 on July 10, 2013, is reappointed as a member of the Board, for a term to end February 24, 2017.

4. **EFFECTIVE DATE:** This Order shall become effective immediately.

  
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VINCENT C. GRAY  
MAYOR

ATTEST:   
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CYNTHIA BROCK-SMITH  
SECRETARY OF THE DISTRICT OF COLUMBIA

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

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**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2013-131  
July 18, 2013

**SUBJECT:** Reappointments – Board of Trustees of the University of the District of Columbia

**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 201 of the District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974, 88 Stat. 1424, D.C. Official Code § 38-1202.01 (2012 Supp.), it is hereby **ORDERED** that:

1. **ALEJANDRA Y. CASTILLO**, having been nominated by the Mayor on April 30, 2013, and approved by the Council of the District of Columbia, pursuant to Resolution 20-0201, on July 10, 2013, for reappointment, is appointed as a member of the Board of Trustees of the University of the District of Columbia, for a term to end May 15, 2018.
2. **DR. GABRIELA D. LEMUS**, having been nominated by the Mayor on April 30, 2013, and approved by the Council of the District of Columbia, pursuant to Resolution 20-0202, on July 10, 2013, for reappointment, is appointed as a member of the Board of Trustees of the University of the District of Columbia, for a term to end May 15, 2018.
3. **MAJOR GENERAL ERROL R. SCHWARTZ**, having been nominated by the Mayor on April 30, 2013, and approved by the Council of the District of Columbia, pursuant to Resolution 20-0203, on July 10, 2013, for reappointment, is appointed as a member of the Board of Trustees of the University of the District of Columbia, for a term to end May 15, 2018.
4. **DR. ELAINE A. CRIDER**, having been nominated by the Mayor on April 30, 2013, and approved by the Council of the District of Columbia, pursuant to Resolution 20-0204, on July 10, 2013, for reappointment, is appointed as a member of the Board of Trustees of the University of the District of Columbia, for a term to end May 15, 2018.

- 5. **GEORGE VRADENBURG**, having been nominated by the Mayor on April 30, 2013, and approved by the Council of the District of Columbia, pursuant to Resolution 20-0205, on July 10, 2013, for reappointment, is appointed as a member of the Board of Trustees of the University of the District of Columbia, for a term to end May 15, 2018.
  
- 6. **EFFECTIVE DATE:** This Order shall become effective immediately.

  
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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 2013-132  
July 18, 2013

**SUBJECT:** Designation of Special Event Areas – Beat the Streets

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(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(11) (2012 Supp.), and pursuant to 19 DCMR 1301.8, it is hereby **ORDERED** that:

1. The following public space areas shall be designated as Special Event Areas to accommodate activities associated with Beat the Streets:
  - a. On Wednesday, July 24, 2013, commencing at 11:00 a.m. and continuing until 8:30 p.m., the 200 block of 37<sup>th</sup> Place, S.E., shall be closed to vehicular traffic; and
  - b. On Wednesday, August 14, 2013, commencing at 11:00 a.m. and continuing until 8:30 p.m., the 600 block of Evarts Street, N.E., and the 2600 block of 6<sup>th</sup> Street, N.E., shall be closed to vehicular traffic.
2. The designated areas shall be operated and overseen by the Metropolitan Police Department.
3. This Order is authorization for the use of the designated streets and curb lanes only, and the named operator shall secure and maintain all other licenses and permits applicable to the activities associated with the operation of the event. All building, health, life, safety, and use of public space requirements shall remain applicable to the Special Event Area designated by this Order.



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 2013-133  
July 18, 2013

**SUBJECT:** Delegation of Authority to the Deputy Mayor for Planning and Economic Development to Solicit Offers, Accept Unsolicited Offers, and Execute Certain Documents with Respect to Real Property known as the Hine Junior High School

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by sections 422(6) 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(6) and (11) (2012 Supp.); section 1 of An Act authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939, 53 Stat. 1211, D.C. Official Code § 10-801 *et seq.* (2008 Repl. and 2012 Supp.); and section 1(c) of An Act to grant additional powers to the Commissioners of the District of Columbia and for other purposes, approved December 20, 1944, as amended, 58 Stat. 819, D.C. Official Code § 1-301.01(c) (2006 Repl. and 2012 Supp.), it is hereby **ORDERED** that:

1. The Deputy Mayor for Planning and Economic Development (“Deputy Mayor”) is delegated the authority to solicit offers, accept unsolicited offers, and execute on behalf of the District of Columbia any and all documents related to the disposition of the Real Property known as the Hine Junior High School, located at 310 7<sup>th</sup> Street, S.E. and known for tax and assessment purposes as Lot 0801 in Square 0901 (the “Property”), under D.C. Official Code § 10-801.
2. The Department of General Services shall be responsible for the daily maintenance and operations until the Property is disposed of under D.C. Official Code § 10-801, subject to the appropriation and availability of funds.
3. The authority delegated herein to the Deputy Mayor and the Department of General Services may be further delegated to their respective subordinates.
4. This Order supersedes all previous Mayor’s Orders to the extent of any inconsistency therein.

5. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to June 8, 2010.

  
\_\_\_\_\_  
VINCENT C. GRAY  
MAYOR

ATTEST:   
\_\_\_\_\_  
CYNTHIA BROCK-SMITH  
SECRETARY OF THE DISTRICT OF COLUMBIA

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

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**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2013-134  
July 18, 2013

**SUBJECT:** Delegation of Authority to the Deputy Mayor for Planning and Economic Development to Solicit Offers, Accept Unsolicited Offers, and Execute Certain Documents with Respect to Real Property Located at 6925–29 Georgia Avenue, NW

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by sections 422(6) 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(6) and (11) (2012 Supp.); section 1 of An Act authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939, 53 Stat. 1211, D.C. Official Code § 10-801 *et seq.* (2008 Repl. and 2012 Supp.); and section 1(c) of An Act to grant additional powers to the Commissioners of the District of Columbia and for other purposes, approved December 20, 1944, as amended, 58 Stat. 819, D.C. Official Code § 1-301.01(c) (2006 Repl. and 2012 Supp.), it is hereby **ORDERED** that:

1. The Deputy Mayor for Planning and Economic Development (“Deputy Mayor”) is delegated the authority to solicit offers, accept unsolicited offers, and execute on behalf of the District of Columbia any and all documents related to the disposition, development or use of real property located at 6925–29 Georgia Avenue, NW, known for tax and assessment purposes as Lots 0811 and 0812 in Square 2967 (the “Property”), and to take all actions necessary or useful for or incidental to the solicitation and disposition or lease of the Property, including, but not limited to, license agreements, use agreements, lease agreements, easements, covenants, and/or other associated documents.
2. The authority delegated herein to the Deputy Mayor may be further delegated to subordinates under the jurisdiction of the Deputy Mayor.
3. This Order supersedes all previous Mayor’s Orders to the extent of any inconsistency therein.

4. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to January 1, 2012.

  
\_\_\_\_\_  
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 2013-135  
July 19, 2013

**SUBJECT:** Appointment – Commission on Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings

**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 in accordance with sections 9 and 10 of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002, D.C. Law 14-76, D.C. Official Code § 2-1831.06-.07 (2007 Repl.), which established the Commission on Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings (“Commission”), it is hereby **ORDERED** that:

1. **ROHULAMIN QUANDER** is appointed as a voting member of the Commission, representing the Mayor of the District of Columbia, to replace Judge Anita Josey-Herring, for a term to end on April 30, 2016.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



Vincent C. Gray

VINCENT C. GRAY  
MAYOR

ATTEST:



Cynthia Brock-Smith

CYNTHIA BROCK-SMITH  
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

## ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-136  
July 22, 2013

**SUBJECT:** Appointment – Interim Director, Department of Health

**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 I of Reorganization Plan No. 4 of 1996, it is hereby **ORDERED** that:

1. **SHAUN M. SNYDER, ESQ.** is appointed Interim Director of the Department of Health and shall serve in that capacity at the pleasure of the Mayor.
2. This Order supersedes Mayor's Order 2012-121, dated August 8, 2012.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to July 18, 2013.

  
\_\_\_\_\_  
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 31, 2013 AT 1:00 PM  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Reivew of Settlement Agreement, dated July 9, 2013, between Union Kitchen and ANC6C. **Union Kitchen**, 1100 3<sup>rd</sup> Street NW, Retailer CT02, Lic# 91912.\*

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2. Review of requests dated July 15, 2013, July 17, 2013 and July 22, 2013 from **E& J Gallo Winery** for approval to provide retailers with products valued at more than \$50 and less than \$500.

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3. Review of Settlement Agreement dated June 17, 2013 between Dacha Beer Garden and ANC6E. **Dacha Beer Garden**, 1600 7<sup>th</sup> Street NW, Retailer D, Lic#: 92773.

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4. Review of Settlement Agreement dated July 22, 2013 between Bin 1301 and Shaw-Dupont Citizens Alliance. **Bin 1301**, 1301 U Street NW, Retailer CT, Lic#: 091682.

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5. Request to Change Hours. *Approved Hours of Operation*-Sunday Closed. Monday through Saturday 9am – 9pm; *Approved Hours of Alcoholic Beverage Sales and Consumption*-Sunday Closed; Monday through Saturday 11am-9pm. *Approved Hours of Summer Garden*-Sunday Closed. Monday-Saturday 11am-9pm. *Proposed Hours of Operation*-Sunday Closed. Monday through Saturday 7am-9pm; *Proposed Hours of Summer Garden and Alcoholic Beverage Sales and Consumption*-No Change requested. **Rice Bar**, 1020 19<sup>th</sup> Street NW, Retailer DR, Lic#: 091948.

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6. Request to Change Hours. *Approved Hours of Operation*-Sunday through Saturday 8am – 6am; *Approved Hours of Alcoholic Beverage Sales and Consumption*-Sunday through Thursday 8am-2am; Friday and Saturday 8am-3am. *Proposed Hours of Operation*-24-hours. *Proposed Hours of Alcoholic Beverage*-No Change. **The 9:30 Club**, 815 V Street NW, Retailer CX Lic#: 021837.

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7. Request to Change Hours of Sales and Entertainment. *Approved Hours of Operation*-Sunday through Saturday 24-hours; *Alcoholic Beverage Sales and Consumption*-Sunday through



Board's Agenda – July 31, 2013 - Page 2

Saturday 11am-1am; *Live Entertainment*-6pm-3am. *Proposed Hours of Sales and Consumption*-Sunday through Saturday 11am – 2:30am. *Proposed Hours of Live Entertainment*-Sunday through Saturday 11am-3am. **L'Enfant Plaza**, 480 L'Enfant Plaza SW, Retailer CH Lic.#: 076156.

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8. Request Change of Hours. *Approved Hours of Operations*-Sunday 11am-2am. Monday through Thursday 6:30am-2am. Friday and Saturday 6:30am-3am; Alcoholic Beverage Sales and Consumption-Sunday 11am-2am. Monday through Thursday 8am-2am. Friday and Saturday 8am-3am. *Proposed Hours of Operation*; Sunday 11-2. Monday through Wednesday 6:30am-2am. Friday and Saturday 6:30-5:30am. No protests. No conflicts with Settlement Agreements. **Takeateasy** 1990 M Street NW, Retailer CR, Lic#: 089631.
- 

9. Review request for Entertainment Endorsement. Live and recorded music with dancing. No protests. No violations. **Takeateasy** 1990 M Street NW, Retailer CR, Lic#: 089631.
- 

10. Review request for Safekeeping extension. **Duchess and The Queen** 2102 18<sup>th</sup> Street NW, Retailer CR, Lic.#: 089545.
- 

11. Request for Substantial Change and review of supporting documentation. Expansion of the current premises to add an additional 150 seats on the 6<sup>th</sup> floor. Total Capacity 261. Settlement Agreement on file. No conflict. **Living Social**, 918 F Street NW, Retailer CX MULTIP, Lic.#: 88360.
- 

12. Review request to add Sidewalk Café. *Proposed Hours of Operation*-Sunday through Thursday 11am to 11pm; Friday and Saturday 11am to 12am. *Proposed Hours of Alcoholic Beverages Sales*-Sunday through Thursday 11am to 11pm; Friday and Saturday 11am to 12am. No Outstanding Violations. **Hard Rock Café**, 999 E Street NW, Retailer CR, Lic.#: 14130.
- 

13. Review 2<sup>nd</sup> request for license class change from Class B to Class A. Applicant's first request dismissed by the Board for failure to file Protest Information Form (PIF). **Lee's Mini Market**, 3853 Alabama Avenue SE, Retailer B, Lic.#:084939.
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14. Review request for Safekeeping. **Georgia Avenue Market**, 3128 Georgia Avenue NW, Retailer B, Lic.#: 0075752.
-

Board's Agenda – July 31, 2013 - Page 3

15. Review and approval of Safety Plan Final Rulemaking.

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16. Review and approval of Brew Pub and Wine Pub Permit Final Rulemaking.

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17. Review and approval of the Technical Admendment Final Rulemaking.

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18. Review and approval of Full Service Grocery Store Definition Final Rulemaking.

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**\* 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 31, 2013  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

**On July 31, 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#12-251-00384 Green Island Cafe/Heaven & Hell (The), 2327 18TH ST NW Retailer C Tavern, License#: ABRA-074503

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2. Case#13-CC-00041 Yes Organic Market, 3809 12TH ST NE Retailer B Retail - Grocery, License#: ABRA-075678

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3. Case#13-CC-00039 Hank's Oyster Bar, 1622 - 1624 Q ST NW Retailer C Restaurant, License#: ABRA-071913

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4. Case#13-CC-00045 Dupont Market, 1807 18TH ST NW Retailer B Retail - Grocery, License#: ABRA-021578

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5. Case#13-251-00067 Eye Bar/Garden of Eden, 1716 I ST NW Retailer C Nightclub, License#: ABRA-083133

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6. Case#13-CC-00046 TEL'VEH CAFE & WINE BAR, 401 Massachusetts AVE NW Retailer C Tavern, License#: ABRA-087302

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7. Case#13-CC-00038 Panas Gourmet Empanadas, 2029 P ST NW Retailer D Restaurant, License#: ABRA-088954

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8. Case#13-CC-00040 Pulpo, 3407 CONNECTICUT AVE NW Retailer C Restaurant, License#: ABRA-089639

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**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS****CONSTRUCTION CODES COORDINATING BOARD****NOTICE OF SPECIAL AND REGULAR MEETINGS**

The Construction Codes Coordinating Board will be holding a special meeting on Thursday, August 1, 2013 at 9:00 am.

The Construction Codes Coordinating Board will be holding its regular meeting on Thursday, August 15, 2013 at 9:30 am.

The meetings will be held at 1100 Fourth Street, SW, Fourth Floor Conference Room, Washington, D.C. 20024. The location is on the Metro Green Line, at the Waterfront/SEU stop. Limited paid parking is available on site.

Draft board meeting agendas and Technical Advisory Group meeting schedules and agendas are available on the website of the Department of Consumer and Regulatory Affairs at [dcra.dc.gov](http://dcra.dc.gov), under the Permits/Zoning tab on the main page.

**OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION  
DISTRICT OF COLUMBIA EDUCATION LICENSURE COMMISSION**

**NOTICE OF RESCHEDULING  
OF PUBLIC MEETING**

The regular July meeting of the Education Licensure Commission of the District of Columbia previously scheduled for Tuesday July 16, 2013 at 10:30 am, has been rescheduled as follows:

**10:30 am, Tuesday, July 30, 2013  
DC Department of Health - 899 North Capitol Street, NE  
Washington, DC 20002  
Conference room 249**

Below is the draft agenda for this meeting. A final agenda will be posted at 810 First Street, NW, 2<sup>nd</sup> Floor Washington, DC.

For additional information, please contact: Robin Y. Jenkins, 202-724-2095, Email: robin.jenkins@dc.gov.

**DRAFT AGENDA**

I. Call to Order

**ACTION ITEMS\***

II. Approval of May 21, 2013 Meeting Minutes

III. Commission Approved Applications

IV. Provisional Applications  
A. AVI Career Training, Inc.  
B. Intellect Health Institute, LLC  
C. Southeast Welding Academy

**INFORMATIONAL ITEMS**

V. Correspondence and Communications

VI. Adjournment

**OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**

**NOTICE OF PUBLIC MEETING**

**Healthy Youth and Schools Commission Meeting Agenda**

- 4:00-4:05      Welcome
- 4:05-5:05:     Sub-Committees share work and identify key next steps and time frame for completion (60 minutes)
- Physical Activity/Health Requirements (20 minutes)
  - Evaluation of the Act (20 minutes)
  - Promotion of the Act (20 minutes)
- 5:05-5:45      Commission Report Preparations
- 5:45-6:00      Announcements

**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:

Greta J. Fuller  
Single-Member District 8A06

**DISTRICT DEPARTMENT OF THE ENVIRONMENT  
NOTICE OF FUNDING AVAILABILITY**

**GRANTS for  
DDOE's Low Income Weatherization Services for FY 2014**

The District of Columbia District Department of the Environment (“DDOE”) is seeking nonprofit organizations or educational institutions to engage qualifying non-profit community-based organizations to help low income District residents cope with rising energy costs, by purchasing and installing audit-recommended energy measures to low income district residents. Especially, those persons who are particularly vulnerable like the elderly, persons with disabilities, families with children, high residential energy users, and households with high energy burden.

Beginning 7/26/2013, the full text of the Request for Applications (“RFA”) will be available online at DDOE’s web site. It will also be available for pick-up. A person may obtain a copy of this RFA by any of the following:

**Download** by visiting the DDOE’s website, [www.ddoe.dc.gov](http://www.ddoe.dc.gov). Look for the following title/section, “Resources”, click on it, cursor over the pull-down “Grants and Funding”, click on it, then, on the new page, cursor down to the announcement for this RFA. Click on “read more.” Then choose this document, and related information, to download in PDF format;

**Email** a request to 2013WeatherizationRFA.grants@dc.gov with “Request copy of RFA 2013-11-WAP” in the subject line;

**In person** by making an appointment to pick up a copy from DDOE's offices at the 5th floor reception desk at the following street address (call LaWanda Jones at (202) 671-1757 and mention this RFA by name); or

**Write** DDOE at 1200 First Street, N.E., 5th Floor, Washington, DC 20002, “Attn: Request copy of RFA 2013-11-WAP” on the outside of the letter.

**Application Conference** Tuesday, July 30, 2013 10:00 am, DDOE 1200 First Street, N.E., 5<sup>th</sup> Floor, Washington, DC 20002.

**The deadline for application submissions is 8/30/2013, at 4:30 p.m.** Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to 2013WeatherizationRFA.grants@dc.gov.



**Eligibility:** All the checked institutions below may apply for these grants:

- Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;
- Faith based organizations, and educational institutions;
- Government agency and
- University / Higher Education.

**Period of Awards:** The date for the work of this grant program will be 10/1/2013 through 9/30/2014.

**Available Funding:** Funding to be determined, but last 3-year average was \$1.2 million. The amount is subject to continuing availability of funding and approval by the appropriate agencies.

For additional information regarding this RFA, please contact DDOE as instructed in the RFA document, or after reviewing the document, at [2013WeatherizationRFA.grants@dc.gov](mailto:2013WeatherizationRFA.grants@dc.gov).

**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, 5<sup>th</sup> Floor, Washington, DC, intends to issue air quality permit #6327-R1 to the Architect of the Capitol to operate one (1) existing 650 kW (927 hp) diesel-fired emergency generator set at the Ford House Office Building, located at 425 3<sup>rd</sup> Street SW, Washington DC 20515. The contact person for the facility is James Styers at (202) 226-6636.

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, 5<sup>th</sup> Floor  
Washington, DC 20002  
[Stephen.Ours@dc.gov](mailto:Stephen.Ours@dc.gov)

**No written comments postmarked after August 26, 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**

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**DISTRICT DEPARTMENT OF THE ENVIRONMENT**

FISCAL YEAR 2013

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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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**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, 5<sup>th</sup> Floor, Washington, DC, intends to issue air quality permit #6357-R1 to the Architect of the Capitol to operate one (1) existing 1000 kW diesel-fired emergency generator set at Russell Senate Office Building, located at Delaware & Constitution Avenues NE, Washington DC 20002. The contact person for the facility is Takis Tzamaras, Superintendent, Senate Office Buildings, at (202) 224-2021.

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**

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, 5<sup>th</sup> Floor, Washington, DC, intends to issue permit #6234-R1, to the Department of the Interior (DOI) National Park Service to operate the listed diesel-fired emergency generator engine located in Washington, DC. The contact person for the facility is Joe Kish, Environmental Specialist, at (202) 895-6079.

Emergency Generator to be Permitted

<b>Equipment Location</b>	<b>Equipment Location Address</b>	<b>Engine Size</b>	<b>Engine Serial Number</b>	<b>Permit No.</b>
Rock Creek Park	5000 Glover Rd. NW Washington, DC 20016	119.3 kW (89 hp)	CD4045B003547	6234-R1

The proposed emission limits are as follows:

- a. Visible emissions shall not be emitted into the outdoor atmosphere from the generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated emissions from the unit are as follows:

<b>Pollutant</b>	<b>Emission Rate (lb/hr)</b>	<b>Maximum Annual Emissions (tons/yr)</b>
Total Particulate Matter, PM (Total)	0.26	0.065
Sulfur Oxides (SO <sub>x</sub> )	0.25	0.063
Nitrogen Oxides (NO <sub>x</sub> )	3.69	0.923
Volatile Organic Compounds (VOCs)	0.299	0.075
Carbon Monoxide (CO)	0.81	0.202

The application to operate the generator and the draft permit are 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 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.

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Washington, DC 20002  
[Stephen.Ours@dc.gov](mailto:Stephen.Ours@dc.gov)

**No written comments or hearing requests postmarked after August 26, 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, 5<sup>th</sup> Floor, Washington, DC, intends to issue permit #6235-R1, to the Department of the Interior (DOI) National Park Service to operate the listed diesel-fired emergency generator engine located in Washington, DC. The contact person for the facility is Joe Kish, Environmental Specialist, at (202) 895-6079.

Emergency Generator to be Permitted

<b>Equipment Location</b>	<b>Equipment Location Address</b>	<b>Engine Size</b>	<b>Engine Serial Number</b>	<b>Permit No.</b>
Rock Creek Park	4850 Colorado Avenue NW Washington, DC 20011	36 kW (48 hp)	PE3029T337647	6235-R1

The proposed emission limits are as follows:

- a. Visible emissions shall not be emitted into the outdoor atmosphere from the generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated emissions from the unit are as follows:

<b>Pollutant</b>	<b>Emission Rate (lb/hr)</b>	<b>Maximum Annual Emissions (tons/yr)</b>
Total Particulate Matter, PM (Total)	0.11	0.028
Sulfur Oxides (SO <sub>x</sub> )	0.10	0.025
Nitrogen Oxides (NO <sub>x</sub> )	1.49	0.372
Volatile Organic Compounds (VOCs)	0.12	0.03
Carbon Monoxide (CO)	0.33	0.083

The application to operate the generator and the draft permit are 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 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, 5<sup>th</sup> Floor  
Washington, DC 20002  
[Stephen.Ours@dc.gov](mailto:Stephen.Ours@dc.gov)

**No written comments or hearing requests postmarked after August 26, 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, 5<sup>th</sup> Floor, Washington, DC, intends to issue permit #6236-R1, to the Department of the Interior (DOI) National Park Service to operate the listed diesel-fired emergency generator engine located in Washington, DC. The contact person for the facility is Joe Kish, Environmental Specialist, at (202) 895-6079.

Emergency Generator to be Permitted

<b>Equipment Location</b>	<b>Equipment Location Address</b>	<b>Engine Size</b>	<b>Engine Serial Number</b>	<b>Permit No.</b>
Rock Creek Park	1800 Beach Drive NW Washington, DC 20011	20 kW (26.81hp)	IB3472468D20 00X129	6236-R1

The proposed emission limits are as follows:

- a. Visible emissions shall not be emitted into the outdoor atmosphere from the generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated emissions from the unit are as follows:

<b>Pollutant</b>	<b>Emission Rate (lb/hr)</b>	<b>Maximum Annual Emissions (tons/yr)</b>
Total Particulate Matter, PM (Total)	0.06	0.018
Sulfur Oxides (SO <sub>x</sub> )	0.05	0.012
Nitrogen Oxides (NO <sub>x</sub> )	0.83	0.207
Volatile Organic Compounds (VOCs)	0.07	0.018
Carbon Monoxide (CO)	0.18	0.045

The application to operate the generator and the draft permit are 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 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, 5<sup>th</sup> Floor  
Washington, DC 20002  
[Stephen.Ours@dc.gov](mailto:Stephen.Ours@dc.gov)

**No written comments or hearing requests postmarked after August 26, 2013 will be accepted.**

For more information, please contact Stephen S. Ours at (202) 535-1747.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**

**Office of Government Ethics**

**BEGA – Advisory Opinion – Redacted – 1070-001**

**VIA EMAIL TO:**

July 10, 2013

[Name]  
Staff Assistant  
[Agency]  
[E-Mail address]

Dear Staff Assistant:

This responds to your request for advice concerning whether a proposed outside activity would be consistent with your ethical obligations as a government employee. Based upon the information provided via email on June 28, 2013, and your subsequent conversation with a member of my staff, as long as you ensure that you meet the requirements set forth below, your proposed outside activity is permissible.

You state that you are a Staff Assistant with a District of Columbia government agency and, as such, you work on audits of Advisory Neighborhood Commission (“ANC”) financial issues. This work includes reviewing the quarterly reports that ANCs submit to your agency and recommending the release of ANC funds based on your review of the quarterly reports. Additionally, you perform administrative tasks for your agency that are not related to ANCs, including making copies, binding reports, mailing reports, and other duties as assigned. That said, you state that ninety percent of your work duties concern ANC financial audits.

You state that as an outside activity, you have been elected to serve as an Officer for a Public Charter High School (“PCHS”). Specifically, you have been asked to serve as the PCHS’s Vice President. The PCHS is a non-profit corporation formed to operate a public charter high school in the District of Columbia.

You anticipate that your work as Vice President will involve providing guidance to the PCHS on policy adherence, budget, and human resources matters. You will not receive compensation for your services as Vice President. The Officers of the PCHS meet monthly, outside of your District government work hours.

In addition, if the President is absent, dies, becomes disabled, or is unable or refuses to act, you will assume the President’s duties, which include being the principal executive

officer of the Corporation, overseeing the affairs of the Corporation, and presiding at all meetings of the Board.

The applicable provisions of the Code of Conduct that inform my decision are found in Chapter 18, Title 6B of the D.C. Municipal Regulations.<sup>1</sup> The pertinent portions of DPM 1804.1 state:

*1804.1 An employee may not engage in any outside employment or other activity which is not compatible with the full and proper discharge of his or her duties and responsibilities as a government employee. Activities or actions which are not compatible with government employment include, but are not limited to, the following:*

*. . . (d) Maintaining financial or economic interest in or serving (with or without compensation) as an officer or director of an outside entity if there is any likelihood that such entity might be involved in an official government action or decision taken or recommended by the employee;*

*. . . (h) Serving in a representative capacity or as an agent or attorney for any outside entity involving any matter before the District of Columbia.*

In applying these sections of the DPM to your proposed outside activity, I conclude that you are prohibited from maintaining a financial or economic interest in, or serving as an officer of, an outside entity if there is any likelihood that the entity might be involved in an official government action or decision taken or recommended by you. Although you do not have a financial or economic interest in the PCHS, as Vice President you are an officer, and, therefore, DPM § 1804.1(d) applies. That said, because you work primarily on ANC financial issues, it is unlikely that you will be required, as an employee of your agency, to be involved, take, or recommend an official government action or decision regarding the PCHS. If you ensure that you do not violate this prohibition, DPM § 1804.1(d) is satisfied.

You state that the only foreseeable situation in which the PCHS would come before you in your position with your agency is if the City Council or a constituent requests a performance audit of the PCHS. A performance audit occurs only upon request and focuses on whether the entity is following financial rules, policies, and laws. If a performance audit of the PCHS is requested, you must fully and formally recuse yourself from the matter, using your agency's policy and mechanism for recusals and screening.<sup>2</sup> This includes recusal even from your non-audit administrative tasks for your agency, should they involve an audit of the PCHS. Understand that recusal includes fully removing yourself from access to files and information relating to the PCHS and from any discussions with auditors or other agency staff who are involved with the PCHS audit.

You also are prohibited from serving in a representative capacity or as an agent for any outside entity involving any matter before the District. Because the PCHS falls under the jurisdiction of the Office of the State Superintendent, a District government entity, you

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<sup>1</sup> Hereinafter, Title 6b of the D.C. Municipal Regulations will be referred to as the District Personnel Manual or DPM.

<sup>2</sup> Keep in mind that if your position with your agency changes and you are assigned to audit charter schools, recusal may no longer be an option because you may no longer be able to properly discharge your duties as a District government employee.

must ensure that you do not, in your position as Vice President, represent the PCHS before any District government agency or the Council of the District of Columbia (“Council”). Be advised that representing the PCHS before any District government agency or the Council includes signing any document on behalf of the PCHS or presenting on behalf of the PCHS. If you ensure that you do not violate this prohibition, DPM § 1804.1(h) is satisfied.

As general guidance, your position with the PCHS must not interfere with your ability to perform your District government job or impair the efficient operation of District government (See, DPM § 1804.1(a)), you must not devote District government time or resources to work that you perform for the PCHS (See, DPM § 1804.1(b)), you must not order subordinate agency staff to work on matters related to the PCHS (See, DPM § 1804.1(c)), and you must not divulge any official government information to the PCHS that is not available to the general public (See, DPM § 1804.1(f)).

Assuming your representations to be complete as to pertinent facts and entirely accurate, and further assuming that you would abide by the restrictions outlined above, I find that the restrictions on outside activity would not prevent you from pursuing this proposed outside activity.

Please be advised that this advice is provided to you pursuant to section 219 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (“Ethics Act”), effective April 27, 2012, D.C. Law 19-124, D.C. Official Code § 1-1161.01 *et seq.*, which empowers me to provide such guidance. As a result, no enforcement action for violation of the District’s Code of Conduct may be taken against you in this context, provided that you have made full and accurate disclosure of all relevant circumstances and information in seeking this advisory opinion.

Finally, you are advised that the Ethics Act requires this opinion to be published in the District of Columbia Register within 30 days of its issuance, but that identifying information will not be disclosed unless and until you consent to such disclosure in writing, should you wish to do so.

Please let me know if you have any questions or wish to discuss this matter further. I may be reached at 202-481-3411, or by email at [darrin.sobin@dc.gov](mailto:darrin.sobin@dc.gov).

Sincerely,

\_\_\_\_\_/s/\_\_\_\_\_  
DARRIN P. SOBIN  
Director of Government Ethics  
Board of Ethics and Government Accountability

#1070-001

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**

Office of Government Ethics

**BEGA – Advisory Opinion – Unredacted – 1075-001**

**VIA US MAIL TO:**

July 10, 2013

Mr. Peter Sacco  
2100 Eye Street, N.W. #206  
Washington, D.C. 20052

Dear Mr. Sacco:

This responds to your request for advice concerning whether you are required to recuse yourself from Advisory Neighborhood Commission (“ANC”) 2A matters relating to George Washington University (“GWU”) given that you are a GWU House Staff member who receives a \$4,750 stipend for the academic year and a free furnished room in the hall you oversee, the value of which is approximately \$10,000 for the academic year. Based on the information you provide in your letter, dated July 1, 2013, and received on July 8, 2013, I have determined that you are required to recuse yourself from all matters relating to GWU that come before you as an ANC 2A Commissioner.

In your letter, you state that you are an ANC 2A Commissioner for the Foggy Bottom and West End neighborhoods. You state that you also are a student at GWU and serve as a House Staff member. As a House Staff member you organize events for the on-campus residence hall you oversee, mentor students living in the hall, provide advice to them regarding university resources, and serve as the point of contact for the University Police department for any University code violations. You state that you are paid a small stipend of \$4,750 for the academic year for being a House Staff member and that the stipend is distributed to you in regular, biweekly paychecks. You state that you also receive a free furnished room in the hall you oversee, which normally costs approximately \$10,000 for the academic year.<sup>1</sup> Because you receive compensation from GWU totaling approximately \$14,750 for your services as a House Staff member, your position with GWU essentially is outside employment (receiving a fee for services from a private entity).

The Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (“Ethics Act”), effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 (2012 Supp.)) includes Conflict of Interest provisions that are applicable here. Specifically, D.C. Official Code § 1-1162.23(a) states:

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<sup>1</sup> You state that you have received a significant amount of financial aid from the university and a significant portion of both the stipend and the free housing cost are deducted from your yearly financial aid package, both of which are counted as personal income to you, in the eyes of GWU.



*No employee shall use his or her official position or title, or personally and substantially participate, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter, or attempt to influence the outcome of a particular matter, in a manner that the employee knows is likely to have a direct and predictable effect on the employee's financial interests or the financial interests of a person closely affiliated with the employee.*

The Ethics Act definition of “person closely affiliated” (D.C. Official Code § 1-1161.01(43)) includes “affiliated organization,” which is defined as one in which a person serves as an “officer, director, trustee, general partner, or **employee**.” D.C. Official Code § 1-1161.01(3)(A)(i). The question then is whether, as an employee of GWU, your ANC duties could have a “direct and predictable effect” on the financial interests of GWU. As you state in your letter, the ANCs “consider a wide range of policies and programs affecting their neighborhoods, including traffic, parking, recreation, street improvements, liquor licenses, zoning, economic development, police protection, sanitation and trash collection, and the District’s annual budget.” In addition, you state that the “ANCs present their positions and recommendations on issues to various District government agencies, the Executive Branch, and the Council. They also present testimony to independent agencies, boards, and commissions . . . .”

Insofar as GWU is, as you state, the largest land-owner in your ANC area, it is likely that many of the items you list above will either overlap or touch upon the University or its financial interests. Like all universities, GWU seeks to attract the most highly qualified applicants, and a campus setting in an upscale neighborhood -- a neighborhood which the ANC constantly works to improve -- could certainly be considered a selling point. Moreover, it is generally known that aside from its teaching functions, GWU also owns and administers commercial property in the Foggy Bottom neighborhood, and factors such as street improvements, zoning, sanitation, and the like could have a financial impact on these interests including, for instance, property valuation. From this I conclude that when matters relating to GWU come before ANC 2A, it is likely that your ANC duties could have a direct and predictable effect on the financial interests of GWU.

### **Recusal**

Although nearly everyone who works for the District (whether for pay or without) falls within the conflict of interest provision set out above, there are differences in the way a regular employee is treated compared with an employee who is also considered an elected official. For instance, though recusal is the proper method to deal with a conflict, an employee other than an elected official may be eligible for a waiver from the Ethics Board in certain circumstances. (Ethics Act § 223(b); D.C. Official Code § 1-1162.23(b)). No such waiver is available to an elected official.

The procedures and reporting obligations associated with recusal are somewhat different as well depending on classification. For instance, in the case of an elected official, the Ethics Act states:

Any elected official who, in the discharge of the elected official’s official duties, would be required to act in any matter prohibited under subsection (a) of this section shall make full disclosure of the financial interest, prepare a written statement describing the matter and the nature of the potential conflict of interest, and deliver that statement to . . . the Ethics Board.” (Ethics Act § 223 (c)(1); D.C. Official Code § 1-1162.23 (c)(1)).

Moreover, D.C. Official Code § 1-1162.23(c)(3) states:

During a proceeding in which an elected official would be required to take action in any matter that is prohibited under subsection (a) of this section, the Chairman shall: (A)

Read the statement provided in paragraph (1) of this subsection into the record of proceedings; and (B) Excuse the elected official from votes, deliberations, and other actions on the matter.

The question is whether ANC Commissioners are considered “elected officials.” The term “elected official” is not specifically defined in the Ethics Act. The term “Election” is defined as “a primary, general, or special election held in the District of Columbia for the purpose of nominating an individual to be a candidate for election to office, or for the purpose of electing a candidate to office, or for the purpose of deciding an initiative, referendum, or recall measure, and includes a convention or caucus of a political party held for the purpose of nominating such a candidate.” D.C. Official Code § 1-1161.01(15). To the extent that ANC Commissioners are selected through this process, they are, in my view, clearly elected officials and should follow the recusal procedures set out above. Therefore, you are required to recuse yourself from all ANC 2A matters that concern GWU.

Please be advised that this advice is provided to you pursuant to section 219 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (“Ethics Act”), effective April 27, 2012, D.C. Law 19-124, D.C. Official Code § 1-1161.01 *et seq.*, which empowers me to provide such guidance. As a result, no enforcement action for violation of the District’s Code of Conduct may be taken against you in this context, provided that you have made full and accurate disclosure of all relevant circumstances and information in seeking this advisory opinion, further assuming that you abide by the restrictions outlined above.

Finally, you are advised that the Ethics Act requires this opinion to be published in the District of Columbia Register within 30 days of its issuance, but that identifying information will not be disclosed unless and until you consent to such disclosure in writing, should you wish to do so.

Please let me know if you have any questions or wish to discuss this matter further. I may be reached at 202-481-3411, or by email at [darrin.sobin@dc.gov](mailto:darrin.sobin@dc.gov).

Sincerely,

\_\_\_\_\_/s/\_\_\_\_\_  
DARRIN P. SOBIN  
Director of Government Ethics  
Board of Ethics and Government Accountability

#1075-001

**HEALTH BENEFIT EXCHANGE AUTHORITY****NOTICE OF PUBLIC MEETING****Executive Board of the Health Benefit Exchange Authority**

The Executive Board of the Health Benefit Exchange Authority, pursuant to the requirements of Section 6 of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-0094), hereby announces a public meeting of the Executive Board. The meeting will be held at 441 4<sup>th</sup> Street, NW, Old Council Chambers on **Thursday, August 8, 2013 at 5:30 pm**. The call in number is 1-877-668-4493, Access code 317 733 206.

The Executive Board meeting is open to the public.

If you have any questions, please contact Debra Curtis at (202) 741-0899.

**HEALTH BENEFIT EXCHANGE AUTHORITY****NOTICE OF PUBLIC MEETING****Executive Board of the Health Benefit Exchange Authority**

The Executive Board of the Health Benefit Exchange Authority, pursuant to the requirements of Section 6 of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-0094), hereby announces a public meeting of the Executive Board. The meeting will be held via teleconference on **Monday, July 22, 2013 at 1:00 pm**. The call in number is 1-877-668-4493, Access code 646 555 730. Topics that will be discussed include consideration and voting on credit and debit card policy.

The Executive Board meeting is open to the public.

If you have any questions, please contact Debra Curtis at (202) 741-0899.

**DEPARTMENT OF HEALTH CARE FINANCE  
NOTICE OF PUBLIC MEETING**

**Department of Health Care Finance Pharmacy and Therapeutics Committee**

The Department of Health Care Finance (DHCF) Pharmacy and Therapeutics Committee (P&T Committee), pursuant to the requirements of Mayor's Order 2007-46, dated January 23, 2007, hereby announces a public meeting of the P&T Committee to obtain input on the review and maintenance of a Preferred Drug List (PDL) for the District of Columbia. The meeting will be held **Thursday, September 5, 2013**, at 2:30pm in the 4<sup>th</sup> Floor Conference Room 406 at 899 North Capitol Street, NE Washington, DC 20002.

The P&T Committee will receive public comments from interested individuals on issues relating to the topics or class reviews to be discussed at this meeting. The clinical drug class review for this meeting will include:

Antifungals	Multiple Sclerosis Agents
Hepatitis B, Oral Agents	Non-Ergot Dopamine Receptor Antagonists
Hepatitis C Agents	Sedative Hypnotics
Systemic Quinolones	Anti-depressants SSRIs
GI Antibiotics	Anti-depressants Others
Immunosuppressants	Stimulants: Antihyperkinesis Agents
Cytokine and CAM Antagonists	Anticonvulsants
Atypical Antipsychotics	Neuropathic Pain
Alzheimer's Agents	

Any person or organizations who wish to make a presentation to the DHCF P&T Committee should furnish his or her name, address, telephone number, and name of organization represented by calling (202) 442-9076 **no later than 4:45pm on Wednesday, August 28, 2013**. The person or organization may also submit the aforementioned information via e-mail to Charlene Fairfax ([charlene.fairfax@dc.gov](mailto:charlene.fairfax@dc.gov)).

An individual wishing to make an oral presentation to the P&T Committee will be limited to three (3) minutes. A person wishing to provide written information should supply twenty (20) copies of the written information to the P&T Committee **no later than 4:45pm on Wednesday, August 28, 2013. Handouts are limited to no more than two standard 8½ by 11 inch pages of "bulleted" points (or one page front and back)**. The ready-to-disseminate, written information can also be mailed **to arrive no later than Wednesday, August 28, 2013** to:

Department of Health Care Finance  
Attention: Charlene Fairfax, RPh, CDE  
899 North Capitol Street, NE, 6<sup>th</sup> floor  
Washington, DC 20002

**DEPARTMENT OF HEALTH****PUBLIC NOTICE**

The District of Columbia Board of Audiology and Speech-Language Pathology (“Board”) hereby gives notice of a change in its regular meeting, 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)) (2001) (“Act”).

The Board will be in recess in August, 2013 and therefore cancel the meeting previously scheduled for August 19, 2013. The Board will resume its regular meeting on September 16, 2012 at 9:15 am. The meeting will be open to the public from 9:15 am until 10:30 am to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed from 10:30 am to 12:00 pm to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Health Professional Licensing Administration website at [www.hpla.doh.dc.gov/](http://www.hpla.doh.dc.gov/) and select Agency Calendars and Board Agendas to view the agenda.

**DEPARTMENT OF HEALTH****PUBLIC NOTICE**

The District of Columbia Board of Dentistry (“Board”) hereby gives notice of a change in its regular meeting, 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)) (2001) (“Act”).

The Board will be in recess in August, 2013 and therefore cancel the meeting previously scheduled for August 21, 2013. The Board will resume its regular meeting on September 18, 2013 at 10:00 am. The meeting will be open to the public from 10:00 am until 11:00 am to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed from 11:00 am to 4:45 pm to hold a disciplinary hearing, plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Health Professional Licensing Administration website at [www.hpla.doh.dc.gov/](http://www.hpla.doh.dc.gov/) and select Agency Calendars and Board Agendas to view the agenda.

**DEPARTMENT OF HEALTH  
HEALTH PROFESSIONAL LICENSING ADMINISTRATION**

**NOTICE OF MEETING**

Board of Medicine  
July 31, 2013

On JULY 31, 2013 at 8:30 am, the Board of Medicine will hold a meeting to consider and discuss a range of matters impacting competency and safety in the practice of medicine.

In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed from 8:30 am until 10:30 am to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The meeting will be open to the public from 10:30 am to 12:00 pm to discuss various agenda items and any comments and/or concerns from the public. After which the Board will reconvene in closed session to continue its deliberations until 2:00 pm.

The meeting location is 899 North Capitol Street NE, 2<sup>nd</sup> Floor, Washington, DC 20002.

Meeting times and/or locations are subject to change – please visit the Board of Medicine website [www.doh.dc.gov/bomed](http://www.doh.dc.gov/bomed) and select BoMed Calendars and Agendas to view the agenda and any changes that may have occurred. Executive Director for the Board – Jacqueline A. Watson, DO, MBA, (202) 724-8755.



**DEPARTMENT OF HEALTH****PUBLIC NOTICE**

The District of Columbia Board of Psychology (“Board”) hereby gives notice of a change in its regular meeting, 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)) (2001) (“Act”).

The Board will be in recess in August, 2013 and therefore cancel the meeting previously scheduled for August 16, 2013. The Board will resume its regular meeting on September 20, 2013 at 9:00 am. The meeting will be open to the public from 9:00 am until 10:30 am to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed from 10:30 am to 12:00 pm to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Health Professional Licensing Administration website at [www.hpla.doh.dc.gov/](http://www.hpla.doh.dc.gov/) and select Agency Calendars and Board Agendas to view the agenda.

**DISTRICT OF COLUMBIA HOUSING FINANCE AGENCY  
BOARD OF DIRECTORS MEETING**

July 30, 2013  
815 Florida Avenue, NW  
Washington, DC 20001

5:30 pm

AGENDA

- I. Call to order and verification of quorum.
- II. Vote to close meeting to discuss the approval of a Final Bond Resolution for the Sheridan Station Phase III project and bond transaction.  
  
Pursuant to the District of Columbia Administrative Procedure Act, the Chairperson of the Board of Directors will call a vote to close the meeting in order to discuss, establish, or instruct the public body's staff or negotiating agents concerning the position to be taken in negotiating the price and other material terms of the Sheridan Station Phase III project and bond transaction. An open meeting would adversely affect the bargaining position or negotiation strategy of the public body. (D.C. Code §2-405(b)(2)).
- III. Re-open meeting.
- IV. Consideration of DCHFA Final Bond Resolution No. 2013-08 for the approval of the Sheridan Station Phase III project and bond transaction.
- V. Discussion: Parkway Overlook Update and Plan of Execution including Disposal Dates.
- VI. Discussion: Agency's New Credit Card Policy and Procedures.
- VII. Executive Director's Report.
- VIII. Other Business.
- IX. Adjournment.

## DEPARTMENT OF HUMAN RESOURCES

## EXCEPTED SERVICE EMPLOYEES AS OF JULY 15, 2013

## NOTICE OF EXCEPTED SERVICE EMPLOYEES

D.C. Official Code § 1-609.03(c) requires that a list of Excepted Service positions established under the provision of § 1-609.03(a) along with the types of excepted service appointment, names, position titles, and grades of all persons appointed to these positions be published in the *D.C. Register*. In accordance with the foregoing, the following information is hereby published for the following positions.

OFFICE OF THE MAYOR				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Murphy	Christopher	Chief of Staff	11
Excepted Service	Goulet	Eric	Budget Director	11
Excepted Service	Flowers	Brian	General Counsel	11
Excepted Service	Bunn	Sheila	Deputy Chief of Staff	10
Excepted Service	Evans	Kenneth	Deputy Budget Director	10
Excepted Service	Glaude	Stephen	Director, Community and Religion	10
Excepted Service	Jackson	Janene	Dir., Pol & Legislative Affairs	10
Excepted Service	Kaufman	Donald	Deputy General Counsel	10
Excepted Service	McGaw	John	Deputy Director	10
Excepted Service	Banta	Susan	Budget Officer	09
Excepted Service	Constantino	Justin	Senior Budget Analyst	09
Excepted Service	Fimbres	Francisco	Director of Community Relation	09
Excepted Service	Gorman	Darryl	Dir. Boards & Commissions	09
Excepted Service	Murray	Christopher	Budget Analyst	09
Excepted Service	Richardson	Jeffrey	Executive Director	09
Excepted Service	Barge	Lolita	Director of Legislative Support	08
Excepted Service	Barnes	Lafayette	Program Analyst	08

OFFICE OF THE MAYOR				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	DeVillier	Mikelle	Special Assistant	08
Excepted Service	Ferguson	Ursula	Correspondence Officer	08
Excepted Service	McCoy	Doxie	Senior Communications Officer	08
Excepted Service	Pittman	James	Deputy Director	08
Excepted Service	Ribeiro	Pedro	Director of Communications	08
Excepted Service	Washington	Sterling	Director	08
Excepted Service	Anthony	Lavita	Executive Assistant	07
Excepted Service	Atkins	Latisha	Deputy Dir. Neighborhood Engage	07
Excepted Service	Bland	Stephanie	Special Assistant	07
Excepted Service	Coombs	John	Policy Analyst	07
Excepted Service	Henry	Kristen	National Service Officer	07
Excepted Service	Jennings	Cedric	Director	07
Excepted Service	Leistikow	Alexandra	Director of Scheduling	07
Excepted Service	Lowery	Terese	Exec Dir. for Comm on Women	07
Excepted Service	Mangum	Larry	Special Assistant	07
Excepted Service	Rogers	Jonathan	Budget Analyst	07
Excepted Service	Thompson	Tiffanie	Budget Analyst	07
Excepted Service	Brown	Jerry	Program Analyst	06
Excepted Service	Desjardins	Matthew	Comm. & Initiatives Specialist	06
Excepted Service	Fluker	Clarence	Comm. & Initiatives Specialist	06
Excepted Service	George	Deborah	Policy Analyst	06
Excepted Service	Hayworth	JohnPaul	Policy Analyst	06

OFFICE OF THE MAYOR				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Levine	Daryl	Special Assistant	06
Excepted Service	Marus	Robert	Writer Editor	06
Excepted Service	Muhammad	Sedrick	Special Assistant	06
Excepted Service	Nutall	Dexter	Executive Assistant	06
Excepted Service	Oding	Alimayu	Visual Information Specialist	06
Excepted Service	Williamson	Jason	Neighborhood Corps Specialist	06
Excepted Service	Blue	Peter	Program Coordinator	05
Excepted Service	Hernandez Maduro	Frank	Community Relations Specialist	05
Excepted Service	Holman	Keith	Community Service Representative	05
Excepted Service	Kelly	Deborah	Contract & Reprogram. Special.	05
Excepted Service	Loudermilk	Amy	Program Analyst	05
Excepted Service	Norris	Rufus	Constituent Services Special.	05
Excepted Service	Walker	David	Staff Assistant	05
Excepted Service	Watson	Leonard	Special Assistant	05
Excepted Service	Williams	Marchim	Outreach & Service Specialist	05
Excepted Service	Wright	Brittney	Outreach & Service Specialist	05
Excepted Service	Teferi	Winta	Program Analyst	04
Excepted Service	Allen	Darin	Scheduling Specialist	03
Excepted Service	Latta	Aretha	Administrative Assistant	03
Excepted Service	Saki-Tay	Inez	Correspondence Mgmt. Spec.	03
Excepted Service	Etheridge	Lashonia	Staff Assistant	02
Excepted Service	Weaver	Zachary	Policy Analyst	02
Excepted Service	Sanders	Lorenzo	Clerical Assistant	01

OFFICE OF THE CITY ADMINISTRATOR				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Lew	Allen	City Administrator	11
Excepted Service	Graves	Warren	Chief of Staff	11
Excepted Service	Campbell	Natasha	Director, LRCB	10
Excepted Service	Robinson	Anthony	Director	10
Excepted Service	Kreiswirth	Barry	Senior Legal Advisor	09
Excepted Service	Love	Phyllis	Management & Prog Anal Ofcr	08
Excepted Service	Moss	J	Executive Assistant	07

OFFICE OF THE INSPECTOR GENERAL				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Branson	Karen	General Counsel	10
Excepted Service	Bruce	Blanche	Deputy Inspector General	10
Excepted Service	Burke	Roger	Chief of Staff	10
Excepted Service	Kennedy	Susan	Supvy Attorney Advisor	10
Excepted Service	King	Ronald	Supervisory Auditor	10
Excepted Service	Wright	Alvin	Asst IG Inspector/Evaluation	10
Excepted Service	Lucchesi	Victoria	Deputy Gen Counsel	09
Excepted Service	Silverman	Stuart	Attorney	09
Excepted Service	Wolfingbarger	Brentton	Supv Attorney Advisor	09
Excepted Service	Block	Elaine	Attorney-Advisor	08

OFFICE OF THE INSPECTOR GENERAL				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Muracco	Dominick	Attorney-Advisor	08
Excepted Service	Nguyen	Dangkhua	Attorney Advisor	08
Excepted Service	Van Croft	Keith	Attorney-Advisor	08
Excepted Service	Williams	Burnette	Attorney-Advisor	08

DEPARTMENT OF GENERAL SERVICES				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Burrell	Scott	Chief Operations Officer	11
Excepted Service	Harper	Ollie	Dep. Dir. for Facilities Mgmt.	11
Excepted Service	Bellamy	Sandy	Management and Program Analyst	08

OFFICE OF THE SECRETARY				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Ferrell Benavides	Aretha	Deputy Director	09
Excepted Service	Reid	Victor	Administrator, Ofc of Document	08
Excepted Service	Elwood	Patricia	Protocol Officer	08
Excepted Service	Phipps	Richard	Notary & Authent. Officer	07
Excepted Service	Davis	Clarence	Public Records Administrator	07
Excepted Service	Pierno	Robert	Special Assistant	05

DC DEPARTMENT OF HUMAN RESOURCES				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Williams	Kimberly	Deputy Director	11
Excepted Service	Seed	Sudie Mae	Management and Program Analyst	07

HOMELAND SECURITIES & EMERGENCY MANAGEMENT AGENCY				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Thomas	Jorhena	Fusion Center Manager	08
Excepted Service	Brannum	Robert	Community Outreach Specialist	06
Excepted Service	Boone	William	Emergency Oper & Info. Spec.	05

OFFICE ON LATINO AFFAIRS				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Sinisterra	Didier	Deputy Director on Latino Affairs	07

DEPARTMENT OF EMPLOYMENT SERVICES				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Reich	Stephanie	Chief of Staff	09
Excepted Service	Becks	Valencia	Outreach & Service Specialist	05
Excepted Service	Barragan	Juan	Outreach & Service Specialist	05
Excepted Service	Franklin	Anita	Customer Relations Assistant	02



OFFICE OF CABLE TELEVISION				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Washington	Lindsay	Producer	03

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Szegedy Maszak	Peter	Attorney Examiner	10
Excepted Service	Young	Ronald	Attorney Examiner	10
Excepted Service	Anderson	Keith	Rent Administrator	09
Excepted Service	Fields	Beatrix	Legislative Affairs Specialist	09
Excepted Service	Haynes- Franklin	Jessica	Chief of Staff	09

DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Nichols	Richard	Chief of Staff	11
Excepted Service	Miller	Mark	Chief Operating Officer	10
Excepted Service	Trueblood	Andrew	Deputy Chief of Staff	09
Excepted Service	Zipper	David	Director of Business Development	09
Excepted Service	Greenberg	Judith	Special Assistant	09
Excepted Service	Tyus	Darnetta	Special Assistant	08
Excepted Service	Cross	Jason	Special Assistant	08
Excepted Service	Bailey	Milton	Special Assistant	08

DEPARTMENT OF SMALL AND LOCAL BUSINESS				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Summers	Robert	Acting Director	10

DEPARTMENT OF FORENSIC SCIENCES				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Maguire	Christopher	Deputy Director	11
Excepted Service	Funk	Christine	General Counsel	10

METROPOLITIAN POLICE DEPARTMENT				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Durham	Alfred	Chief of Staff	11
Excepted Service	Crump	Gwendolyn	Director, Office of Corporate	09
Excepted Service	O'Meara	Kelly	Executive Director, Strategic	09
Excepted Service	Bromeland	Matthew	Special Assistant to the Chief	09
Excepted Service	Major	Jacob	Lieutenant	09

FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Miramontes	David	Medical Director	11
Excepted Service	Andre	Karen	Labor Management Liaison Officer	09
Excepted Service	Roque	Sarah	Public Health Analyst	07

PS&J CLUSTER, OFFICE OF THE DEPUTY MAYOR				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Quander	Paul	Deputy Mayor	11
Excepted Service	Booth	Quincy	Chief of Staff	10

PS&J CLUSTER, OFFICE OF THE DEPUTY MAYOR				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Hook	Melissa	Justice Grants Administrator	09
Excepted Service	Stewart-Ponder	Gitana	Legislative & Policy Analyst	07
Excepted Service	Thompson	Emile	Legislative & Policy Analyst	07
Excepted Service	Compani	Cara	Program Analyst	05
Excepted Service	McCray	Tykisha	Staff Assistant	03

OFFICE OF THE CHIEF MEDICAL EXAMINER				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Fields	Beverly	Chief of Staff	10

OFFICE OF STATE SUPERINTENDENT OF EDUCATION				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Mahaley	Hosana	State Superintendent of Education	11
Excepted Service	Evans	Patricia	Director, School Preparedness	09
Excepted Service	Heinrich	Philip	Strategic Plan. & Perf. Ofcr.	08

OFFICE OF THE DEPUTY MAYOR FOR EDUCATION				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Calderon	Miriam	Special Assistant	10
Excepted Service	Salimi	Scheherazade	Chief of Staff	09
Excepted Service	Bleyer	Marc	Policy Analyst	08
Excepted Service	Comey	Jennifer	Special Assistant	08
Excepted Service	Fejran	Celine	Program Analyst	07

DEPARTMENT OF PARKS AND RECREATION				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Shanklin	Sharia	Program Manager	08
Excepted Service	Newman	Rachel	Writer Editor	05

DEPARTMENT OF HEALTH				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Pappas	Gregory	Senior Deputy Director	11
Excepted Service	Amy	Brian	Senior Deputy Director	10
Excepted Service	Buckson	Frances	Admin., Addiction Prevention &	10
Excepted Service	Snyder	Shaun	Chief Operating Officer	10
Excepted Service	Woldu	Feseha	Sr Dep Dir. H'lth Reg & License	10
Excepted Service	Chichester	Colette	Chief of Staff	09

DEPARTMENT OF HUMAN SERVICES				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Nabors-Jackson	Nikol	Chief Operating Officer	10
Excepted Service	Thompson	Sakina	Policy & Prog Support Advisor	10

OFFICE OF THE DEPUTY MAYOR FOR HEALTH AND HUMAN SERVICES				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Otero	Beatriz	Dep Mayor for Health & Human Services	11

OFFICE OF THE DEPUTY MAYOR FOR HEALTH AND HUMAN SERVICES				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Quinones	Ariana	Chief of Staff	10
Excepted Service	Joseph	Rachel	Special Assistant	07
Excepted Service	Nagda	Sonia	Special Assistant	07
Excepted Service	Gomez	Sandra	Administrative Support Specialist	03

DEPARTMENT OF HEALTH CARE FINANCE				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Elam	Linda	Deputy Director	11
Excepted Service	Nathan	Ganayswaran	Dep. Dir. for Medicaid Finance	11
Excepted Service	Vowels	Robert	Medical Officer	10
Excepted Service	McCabe	Heather	Special Assistant	10
Excepted Service	Rapp	Melisa	Chief of Staff	09

DEPARTMENT OF YOUTH AND REHABILITATION SERVICES				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Bellard	Alsan	Health Services Medical Officer	11

DISTRICT DEPARTMENT OF TRANSPORTATION				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Nicholson	Ronaldo	Chief Transportation Engineer	11
Excepted Service	Jackson	Carl	Assoc Dir for Prog Transp Svcs	10
Excepted Service	FitzGerald	Christopher	Community Service Representative	05
Excepted Service	Archie	Davena	Community Service Representative	05

DEPARTMENT OF PUBLIC WORKS				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Carter	Michael	Deputy Director for Operations	10
Excepted Service	Thomas	Carl	Clean City Coordinator	09
Excepted Service	Lee	Sandra	Outreach & Service Specialist	05
Excepted Service	Bulger	James	Outreach & Service Specialist	05

CHILD AND FAMILY SERVICES AGENCY				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Rosenberg	Michele	Chief of Staff	08

DEPARTMENT OF MENTAL HEALTH				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Canavan	Patrick	Health System Administrator	11

DEPARTMENT OF INSURANCE, SECURITIES AND BANKING				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	McPherson	Chester	Dep Comm for Market Operations	10

OFFICE OF MOTION PICTURE & TELEVISION				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Green	Leslie	Senior Communications Manager	08

DC TAXICAB COMMISSION				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	McInnis	Sharon	Licensing & Enforcement Ofcr.	08
Excepted Service	Waters	Neville	Public Affairs Specialist	08

OFFICE OF TENANT ADVOCATE				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Shreve	Johanna	Chief Tenant Advocate	09

OFFICE OF VETERAN AFFAIRS				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Cary	Matthew	Director, Veterans Affairs	09
Excepted Service	Fabrikant	Michael	Outreach & Service Specialist	05

**SHINING STARS MONTESSORI ACADEMY PCS****REQUEST FOR PROPOSALS****Meals, Janitorial, Special Education Services, After-School Care, Legal Services,  
Development Services, Strategic Consulting Services**

Shining Stars Montessori Academy PCS is advertising the opportunity to bid on the following services: janitorial, special education, development services, meals, after-school care, legal, strategic consulting. Shining Stars Montessori Academy PCS is also 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 beginning on July 29, 2013 from:

Maria Fenton  
1328 Florida Avenue, N.W. - Annex, Washington, DC 20009  
(202) 319-2307 ext. 103  
mfenton@shiningstarsdc.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.



**SOMERSET PREPARATORY DC PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSAL****Food Service Management Services**

**SOMERSET PREPARATORY DC PUBLIC CHARTER SCHOOL** 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 beginning on July 26, 2013 from:

JAMES GRIFFIN  
3301 WHEELER RD, SE, Washington, DC 20032  
202-775-0349

**Proposals will be accepted at the above address on Friday, August 16, 2013 no later than 12 noon**

**All bids not addressing all areas as outlined in the RFP will not be considered.**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DC TAXICAB COMMISSION**

**NOTICE OF SPECIAL MEETING**

The District of Columbia Taxicab Commission will hold a Special Meeting on Wednesday, July 31, 2013 at 10:00 am. The Special Meeting will be held in the Old Council Chambers at 441 4th Street, NW, Washington, DC 20001.

The final agenda will be posted no later than seven (7) days before the General Commission Meeting on the DCTC website at [www.dctaxi.dc.gov](http://www.dctaxi.dc.gov).

Contact the Assistant Secretary to the Commission, Ms. Mixon, on 202-645-6018, extension 4, if you have further questions.

**DRAFT AGENDA**

- I. Call to Order
- II. Commission Communication
- III. Adjournment

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 18482 of District Properties, LLC**, pursuant to 11 DCMR § 3103.2, for variances from lot width and lot area requirements under section 401, and a variance from the side yard requirements of section 405, to allow the construction of a one-family detached dwellings in the R-1-B District at premises 5008 13th Street, N.W. (Square 2806, Lots 53).

**HEARING DATES:** January 15, 2013 and February 26, 2013

**DECISION DATE:** February 26, 2013

**DECISION AND ORDER**

This self-certified application was submitted on September 27, 2012 by District Properties LLC (“Applicant”). The application requested variance relief to permit construction of a one-family detached dwelling in an R-1-B Zone District located at 5008 13th Street, N.W. Following a public hearing, the Board voted 5-0-0 to approve the application.

**PRELIMINARY MATTERS**

Notice of Application and Notice of Hearing. By memoranda dated September 27, 2012 the Office of Zoning (“OZ”) sent notice of the filing of the application to the D.C. Office of Planning (“OP”), the D.C. Department of Transportation, Advisory Neighborhood Commission (“ANC”) 4C, the ANC within which the subject property is located. Pursuant to 11 DCMR § 3113.14, OZ mailed letters providing notice of the hearing to the Applicant, ANC 4C, and all owners of property within 200 feet of the subject property. Notice was also published in the *D.C. Register* on November 9, 2012 at 59 DCR 12887. A hearing was scheduled for January 15, 2013.

Party Status. Pursuant to 11 DCMR § 3199.1(b), the Applicant and ANC 4C were automatically parties. Ms. Susan Reith filed a request for party status on January 29, 2012. (Exhibit 27.) Ms. Reith did not explain how she met any of the criteria for being granted party status, but simply claimed that she owned the subject property. The Board denied the party status request for the reasons set forth in the conclusion of law portion of this order.

Requests for Postponement. Through a letter dated January 8, 2013, the Chairman and Vice Chairman of ANC 4C requested the Board to postpone the scheduled January hearing to the following month in order to give the Applicant an opportunity to make a presentation before a community meeting and for the ANC to vote on the proposal. The ANC’s community meeting was originally scheduled for the second Wednesday in January, but was postponed until January 16<sup>th</sup> to accommodate the swearing in ceremony for the newly elected Commissioners. The Board granted the request and postponed the hearing to February 26, 2013.

**BZA APPLICATION NO. 18482**  
**PAGE NO. 2**

In a letter dated January 29, 2013, Ms. Reith requested that the February hearing be postponed. Ms. Reith's letter included documents that she claimed proved that the District's tax sale of the subject property was unlawful and that by right of inheritance the property remained hers. (Exhibit 26.) The Board denied the request because the assertion that the Applicant was not the owner of the property was not a basis for postponing the proceeding, but required the Board to rule on this issue.

OP Report. In a report dated December 31, 2012, OP recommended approval of the variance relief requested. The report addressed the three part area variance test and concluded that the Application satisfied its requirements. The report concluded that the substandard size of the lot was an exceptional condition that made it practically difficult to construct a one-family dwelling that conformed to the side yard requirements. OP found that there would be no detriment to the public good nor would there be substantial impairment to the zone plan. Rather the proposal would provide a needed infill development of a vacant lot. The report further noted that the proposed five foot side yards would be adjacent to existing eight foot side yard resulting in a total of 13 feet of open yard on each side of the proposed structure.. This would protect the light, air, and privacy of all affected properties consistent with the purpose of the side yard requirement.

DDOT Report. The Department of Transportation submitted a report dated October 19, 2012, stating that the proposed project would have no adverse impacts on the District's transportation network. (Exhibit 28.)

ANC Report. By letter dated February 6, 2013, ANC 4C indicated that at a properly noticed public meeting held on January 16, 2013 and with a quorum present. ANC 4C voted unanimously to support the application with two conditions. (Exhibit 28.)

**FINDINGS OF FACT**

**The Applicant**

1. The Applicant is District Properties, which is controlled by Mr. Mohammed Sikder.
2. The last deed recorded in the land records of the District of Columbia (recorded October 25, 2012), states that RUPSHA 2007 LLC owns the property that is the subject of this Application. (Exhibit 29.)
3. Mr. Sikder also controls RUPSHA 2007 LLC. (Exhibit 29.)
4. Ms. Reith's request for party status was based solely upon her claimed ownership of the subject property and in no other respects explained how her "interests would likely be more

**BZA APPLICATION NO. 18482****PAGE NO. 3**

significantly, distinctively, or uniquely affected in character or kind by the proposed zoning relief than those of other persons in the general public.” (11 DCMR § 3113.21.)<sup>1</sup>

**The Subject Property**

5. The subject property is located in the R-1-B District, on 5008 13th Street N.W. (Square 2806, Lot 53). The lot is currently vacant and has been so for several years. However, there was almost certainly an improvement on the property at the time the current version of the Zoning Regulations became effective in May of 1958.
6. The R-1-B District permits one-family detached dwellings as a matter of right. (11 DCMR § 201.1(k).)
7. The neighborhood surrounding the subject property is developed with one-family detached and semi-detached dwellings. One-family detached dwellings abut the subject property’s side lots lines.

**The Applicant’s Project**

8. The Applicant proposes to construct a one-family detached house with one parking space at the back of the house that will be accessible from the rear alley.
9. The proposed two-floor plus basement dwelling would have a footprint of 1,355 square feet and consist of four bedrooms, four full bathrooms, one half bathroom, a kitchen with separate dining space, a living room, and a family room.

**Zoning Relief Required**

10. The subject lot is 35 feet wide while the R-1-B district requires a minimum width of 50 feet for all structures other than a public school. (See 11 DCMR § 401.3.) In addition, the lot area is 3,500 square feet while the minimum required in the R-1-B District is 5,000 square feet for those same types of structures. Id.
11. Subsection 401.1 of the Zoning Regulations provides that “in the case of a building located, on May 12, 1958, on a lot with a lot area or width of lot, or both, less than that prescribed in § 401.3 for the district in which it is located, the building may not be enlarged or replaced by a new building unless it complies with all other provisions of this title.”
12. The proposed new building would provide a five foot side yard on each side. The R-2 Zone requires side yards at least eight feet wide. (See 11 DCMR § 405.9.)
13. Apart from the side yards, the proposed building would comply with all other provisions of Title 11.

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<sup>1</sup> At the time of the hearing this provision was codified at 11 DCMR § 3106.3.

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**Exceptional Condition**

14. The lot on the subject property is substandard in size, extremely narrow, and was created prior to the enactment of the current version of the Zoning Regulation in May 1958.
15. Neither of the adjacent properties is vacant or owned by the Applicant, and therefore there is no means by which the subject property can be made to conform to the minimum lot dimensions required.

**Practical Difficulty**

16. Strict compliance with the side yard requirement would result in a dwelling only 19 feet wide, which is inadequate for residential use.

**No Impairment to Zone Plan**

17. The subject property is located in the R-1-B Zone District, which “is designed to protect quiet residential areas ... with one-family detached dwellings and adjoining vacant areas likely to be developed for those purposes.” (11 DCMR § 200.1.)
18. The proposed dwelling will require less height and lot occupancy than permitted and will provide a greater rear yard depth than required in an R-1-B District.
19. The project would result in an infill development on a vacant lot.
20. The Applicant will revise the front setback to be equivalent to the neighboring properties.

**No Harm to the Public.**

21. The abutting property owners to the north and south of the subject properties provide compliant eight-foot side yards that together with the five-foot wide yards proposed by the Applicant will result in an effective separation of thirteen feet on each side.
22. The Department of Transportation, in a report dated October 19, 2012, concluded that the proposed project would have no adverse impacts on the District’s transportation network.

**CONCLUSIONS OF LAW**

**Preliminary Matter**

As noted Ms. Reith requested party status based solely upon her assertion that the tax sale of the subject property to its current owner should not be recognized due to alleged defects in the notification process required by statute. If the Applicant were not the owner of the subject property, the consequence would not be Ms. Reith being made a party to this proceeding, but to the proceeding being dismissed. As will be explained, the Board concluded that it must recognize

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the Applicant as the owner of the subject property and since Ms. Reith offered no other basis for granting her party status, her request was denied.

Through a submission dated February 25, 2013, the Applicant presented a deed recorded in the land records of the District of Columbia on October 9, 2012 indicating that RUPSHA 2007 LLC is the current owner of the subject property. In that same submission the Applicant established the relationship between itself and RUPSHA 2007 LLC.

Ms. Reith does not contest that the deed is currently in effect pursuant to D.C. Code § 42-401. Rather, Ms. Reith claims that the Board should not recognize the deed because of defects in the tax sale that preceded it. As the Court of Appeals has stated:

It is firmly established in this jurisdiction that the District of Columbia “may affect a valid conveyance of property for nonpayment of real estate taxes only by ‘strict compliance’ with the tax sale statute and regulations.” *Boddie v. Robinson*, 430 A.2d 519, 522 (D.C.1981) (citations omitted). ... Accordingly, “[i]f the District fails to comply in every respect with the statute and regulations, the sale is invalid and must be set aside.” *Keatts v. Robinson*, 544 A.2d 716, 719 (D.C.1988).

*Associated Estates, LLC v. Caldwell*, 779 A.2d 939, 943 -944 (D.C 2001).

However, it is the Superior Court of the District of Columbia and not the Board of Zoning Adjustment that can order a tax sale to be set aside. Since that has not occurred as to this property, the Board must recognize RUPSHA 2007 LLC as its owner and is satisfied that the Applicant’s relationship to that entity permitted it to file this application. Since Ms. Reith stated no basis other than her purported ownership interest for granting party status, she failed to prove that her “interests would likely be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning relief than those of other persons in the general public.” (11 DCMR § 3113.21.) For this reason, the Board denied Ms. Reith’s request for party status.

### **The Merits of the Application**

#### **The Variance Standard**

The Board is authorized to grant variances from the strict application of the Zoning Regulations where “by reason of exceptional narrowness, shallowness, or shape of a specific piece of property ... or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition” of the property, the strict application of the Zoning Regulations would “result in particular and exceptional practical difficulties to or exceptional or undue hardship upon the owner of the property....” D.C. Official Code § 6-641.07(g)(3) (2008 Supp.), (11 DCMR § 3103.2.) The “exceptional situation or condition” of a property need not arise from the land and/or structures thereon, but can also arise from “subsequent events extraneous to the land.” *De Azcarate v. Bd. of Zoning Adjustment*, 388 A.2d 1233, 1237 (D.C.

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1978). Relief can be granted only “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.” D.C. Official Code § 6-641.07(g)(3) (2008 Repl.), (11 DCMR § 3103.2.).

A showing of “practical difficulties” must be made for an area variance, while the more difficult showing of “undue hardship,” must be made for a use variance. *Palmer v. D.C. Board of Zoning Adjustment*, 287 A.2d 535, 541 (D.C. 1972). Since area variances are sought by the Applicant, the Applicant must comply with the three prong test: (1) that an exceptional situation results in a “practical difficulty” in complying with the Zoning Regulations; (2) the granting of the relief will not be substantial detriment to the public good; and (3) the granting of the variances will not substantially harm the Zone Plan.

Exceptional Situation Resulting in a Practical Difficulty

The lot is only 35 feet wide, which makes it extremely narrow. It also has only 3,500 square feet of land in a zone District where a minimum of 5,000 square feet is required. The lot’s substandard size and the fact that it was created prior to the adoption of the 1958 Zoning Regulations results in an exceptional condition. The Applicant owns no adjacent vacant property that could be used to create a conforming lot. These exceptional conditions lead to a practical difficulty, because strict compliance with the requirement for two eight-foot wide side yards within this substandard lot would result in a 19 foot wide building, which is far too narrow for a habitable dwelling.

No Substantial Detriment to the Zone Plan

The grant of this variance will not substantially impair the intent, purpose, and integrity of the Zone Plan. The proposed one-family detached dwelling is a matter-of-right use in this R-1-B zone and is appropriate for the block and the area. To ensure that will be the case, the Applicant agreed to comply with the OP recommendation to revise the front setback so it would be equivalent to the neighboring properties. The Board has made that commitment a condition of its approval. Except for the substandard side yard, the proposed structure meets all other the applicable matter of right area requirements. The Board also concurs with OP’s report that “the proposal would provide infill development consistent with the surrounding neighborhood and would close a long vacant gap in the street pattern while improving the streetscape of 13<sup>th</sup> Street.”

No Substantial Detriment to the Public Good.

Nor will the grant of the relief cause substantial detriment to the public good. Although the dwelling with provide side yards only five feet deep, the abutting properties to the north and south provide compliant eight-foot side yards resulting in a separation of 13 feet. This will ensure adequate light, air, and privacy for all affected properties. As noted, the Department of



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Transportation submitted a report dated October 19, 2012, stating that the proposed project would have no adverse impacts on the District's transportation network.

Satisfaction of § 401.1.

Subsection 401.1 of the Zoning Regulations provides that "in the case of a building located, on May 12, 1958, on a lot with a lot area or width of lot, or both, less than that prescribed in § 401.3 for the district in which it is located, the building may not be enlarged or replaced by a new building unless it complies with all other provisions of this title." Since this lot only recently became vacant, the only reason the Applicant may not construct the proposed building is because it will not comply with the applicable side yard requirements. The Board's decision to grant the side yard variance rendered the proposed building fully compliant with other provisions of the Zoning Regulations. Therefore the precondition of § 401.1 for new construction is met. Even if that not the case, the Board's basis for granting the side yard variance would also justify relief from the minimum lot dimension requirements of § 401.3.

**Great weight to the Office of Planning**

The Board is required by § 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 recommendations. The Board has carefully considered the OP's recommendation for approval and concurs in its recommendation. In addition, the Board agrees with OP's recommendation that the Applicant should revise the front setback of the house as to be equivalent to neighboring properties and has made that a condition of this order.

**Great weight to the ANC**

The Board is required by Section 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 any issues and concerns raised in the written report submitted by ANC 4C in this proceeding. As noted, ANC 4C voted to support the application subject to the following two conditions, which were agreed to by the Applicant:

1. The vacant lot will be restored to its original dwelling – a single family house that conforms to the current structure of homes within the neighborhood.
2. The proposed project's intent is specifically to build a single family house on the vacant lot for residential/living for Mr. Sikder's family – no usage for rental of the property as a boarding facility for purposes to serve multiples of residents living quarters; no transitional group home facility; no transitional housing; and no transferal to Condo/Apartment.

As to the first condition, pursuant to § 3125.8, the Applicant may only construct a one-family dwelling consistent with the approved plans and will be required by this order to conform the

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front setback to be equivalent to the neighboring properties. Therefore the first condition has been met. To the extent that the second condition is seeking to limit occupancy of the dwelling to Mr. Sikder's family or preclude rental to persons with disabilities, the Board cannot impose such limitations. Rather, the Board interprets the ANC's condition as limiting the use of the building to that of a one-family dwelling and has imposed that as a condition of approval. The Board believes that it has adequately responded to the ANC's issues and concerns and thereby has given it the great weight to which it is entitled.

Based on the findings of fact, and having given great weight to the recommendations of the Office of Planning and to the written report of ANC 4C the Board concludes that the Applicant has satisfied the requirements for area variances from the minimum lot area and lot width requirements, and the minimum side yard requirement to construct a one-family, detached dwellings in the R-1-B Zone District at 5008 13th Street, N.W. (Square 2806, Lot 53). Accordingly, it is hereby **ORDERED** that the application is **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. The approved building shall only be used as a one-family dwelling.
2. Pursuant to 11 DCMR § 3125.7, approval of this application includes approval of the plans submitted with the application for the construction of the proposed one-family detached dwelling. Further, pursuant to 11 DCMR § 315.8, the Applicant shall carry out the construction of the dwelling only in accordance with the plans approved by the Board, except that the plans filed for a building permit to construct the dwelling shall depict a front setback that is equivalent to the neighboring properties.

**VOTE: 5-0-0** (Lloyd J. Jordan, Nicole C. Sorg, S. Kathryn Allen, Jeffrey L. Hinkle, and Peter G. May to Approve)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

The majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** July 16, 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

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PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR 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.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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. 18585 of Ronald J. and Maria Webb Gomes**, pursuant to 11 DCMR § 3103.2, for a variance to allow a flat (two-family dwelling) under subsection 320.3, in the R-3 District at premises 446 Emerson Street, N.W. (Square 3251, Lot 214).

**HEARING DATE:** July 16, 2013

**DECISION DATE:** July 16, 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”) 4D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4D, which is automatically a party to this application. The ANC did not participate in 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 § 320.3. 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 report filed in this case, the Board concludes that in seeking a variance from § 320.3, 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 of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 9 – Plans) is hereby **GRANTED**.

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**VOTE: 4-0-1** Lloyd J. Jordan, Anthony J. Hood, 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 17, 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.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 18587 of Lester Foote**, pursuant to 11 DCMR § 3104.1, for a special exception under section 223, to allow a rear addition to an existing one-family detached dwelling not meeting the lot occupancy (section 403), side yard (section 405) and nonconforming structure (subsection 2001.3) requirements in the SSH/R-1-B District at premises 5714 16<sup>th</sup> Street, N.W. (Square 2723W, Lot 15).

**HEARING DATE:** July 16, 2013

**DECISION DATE:** July 16, 2013

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The 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”) 4A, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4A, which is automatically a party to this application. ANC 4A submitted a resolution in support of the application. The Department of Transportation submitted a report of no objection to the application. The Office of Planning (“OP”) submitted a report and testified at the hearing in support of the application.

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 § 3104.1, for a special exception under subsection 223. 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 report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with 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 10– Plans) be **GRANTED**.

**VOTE:**       **4-0-1** (Lloyd J. Jordan, Anthony J. Hood, S. Kathryn Allen and Jeffrey L. Hinkle)

BZA APPLICATION NO. 18587

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to APPROVE. The third mayoral board seat vacant.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

The majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** July 17, 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. 18589 of D.C. Housing Authority**, pursuant to 11 DCMR § 3104.1, for a special exception to construct a new 24 unit multi-family residential development under section 353, in the R-5-A District at premises 400-408 Atlantic Street, S.E. and 401-407 Condon Terrace, S.E. (Square 6156, Lot 119).

**HEARING DATE:** July 16, 2013

**DECISION DATE:** July 16, 2013

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The 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”) 8E, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8E, which is automatically a party to this application. ANC 8E submitted a letter in support of the application. The Department of Transportation (“DDOT”) submitted a report of no objection to the application. The Office of Planning (“OP”) submitted a report and testified at the hearing in support of the application. The Office of the Deputy Mayor for Planning and Economic Development submitted a letter in support of the application.

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 § 3104.1, for a special exception under subsection 353. 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, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 353, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with 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 Exhibits 8 – Plans be **GRANTED**. The Board granted flexibility to make minor changes to the site plan subject to the recommendations of the DDOT Public Space Committee.



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**VOTE:**       **4-0-1** (Lloyd J. Jordan, S. Kathryn Allen, Anthony J. Hood and Jeffrey L. Hinkle to APPROVE. The third mayoral seat vacant.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

The majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** July 17, 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****NOTICE OF FILING****Z.C. Case No. 08-34C****(Capitol Crossing IV, LLC with the Archdiocese of Washington Holy Rosary Church—Second-Stage Planned Unit Development @ Square 566, Lot 854 and a Portion of Lot 853)****July 18, 2013****THIS CASE IS OF INTEREST TO ANC 2C and 6C**

On July 9, 2013, the Office of Zoning received an application from Capitol Crossing IV, LLC with the Archdiocese of Washington Holy Rosary Church (together, the “Applicant”) for approval of a second-stage planned unit development (“PUD”).

The property that is the subject of this application consists of Lot 854 and a Portion of Lot 853 in Square 566 in Northwest Washington, D.C. (Ward 2), which is located on a site bounded by 2<sup>nd</sup> Street, N.W. to the east, the proposed extension of F Street, N.W. to the south, 3<sup>rd</sup> Street, N.W. to the west, and the proposed extension of G Street, N.W. to the north. The property is currently zoned, for the purposes of this project, C-4 through a PUD-related map amendment approved in the first-stage PUD.

The overall PUD that consists of three major blocks – the North Block, the Center Block, and the South Block – that will contain a mixed-used project for the redevelopment of the land and air rights above the I-395 Center Leg Freeway, to be known as Capitol Crossing. (See Z.C. Case No. 08-34 for details on the overall PUD.) This second-stage PUD consists of the reconstruction of the existing annex and rectory buildings for the Holy Rosary Church, both with currently sit in the former F Street right-of-way. The new facilities will include approximately 33,312 square feet, of which 22,765 square feet will be located in the Center Block of the overall PUD.

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://.dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

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