

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council schedules a public hearing on “Beyond 100 Homicides: Violent Crime in the District of Columbia”
- D.C. Council schedules a public hearing on Bill 21-325, Land Disposition Transparency Act of 2015
- D.C. Council schedules a public oversight roundtable on the “Issues Facing District of Columbia Youth”
- Board of Ethics and Government Accountability updates registration, reporting, and financial disclosure requirements for Lobbyists
- Executive Office of the Mayor releases a memoranda on the Rules of Conduct Governing Donations and Honorary Gifts to the District of Columbia Government
- Department of Behavioral Health solicits applications for Mental Health Community Residence Facilities
- Department of Energy and Environment schedules a meeting on the revisions to the Automotive Painting Regulations
- Department of Health Care Finance and Department on Disability Services solicit comments on the proposed amendments to the rates of service for the HCBS Waiver

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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MURIEL E. BOWSER
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ADMINISTRATOR

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COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC HEARING

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE

ANNOUNCES A PUBLIC HEARING

on

Bill 21-153, D.C. Official Code Title 49 Enactment Act of 2015

&

Bill 21-298, Active Duty Pay Differential Amendment Act of 2015

on

Thursday, September 17, 2015
10:00 a.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on Bill 21-153, the “D.C. Official Code Title 49 Enactment Act of 2015,” and Bill 21-298, the “Active Duty Pay Differential Amendment Act of 2015.” The hearing will be held at 10:00 a.m. on Thursday, September 17, 2015 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of **Bill 21-153** is to enact and amend Title 49 of the D.C. Official Code. Title 49 concerns the District’s militia, and contains provisions that govern the operations of the District of Columbia National Guard. Previous hearings on earlier versions of this legislation were held on October 8, 2010 and October 3, 2012. The upcoming hearing will focus on a revised Committee Print for Bill 21-153 developed in cooperation with the D.C. National Guard. The stated purpose of **Bill 21-298** is to expand pay differential authorization to any employee called to active duty from a reserve unit as a result of any military operation that meets the definition of a contingency operation as defined in 10 U.S.C. §101(a)(13)(b). Currently, only District employees called to active duty as a result of *Operation Enduring Freedom* and *Operation Iraqi Freedom* are eligible for the pay differential.

Those who wish to testify are asked to telephone the Committee of the Whole at (202) 724-8196, or to email Christina Setlow, Deputy Committee Director, at csetlow@dccouncil.us, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Tuesday, September 15, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on September 15, 2015 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. A copy of Bills 21-153 and 21-298 can be obtained through the Legislative Services Division of the Secretary of the Council or on <http://lims.dccouncil.us>.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. 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 October 1, 2015.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC HEARING

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE

ANNOUNCES A PUBLIC HEARING

on

**Bill 21-218, Lots 804, 814, 818, 820, 822 in Square 1230 Eminent Domain
Authorization Act of 2015;**

and

**Bill 21-254, Closing of a portion of Washington Avenue, Southwest, and portions of 5A and 5B
ramps to I-295, and transfer of jurisdiction of the closed portions of Washington Avenue,
Southwest, 5A and 5B ramps to I-295 and the transfer of jurisdiction of portions of Reservation
729, S.O. 14-16582A and 14-16582B Act of 2015**

on

**Wednesday, September 23, 2015
9:30 a.m., Room 120, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on Bill 21-218, the “Lots 804, 814, 818, 820, 822 in Square 1230 Eminent Domain Authorization Act of 2015,” and Bill 21-254, the “Closing of a portion of Washington Avenue, Southwest, and portions of 5A and 5B ramps to I-295, and transfer of jurisdiction of the closed portions of Washington Avenue, Southwest, 5A and 5B ramps to I-295 and the transfer of jurisdiction of portions of Reservation 729, S.O. 14-16582A and 14-16582B Act of 2015.” The hearing will be held at 9:30 a.m. on Wednesday, September 23, 2015 in hearing room 120 of the John A. Wilson Building.

The stated purpose of **Bill 21-218** is to authorize the Mayor to assemble Lots 804, 814, 818, 820, and 822 in Square 1230, through the use of eminent domain. Together, these lots comprise what appears to be a public alley in Georgetown regularly used by the public and the city, as well as by adjacent landowners to access their property. Bill 21-218 would authorize the Mayor to take ownership of the parcels for alley purposes. The Committee will use this hearing to explore other options, such as to revoke the recent tax sales of these parcels, or to revise Bill 21-218 to protect the abutting landowners.

The stated purpose of **Bill 21-254** is to order the closing of a portion of Washington Avenue, Southwest, and portions of the 5A and 5B ramps to I-295, and to approve the transfer of jurisdiction of the closed portion of Washington Avenue, the 5A and 5B ramps to I-295, and the transfer of jurisdiction of portions of Reservation 729. Such action will enable the formal and final conveyance of the American Veterans Disabled for Life Memorial site to the National Park Service.

Those who wish to testify are asked to telephone the Committee of the Whole at (202) 724-8196, or email Cynthia LeFevre, Legislative Counsel, at clefevre@dccouncil.us, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Monday, September 21, 2015. Persons wishing to testify are encouraged, but not required,

to submit 15 copies of written testimony. If submitted by the close of business on September 21, 2015, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. A copy of Bills 21-218 and 21-254 can be obtained through the Legislative Services Division of the Secretary of the Council or on <http://lims.dccouncil.us>.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. 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 October 7, 2015.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC HEARING**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

**CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE**

ANNOUNCES A PUBLIC HEARING

on

Bill 21-226, Extension of Time to Dispose of Sixth and E Streets, S.W. Amendment Act of 2015

on

**Wednesday, September 16, 2015
10:00 a.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on Bill 21-226, the “Extension of Time to Dispose of Sixth and E Streets, S.W. Amendment Act of 2015.” The hearing will be held at 10:00 a.m. on Wednesday, September 16, 2015 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of **Bill 21-226** is to amend An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes to extend the time in which the Mayor may dispose of certain District-owned real property located at the northeast corner of Sixth and E Streets, S.W., known for tax and assessment purposes at Lot 0036 in Square 0494, and to make conforming amendments to the Fourth/Sixth and E Streets, S.W., Property Disposition Resolution of 2009. This project involves construction of a hotel adjacent to the freeway with a new fire station for Engine Company 13 on the ground floor, as well as construction of a new mixed-use commercial project on the site of the existing fire station.

Those who wish to testify are asked to telephone the Committee of the Whole at (202) 724-8196, or email Cynthia LeFevre, Legislative Counsel, at clefevre@dccouncil.us, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Monday, September 14, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on September 14, 2015, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. A copy of Bills 21-218 and 21-254 can be obtained through the Legislative Services Division of the Secretary of the Council or on <http://lims.dccouncil.us>.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. 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 30, 2015.

**Council of the District of Columbia
COMMITTEE ON THE JUDICIARY
NOTICE OF PUBLIC HEARING**

1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004

**COUNCILMEMBER KENYAN R. MCDUFFIE, CHAIRPERSON
COMMITTEE ON THE JUDICIARY**

ANNOUNCES A PUBLIC HEARING

BEYOND 100 HOMICIDES: VIOLENT CRIME IN THE DISTRICT OF COLUMBIA

AND

BILL 21-0261, THE “SALE OF SYNTHETIC DRUGS AMENDMENT ACT OF 2015”

**Wednesday, September 16, 2015, 5:00 p.m.
Council Chambers, Room 500
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

On Wednesday, September 16, 2015, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on the Judiciary, will hold a public hearing on rising violent crime in the District of Columbia and Bill 21-0261, the “Sale of Synthetic Drugs Amendment Act of 2015”. The hearing will be held in the Council Chambers, Room 500, at the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 5:00 p.m.

On August 22, 2015, the 100th homicide of the year was committed in the District of Columbia. These homicides and other violent crimes have devastated families and communities across the city. The purpose of this hearing is to discuss the steps that the District is taking to prevent and respond to violent crime, to address the underlying causes, and to explore community partnerships.

The hearing will also include the consideration of legislation to combat the buying and selling of synthetic drugs. The stated purpose of Bill 21-0261 is to enable the Mayor to suspend or revoke the business license of businesses engaged in the buying or selling of synthetic drugs; to enable the Chief of Police to seal a business licensee’s premises for up to 96 hours for the buying or selling of a synthetic drug; to designate the sale of a synthetic drug as a per se imminent danger to the health or safety of District residents; and to provide for an administrative hearing after the

sealing of a business licensee's premises. The Council passed similar emergency and temporary legislation in July.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the hearing should contact Kate Mitchell, Committee Director, at (202) 727-8275, or via e-mail at kmitchell@dccouncil.us, and provide their name, telephone number, organizational affiliation, and title (if any) by close of business, September 11, 2015. Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes. Witnesses should bring twenty copies of their written testimony and, if possible, also submit a copy of their testimony electronically to kmitchell@dccouncil.us.

For witnesses who are unable to testify at the hearing, written statements will be made part of the official record. Copies of written statements should be submitted either to the Committee or to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. The record will close at the end of the business day on September 30, 2015.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC HEARING

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE

ANNOUNCES A PUBLIC HEARING

on

Bill 21-325, Land Disposition Transparency Act of 2015

and

**Bill 21-328, Disposition of District Land for Affordable Housing Clarification
Amendment Act of 2015**

on

Thursday, October 8, 2015

**10:00 a.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on Bill 21-325, the “Land Disposition Transparency Act of 2015,” and Bill 21-328, the “Disposition of District Land for Affordable Housing Clarification Amendment Act of 2015.” The hearing will be held at 10:00 a.m. on Thursday, October 8, 2015 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of **Bill 21-325** is to amend An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes to require the Mayor to provide the Council with a description of the difference between the value of property to be disposed of and the purchase or lease price to be paid by a developer, a pre-disposition economic impact statement, and fair market valuation of the property to be disposed of, and to require the online publication of certain documents related to these dispositions. The stated purpose of **Bill 21-328** is to amend An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes to clarify that the affordable housing requirements of the act apply to the closing of streets and alleys.

Those who wish to testify are asked to telephone the Committee of the Whole at (202) 724-8196, or to email Cynthia LeFevre, Legislative Counsel, at clefevre@dccouncil.us, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Tuesday, October 6, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on October 6, 2015, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. A copy of Bills 21-325 and 21-328 can be obtained through the Legislative Services Division of the Secretary of the Council or on <http://lims.dccouncil.us>.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. 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 October 22, 2015.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC HEARING**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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

on

Bill 21-333, James Bunn Way Designation Act of 2015

on

**Wednesday, September 16, 2015
9:30 a.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on Bill 21-333, the “James Bunn Way Designation Act of 2015.” The hearing will be held at 9:30 a.m. on Wednesday, September 16, 2015 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of Bill 21-333 is to symbolically designate the 3100 block of Esther Place, S.E., as James Bunn Way. James Bunn was a well-known leader in the Ward 8 community for over 40 years, including chairman of Congress Heights Main Streets, Executive Director of the Ward 8 Business Council, ANC 8D Commissioner, and President of the Ward 8 Democrats. Mr. Bunn passed away on August 1, 2013 at the age of 71.

Those who wish to testify are asked to telephone the Committee of the Whole at (202) 724-8196, or email Greg Matlesky, Legislative Aide, at gmatlesky@dccouncil.us, and to provide your name, address, telephone number, and organizational affiliation and title (if any) by close of business Monday, September 14, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on September 14, 2015 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. A copy of Bill 21-333 can be obtained through the Legislative Services Division of the Secretary of the Council’s office or on <http://lims.dccouncil.us>.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. 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 Wednesday, September 30, 2015.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC HEARING**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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

on

PR 21-208, Chief Technology Officer Tegene Baharu Confirmation Resolution of 2015

on

**Wednesday, October 7, 2015
9:30 a.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing of the Committee of the Whole on PR 21-208, Chief Technology Officer Tegene Baharu Confirmation Resolution of 2015.” The hearing will be held at 9:30 a.m. on Wednesday, October 7, 2015 in Hearing Room 120 of the John A. Wilson Building.

The purpose of PR 21-208 is to provide the public an opportunity to comment on the Mayor’s nomination of Tegene Baharu to be Chief Technology Officer of the District of Columbia. The Chief Technology Officer oversees the Office of the Chief Technology Officer.

Those who wish to testify are asked to telephone the Committee of the Whole at (202) 724-8196, or to email Evan Cash, Committee Director, at ecash@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Monday, October 5, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on October 5, 2015 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. Copies of PR21-208 can be obtained through the Legislative Services Division of the Secretary of the Council’s office or on <http://lims.dccouncil.us>.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. 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 Monday, October 19, 2015.

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

**CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC OVERSIGHT HEARING**

on

Contracting for the Homeless Services Continuum of Care

on

**Monday, September 28, 2015
9:30 a.m., Council Chamber, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces an oversight hearing of the Committee of the Whole on “Contracting for the Homeless Services Continuum of Care.” The oversight hearing will be held on Monday, September 28, 2015, at 9:30 a.m. in the Council Chamber, 1350 Pennsylvania Avenue, NW.

The purpose of this oversight hearing is to examine the District’s contracting processes in the context of homeless services. Currently, the District invests over \$100 million in the homeless services continuum each year. As the District enters into another option year of the homeless services continuum contract, the Committee is interested in gathering information regarding the District’s approach to contracting for these services, performance measures used to assess contractor success, and areas for improvement.

This hearing is part of the Committee of the Whole’s continued oversight in the area of homelessness, as well as its oversight of procurement, generally. Due to the specialized nature of the information to be sought during this hearing, only witnesses with particular expertise will be invited to testify during this hearing.

Those who wish may submit written statements for the record to Alana Intrieri, Special Counsel to the Chairman, at aintrieri@dccouncil.us or 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 Monday, October 12, 2015.

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

**CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC OVERSIGHT HEARING**

on

**The Interagency Council on Homelessness 2015-16 Winter Plan and
an update on the District's Homelessness Strategic Plan: *Homeward DC***

on

**Monday, September 28, 2015
12:00 p.m., Council Chamber, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces an oversight hearing of the Committee of the Whole on "The Interagency Council on Homelessness 2015-16 Winter Plan and an update on the District's Homelessness Strategic Plan: *Homeward DC*." The oversight hearing will be held on Monday, September 28, 2015, at 12:00 p.m., or immediately following the preceding hearing, in the Council Chamber, 1350 Pennsylvania Avenue, NW.

The purpose of this oversight hearing is to elicit public comment on the 2015-16 Winter Plan and to receive an update on the implementation and further development of the 5-year Strategic Plan adopted in March 2015 by the Interagency Council on Homelessness. The Committee is particularly interested in hearing how the government intends to meet families' needs for emergency shelter while maintaining compliance with existing legal requirements. In addition, the Committee hopes to hear from those involved in the formulation of the plan, including service providers and advocates. Further, the Committee seeks an update regarding the status of implementing the Strategic Plan.

This hearing is part of the Committee of the Whole's continued oversight in the area of homelessness. Those who wish to testify are asked to contact the Committee of the Whole at (202) 724-8196, or Alana Intriери, Special Counsel to the Chairman, at aintrieri@dccouncil.us, and to provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Wednesday, September 23, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on Wednesday, September 23, 2015, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there is a large number of witnesses.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. 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 Monday, October 12, 2015.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE & COMMITTEE ON
EDUCATION**

NOTICE OF PUBLIC OVERSIGHT HEARING

1350 Pennsylvania Avenue, NW, Washington, DC 20004

**CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
&
COUNCILMEMBER DAVID GROSSO, CHAIRPERSON
COMMITTEE ON EDUCATION**

ANNOUNCE A PUBLIC OVERSIGHT HEARING

on

The State of Adult Education and Adult Literacy Initiatives in the District

on

**Thursday, September 24, 2015
12:30 p.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson and Councilmember David Grosso announce a public oversight hearing of the Committee of the Whole and the Committee on Education on the State of Adult Education and Adult Literacy Initiatives in the District. The oversight hearing will be held at 12:30 p.m. on Thursday, September 24, 2015 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of this oversight hearing is to receive testimony from adult learners, providers, advocates, and government witnesses on the current adult education and adult literacy programs in the District, as well as the efficacy of these programs. Additionally, this oversight hearing will provide an opportunity for individuals to provide testimony on current issues or concerns facing the adult learner community in the District.

Those who wish to testify are asked to telephone the Committee of the Whole at (202) 724-8196, or to email Christina Setlow, Deputy Committee Director, at csetlow@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Tuesday, September 22, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on September 22, 2015 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.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. 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 October 8, 2015.

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

**COUNCILMEMBER DAVID GROSSO
COMMITTEE ON EDUCATION
ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE**

On

Issues Facing District of Columbia Youth

on

**Wednesday, October 21, 2015
4:30 p.m., Hearing Room 500, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Councilmember David Grosso announces the scheduling of a public oversight roundtable of the Committee on Education on youth issues. The hearing will be held at 4:30 p.m. on Wednesday, October 21, 2015 in Hearing Room 500 of the John A. Wilson Building.

The purpose of this hearing is to hear testimony from District of Columbia youth regarding issues that impact their lives as they make their way through the education system.

Youth, aged 21 and younger, who wish to testify can sign up online at <http://bit.ly/YouthHearing10>. Individuals can also email Jessica Giles, Committee Assistant, at jgiles@dccouncil.us, and provide their name, age, telephone number, school (if applicable), current grade (if applicable), organizational affiliation and title (if any) by close of business Monday, October 19, 2015. Persons wishing to testify are strongly encouraged, but not required, to submit 15 copies of written testimony. Each person should limit their testimony to three (3) minutes in order to permit each witness an opportunity to testify.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee on Education, Council of the District of Columbia, Suite 116 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 October 14, 2015.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Posting Date: August 14, 2015
Petition Date: September 28, 2015
Hearing Date: October 13, 2015
Protest Date: January 6, 2016

License No.: ABRA-098547
Licensee: Bardo, LLC
Trade Name: Bardo Riverfront
License Class: Retailer’s Class “C” Tavern
Address: 25 Potomac Avenue, S.E.
Contact: William Stewart: 762-233-7070

WARD 6 ANC 6D SMD 6D07

Notice is hereby given that this applicant has applied for a new 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 14th 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 1:30 pm on January 6, 2016.

NATURE OF OPERATION

New outdoor tavern with Summer Garden seating 750 patrons and brewpub. Total occupancy load of 750.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION INSIDE PREMISE AND OUTSIDE IN SUMMER GARDEN

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: August 28, 2015
Petition Date: October 13, 2015
Hearing Date: October 26, 2015
Protest Date: December 9, 2015

License No.: ABRA-099876
Licensee: Dos Ventures, LLC
Trade Name: DVL
License Class: Retailer's Class "C" Tavern
Address: 1220 Connecticut Ave., N.W.
Contact: David Chung: 703-623-5510

WARD 2 ANC 2B SMD 2B07

Notice is hereby given that this licensee has applied for a new 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 14th 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 4:30 pm on December 9, 2015.

NATURE OF OPERATION

Light fare to mix with rare bourbons. No hood for food service. DJ and bands on occasion depending on the event. No nude performances. No dancing provided. Seating for 30 and Total Occupancy Load of 250.

HOURS OF OPERATION, ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION AND LIVE ENTERTAINMENT

Sunday through Thursday 10 am - 2 am, Friday & Saturday 10 am - 3 am

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

Posting Date: August 28, 2015
Petition Date: October 13, 2015
Hearing Date: October 26, 2015
Protest Date: December 9, 2015

License No.: ABRA-100016
Licensee: Naylor Stables, LLC
Trade Name: To Be Determined
License Class: Retailer's Class "C" Tavern
Address: 1322 9th Street, N.W.
Contact: Jasmine Watson: 202-596-9850

WARD 2

ANC 2F

SMD 2F06

Notice is hereby given that this licensee has applied for a new 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 14th 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 1:30 pm on December 9, 2015.

NATURE OF SUBSTANTIAL CHANGE

Vibrant community gathering place serving kitchen-garden produce, District-made beers and spirits. Grilled meats, hearth baked breads and pastries. All cooking will be done using a homemade wood-burning oven and grills. Seating inside for 8, Sidewalk Café seating 16, Summer Garden space for 333 and a Total Occupancy Load of 386.

CURRENT HOURS OF OPERATION INSIDE PREMISES AND OUTSIDE IN SUMMER GARDEN AND SIDEWALK CAFÉ

Sunday through Thursday 8 am – 12:30 am, Friday & Saturday 8 am – 1:30 am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION INSIDE PREMISES AND OUTSIDE IN SUMMER GARDEN AND SIDEWALK CAFÉ

Sunday through Thursday 10 am – 10 pm, Friday & Saturday 10 am – 11 pm

DEPARTMENT OF HEALTH
STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

NOTICE OF INFORMATION HEARING

Pursuant to D.C. Official Code § 44-406(b)(4), the District of Columbia State Health Planning and Development Agency ("SHPDA") will hold an information hearing on the application by Massachusetts Senior Care, LLC to acquire the existing 27-bed nursing facility known as the Health and Rehab Center at Thomas Circle - Certificate of Need Registration No. 15-2-7. The hearing will be held on Thursday, September 10, 2015, at 10:00 a.m., at 899 North Capitol Street, N.E., 4th Floor, Room 407, Washington, D.C. 20002.

The hearing shall include a presentation by the Applicant, describing its plans and addressing the certifications provided pursuant to D.C. Official Code § 44-406(b)(1), and an opportunity for affected persons to testify. Persons who wish to testify should contact the SHPDA on (202) 442-5875 before 4:45 p.m., by Wednesday, September 9, 2015. Each member of the public who wishes to testify will be allowed a maximum of five (5) minutes. Written statements may be submitted to:

The State Health Planning and Development Agency
899 North Capitol Street, N.E.
Second Floor
Washington, D.C. 20002

Written statements must be received before the record closes at 4:45 p.m. on Thursday, September 17, 2015. Persons who would like to review the Certificate of Need application or who have questions relative to the hearing may contact the SHPDA on (202) 442-5875.

DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD**NOTIFICATION OF CHARTER AMENDMENT**

The District of Columbia Public Charter School Board (“PCSB”) hereby gives notice of Rocketship Public Charter School’s request to amend its grade levels to be served to include prekindergarten-3 and prekindergarten-4 beginning in school year 2016-2017. A public hearing regarding this item will be held on September 21, 2015 at 6:30 p.m.; a vote will be held on October 26, 2015 at 6:30 p.m. To submit public comments, you may do so by one of the actions below. All comments must be submitted by September 21, 2015. Please contact Laterica (Teri) Quinn, Equity and Fidelity Specialist, at 202-328-2660 or lquinn@dcpcsb.org.

Submitting Public Comment:

1. Submit a comment by one of the following actions:
 - (a) E-mail: public.comment@dcpcsb.org
 - (b) Postal mail: Attn: Public Comment, DC Public Charter School Board, 3333 14th ST. NW., Suite 210, Washington, DC 20010
 - (c) Hand Delivery/Courier*: Same as postal address above
 - (d) Phone: 202-328-2660

2. Sign up to testify in-person at the public hearing on September 21st, by emailing a request to public.comment@dcpcsb.org by no later than 4 p.m. on Thursday, September 17th.

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
TUESDAY, NOVEMBER 17, 2015
441 4TH 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.

TIME: 9:30 A.M.

WARD FOUR

19099
ANC-4C **Application of RP 3701 NW LLC**, pursuant to 11 DCMR § 3103.2, for variances from the lot occupancy requirements under § 772.1, and the off-street parking requirements under § 2101.1, to allow the construction of a new mixed-use building with 21 residential units and ground floor retail in the GA/C-3-A District at premises 3701 New Hampshire Avenue N.W. (Square 3030, Lot 805).

WARD FOUR

19100
ANC-4D **Application of 525 Longfellow St LLC**, pursuant to 11 DCMR § 3103.2, for a variance from the lot area and width requirements under § 401.3, to allow the construction of three flats on three new record lots in the R-4 District at premises 525 Longfellow Street N.W. (Square 3206, Lot 3).

WARD FIVE

19106
ANC-5E **Appeal of Richard Alan Seutter, Jr., Susan T. Seutter, and Katelijn van den Berg**, pursuant to 11 DCMR §§ 3100 and 3101, from a May 14, 2015 decision by the Zoning Administrator, Department of Consumer and Regulatory Affairs, to issue Building Permit Nos. B1505056 and B1510351, to convert an existing two-family flat into a three-story apartment house with three dwelling units in the R-4 District at premises 67 V Street N.W. (Square 3118, Lot 76).

WARD THREE

18929A
ANC-3G **Application of Saint John's College High School**, pursuant to 11 DCMR §§ 3104.1, for a special exception from the private school use requirements pursuant to § 206, to renovate and expand the gymnasium area in an academic building in the R-1-A District at premises 2607 Military Road N.W. (Square 2308, Lots 804-807).

BZA PUBLIC HEARING NOTICE

NOVEMBER 17, 2015

PAGE NO. 2

WARD FIVE

19107 **Application of Calvin Smith**, pursuant to 11 DCMR § 3104.1, for a special
ANC-5C exception from the child development center requirements pursuant to § 205.1, to
allow a child development center for 38 children and eight staff in the R-1-B
District at premises 3101 Adams Street N.E. (Square 4364, Lot 5).

WARD SIX

19111 **Application of Victory Village Development Corporation**, pursuant to 11
ANC-6E DCMR § 3104.1, for a special exception from the community service center
requirements pursuant to § 334, to permit a community service center in the R-4
District at premises 1533 9th Street N.W. (Square 397, Lot 31).

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. All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4th 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, MARNIQUE Y. HEATH, VICE CHAIRPERSON,
JEFFREY L. HINKLE, FREDERICK L. HILL, AND A MEMBER OF THE ZONING**

BZA PUBLIC HEARING NOTICE
NOVEMBER 17, 2015
PAGE NO. 3

**COMMISSION, CLIFFORD W. MOY, SECRETARY TO THE BZA, SARA A. BARDIN,
DIRECTOR, OFFICE OF ZONING.**

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

TIME AND PLACE: **Thursday, October 8, 2015, @ 6:30 p.m.
Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220-South
Washington, D.C. 20001**

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 15-07 (MRP Residential – Consolidated Review and Approval of a Planned Unit Development)

THIS CASE IS OF INTEREST TO ANC 6C

On March 19, 2015, the Office of Zoning received an application from MRP Residential (the “Applicant”) requesting approval of a consolidated planned unit development to facilitate the development of the property. The Office of Planning submitted its report in support of setting the application down for a public hearing on April 10, 2015. On April 27, 2015, the Commission set down the application for a public hearing. The Applicant provided its prehearing statement on June 2, 2015.

The property that is the subject of this application consists of approximately 14,485 square feet of land area and requires relief from the minimum area requirements of § 2401.1(c). The property is located on the south side of H Street, N.E. between 3rd Street and 4th Street, N.E. The property is located in the C-2-B Zone District of the H Street Overlay and housing subarea. It is located in the medium-density residential and moderate-density commercial land use category on the Future Land Use Map of the District of Columbia Comprehensive Plan.

The Applicant proposes to develop the property with a 90-foot residential building with ground-floor retail. The building will include approximately 80,500 square feet of residential development and 6,160 square feet of ground floor retail. The project will include approximately 125 residential units, including over 6,500 square feet of affordable housing. The project will have a floor area ratio of 6.0 and include approximately 29 parking spaces. No map amendment is proposed in connection with this application.

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

How to participate as a witness.

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written

¹ This case was previously scheduled for hearing on September 10, 2015.

Z.C. NOTICE OF PUBLIC HEARING
Z.C. CASE NO. 15-07
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testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

How to participate as a party.

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

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

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

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

All individuals, organizations, or associations wishing to testify in this case are encouraged to inform the Office of Zoning their intent to testify prior to the hearing date. This can be done by mail sent to the address stated below, e-mail (donna.hanousek@dc.gov), or by calling (202) 727-0789.

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

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

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

Z.C. NOTICE OF PUBLIC HEARING
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Written statements, in lieu of oral testimony, may be submitted for inclusion in the record. The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at <http://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Please include the case number on your submission. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

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

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

TIME AND PLACE: **Thursday, October 15, 2015, @ 6:30 p.m.**
 Jerrily R. Kress Memorial Hearing Room
 441 4th Street, N.W., Suite 220-S
 Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

Case No. 15-10 (Deanwood Hills, LLC – Consolidated PUD and Related Map Amendment @ Square 5197, Lot 809)

THIS CASE IS OF INTEREST TO ANC 7C

On April 13, 2015, the Office of Zoning received an application from Deanwood Hills, LLC (the “Applicant”). The Applicant is requesting approval of a consolidated planned unit development (“PUD”) and related zoning map amendment from the C-M-1 Zone District to the R-5-B Zone District for the property located at 5201 Hayes Street, N.E. (Lot 809 in Square 5197) (“Subject Property”).

The Office of Planning provided a report on June 19, 2015. At its public meeting on June 29, 2015, the Zoning Commission voted to set the application down for a public hearing. The Applicant provided its prehearing statement on August 4, 2015.

The Subject Property has a total land area of approximately 2.1 acres; it is located on the south side of Hayes Street, N.E., west of Division Avenue, N.E. The Applicant proposes to construct an apartment house containing approximately 152,000 square feet of floor area, generating approximately 150 dwelling units. The unit types will be a mix of studios, one-bedroom, two-bedroom, three-bedroom, and four-bedroom units. Forty of the units will be set aside for households with incomes not exceeding 40% of the area medium income (“AMI”) and 110 units will be set aside for households with incomes not exceeding 60% AMI. Fifty of the units will be replacement units for Lincoln Heights and Richardson Dwellings. The PUD will have a maximum height of 62’-3” and a density of 1.63 FAR. Seventy-five off-street parking spaces constructed for the development.

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

How to participate as a witness.

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

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statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

How to participate as a party.

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

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

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

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

All individuals, organizations, or associations wishing to testify in this case are encouraged to inform the Office of Zoning their intent to testify prior to the hearing date. This can be done by mail sent to the address stated below, e-mail (donna.hanousek@dc.gov), or by calling (202) 727-0789.

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

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| 1. | Applicant and parties in support | 60 minutes collectively |
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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.

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD**

NOTICE OF FINAL RULEMAKING

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in Title 25, D.C. Code Enactment and Related Amendments Act of 2001, effective May 3, 2001 (D.C. Law 13-298; D.C. Official Code § 25-351(a) (2012 Repl.)), and Section 304 of Title 23 of the District of Columbia Municipal Regulations (DCMR), hereby gives notice of the adoption of final rules that amend Section 304 (Adams Morgan Moratorium Zone) of Title 23 (Alcoholic Beverages) of the DCMR.

These rules extend the existing Adams Morgan Moratorium Zone (AMMZ), with certain modifications, for a period of three (3) years.

By way of background, the existing moratorium expired on April 16, 2014. On March 12, 2014, the Board voted, seven (7) to zero (0), on an emergency basis to keep the existing moratorium temporarily in place. The Board required additional time to consider two (2) proposals submitted by Advisory Neighborhood Commission (ANC) 1C and the Kalorama Citizens Association (KCA) regarding the future of AMMZ.

On February 28, 2014, ANC 1C filed a Petition for Renewal of and Modification to the Adams Morgan Moratorium Zone (ANC Petition). The ANC Petition resulted from a series of public meetings that were held from September 2013 through December 2013. The ANC held the public meetings to receive input from stakeholders and constituents in order to formulate a recommendation for the Board.

In summary, the ANC seeks renewal of the existing AMMZ for a five (5) year period with certain modifications. The ANC's proposal includes: maintaining the prohibition on Retailer Class CN/DN; prohibiting new or conversions to Retailer Class CT/DT licenses; permitting new licenses for Retailer Class CR/DR; prohibiting new Entertainment Endorsements of the kind that characterizes nightclub activity, specifically cover charges and live music; and prohibiting pub crawls and the use of promoters. The proposal does not seek to change the boundaries of the current moratorium zone.

The second proposal was submitted by the Kalorama Citizens Association (KCA) on March 4, 2014. The KCA requests that the Board renew the existing moratorium zone for another five (5) years with no modifications to the current restrictions.

The Board found that both proposals merited further evaluation and thus held a hearing on May 7, 2014, pursuant to D.C. Official Code § 25-354 (2012 Repl.), to receive public comment on the written proposals. At the public hearing, the Board received testimony from over fifty (50) people, including business owners and residents, from the Adams Morgan neighborhood. Following is a synopsis of the testimony presented at the hearing.

ANC 1C

William Simpson, Commissioner of ANC 1C, testified that Adams Morgan has been subject to a moratorium in one form or another since 2000. The ANC would now like to see the moratorium taken in a new direction with modifications that are based on the standards pursuant to D.C. Official Code 25-313(b) (2012 Repl. & 2015 Supp.).

Commissioner Simpson stated that the ANC voted to continue the prohibition on nightclub licenses and new tavern licenses. Unlike the existing moratorium, there would no longer be a cap on the number of new restaurant licenses. Commissioner Simpson testified that the decision to allow new restaurants in the moratorium zone was not taken lightly by the ANC.

There is a recognition by the ANC that the concerns raised by the Board at the renewal of the moratorium in 2009 still exist; criminal activity, noise, litter, disorderly conduct, crowd control, and vehicular and pedestrian safety. The ANC believes that the existing moratorium has not made the neighborhood better, but it can be credited with not exacerbating the problems. The ANC's rationale for lifting the cap on new restaurants is to encourage the forces of competition that allow good licensees to thrive while driving out the bad licensees. This will result in a revitalized Business Improvement District, and will encourage entrepreneurs to offer fresh ideas and menu options.

Commissioner Simpson testified that the ANC's position has broad support from within the community. The ANC undertook extensive outreach over the last year and one half. The public was put on early notice that the moratorium would expire in 2014. The ANC held a series of meetings and reached out to constituents via email as well. Individual ANC commissioners contacted their respective constituents. The ANC's ABC Committee dedicated a meeting on just the topic of the moratorium and the neighborhood was encouraged to attend a subsequent meeting of the full Committee when the ANC proposal was scheduled for consideration. The ANC received hundreds of comments, verbally and electronically. The Reed-Cooke Neighborhood Association also supports the ANC position.

The consensus of the neighborhood was to continue the prohibition on nightclubs and to discourage establishments that are focused solely on serving alcohol. The ANC seeks a balance that protects the community from the more egregious nightclub type activity, but allows bona fide restaurants to thrive and flourish.

In this vein, the ANC requests that the Board consider the difference between bona fide restaurants that successfully sell food versus de facto nightclubs that have restaurant licenses, but whose operations are driven by alcohol and entertainment. The bona fide restaurants tend not to stay open until the legally permitted hours, and the ones that do, continue to serve food. It is the de facto nightclubs, on the other hand, that over-serve their already intoxicated clientele who become boisterous and unruly. It is the ANC's opinion that the Board has not always made that distinction in the past, resulting in decisions that are harmful to the neighborhood.

To that end, the ANC seeks the Board's aggressive enforcement to protect the community by ensuring licensee's compliance with the laws. The ANC requests that the Board specifically prohibit new entertainment endorsements for any licensee whose business model is akin to nightclub activity. Specifically, the ANC seeks the prohibition of cover charges, live bands, dancing, promoters and pub crawls.

Jimmy R. Rock, ANC Commissioner for Single Member District (SMD) for 1C08, echoed Commissioner Simpson. He testified that allowing new restaurants with certain conditions was a far better approach to improving the neighborhood than banning new restaurants altogether. He said that the hardcore nightlife scene has shifted away from Adams Morgan to other parts of the District, thus allowing the neighborhood to take a different approach to addressing the problems that remain. The existing moratorium is too focused on the past nightlife experiences and does not look to the future. There is an influx of new residents to the Adams Morgan neighborhood and those new residents will help to transition the neighborhood away from the old nightlife and toward vibrant restaurants and fine dining. He also asked the Board to be intentional about its enforcement efforts.

Brain Hart is an ANC Commissioner for 1C01, and he chairs the ANC's ABC and Public Safety Committee. He shared with the Board the time, effort and energy the ANC committed to educating the community to reach a solution that was in the best interests of the neighborhood and small businesses. The ANC undertook a great deal of internal work and six of seven members voted to support the proposal. The ANC created a public hearing schedule and received feedback from the community throughout the year. He noted that there were two polarized views; one that sought a complete moratorium on all classes of retailers, and another that sought to lift the moratorium on all classes.

The ANC also studied the conditions contained in other neighborhood moratoriums throughout the District. Commissioner Hart noted that the Adams Morgan neighborhood is unique and cannot be compared to the other communities. Notably, Adams Morgan has a greater density of licensed establishments, and secondly, the neighborhood has a historic preservation quality to it. This naturally requires a tailored solution to address the unique concerns of Adams Morgan.

Commissioner Hart reiterated the ANC Chair's statement that the allowance of nightclubs would be harmful to the neighborhood and would foster crime and nuisance. Additionally, the ANC concludes it would be a risk to lift the cap on taverns, such that without proper enforcement by ABRA, might become de facto nightclubs. On the other hand, new restaurants would contribute to the business and foot traffic, thereby enriching the neighborhood.

Gabriela Mossi represents ANC 1C04, which is the Lanier Heights neighborhood in Adams Morgan. Commissioner Mossi testified that more restaurants bring more choice and diversity. However, new restaurants will not cure all social ills and thus better enforcement of regulations and laws is required.

Ted Guthrie is an ANC Commissioner whose SMD, 1C03, is the heart of Adams Morgan. He represents five blocks between 18th and 19th streets from Wyoming Avenue to Biltmore Street

NW. His SMD has seventeen (17) restaurants, and six (6) tavern licenses. Three more restaurant licenses are held in Safekeeping with ABRA.

Commissioner Guthrie is the lone dissenter on the ANC proposal. His constituents strongly support the continuation of the existing Adams Morgan Moratorium for the following reasons: they are regularly disturbed in the early morning hours by the hordes of drunk people who stream into the neighborhood, there is litter and property damage, and patrons urinate and vomit wherever it is convenient for them to do so. The singular source of this antisocial behavior according to Commissioner Guthrie is the over concentration of alcohol purveyors in Adams Morgan.

The quality of life for his constituents is overwhelmed by the nightlife establishments and the existing infrastructure cannot accommodate it. There are no roads, public parking, or Metro access to handle the number of patrons who see Adams Morgan as an entertainment destination.

Commissioner Guthrie believes that ABRA has been unable or unwilling to prevent the restaurants from morphing into nightclubs. This is due in part because the agency only counts seats to enforce the food sales requirement. Restaurants have turned into nightclubs and exceed their permitted occupancy. The excess capacity and the overconcentration make the policing efforts random and palliative. The Metropolitan Police Department (MPD) places twenty (20) officers in Adams Morgan on the weekends, yet the limited resources only serve to contain the problems, not prevent them.

Finally, Commissioner Guthrie argues that the neighborhood does not need more licenses; they need better licenses. There are both storefronts and licenses for anybody who wants to open a restaurant today. The licenses currently held in Safekeeping can be used by new restaurants without lifting the moratorium restrictions. He stated that the ANC proposal will not work because more bars just means more noise, more problems, and fewer regulatory resources. Unfettered commercial competition is not the answer.

KCA

Denis James, President of the KCA, testified that the ANC has gone too far in lifting the restrictions from the existing moratorium. Many of the most challenged establishments in the neighborhood are licensed as restaurants. Mr. James believes that too many licenses were issued prior to the imposition of the original moratorium in 2000, and that the best terms of the moratorium are the ones in existence now. Those terms are no new licenses except for hotels and no existing licensed establishment can change its retailer class.

Mr. James believes that the current moratorium has succeeded on two fronts. It has prevented new licensees from taking over commercial space, and it has prevented nightlife conditions from worsening. Mr. James argues that, notwithstanding the moratorium, problems continue to exist; large trucks unload in the middle of the street, unclosed dumpsters attract vermin, alcohol products litter the streets, and illegal advertising is posted to public light and utility poles.

Mr. James further argues that adding an unlimited number of new licenses to the existing problems would be irrational and nonsensical. He is also concerned that the mere availability of new licenses will not necessarily attract high-end restaurants. Rather, he believes that “hole-in-the-wall” businesses and “hookah joints” that are currently succeeding without an alcohol license will apply for an ABC license.

Mr. James noted that recent business arrivals have brought about a shopping diversity to the neighborhood. Bakeries, barber shops, record stores and vintage clothing stores now flourish in the south end of Adams Morgan. Mr. James requests the Board to maintain the moratorium for another five (5) years, and allow the community to benefit from non-alcohol driven businesses.

Fiscal Policy Institute

Ed Lazere is Director of the DC Fiscal Policy Institute (Institute). The Institute is a policy research and advocacy organization that focuses on issues related to the fiscal and economic health of the District of Columbia. The Institute undertook a study, researched available data and literature, and conducted numerous interviews with businesses and stakeholders in Adams Morgan. The central focus of the study was to determine the best manner to achieve the goal of a vital, dynamic, thriving commercial corridor that meets the needs of the residents while protecting their interests through peace, order and quiet. Mr. Lazere testified that the Institute concluded that the existing moratorium is a blunt instrument that has resulted in negative and unintended consequences.

One unintended consequence is the high cost of a license, which serves as a barrier to entry in the marketplace. Several of the stakeholders who were interviewed by the Institute indicated that had the moratorium been in place when they first opened for business, they would either not have opened or they would have located to another neighborhood. As Mr. Lazere testified, an entrepreneur might have the resources to launch a new business, but not the resources to purchase the artificially high cost of a license. He states further that it is harder for a dining establishment to succeed without an alcohol license.

A second unintended consequence, related to the first, is that the barrier to entry has allowed other neighborhoods to flourish with new restaurants. The Adams Morgan moratorium is driving development on the H Street NE corridor and the City Centre NW because of the ability to obtain a relatively low cost license.

Thirdly, the moratorium serves to protect the bad businesses that are already located there. Basic economics dictates that the harder it is for good licensees to enter the market, the easier it is for bad actors to stay. This has a direct effect on Adams Morgan. The issues of peace, order and quiet will continue to be a problem if the moratorium serves to protect the problem establishments.

The important issue, according to Mr. Lazere, is how the community responds to the pressures that are created by growth. Other neighborhoods are growing and expanding, and part of that success is due to exciting new entertainment, dining and drinking opportunities. Yet, in Adams

Morgan, the moratorium is creating vacancies or longer vacancy, and it becomes harder to fill those spaces. Vacant spaces create blight and tend to be the area where people loiter. A community that does not allow dynamic change to happen will be left behind.

Mr. Lazere argues that it is shortsighted to merely count the number of licenses to determine if there is an over concentration, rather than to look at the quality of the number of licenses. A concentration of high quality establishments may not be a problem at all.

He states that the better approach is to loosen the moratorium, if not eliminate it altogether, let the competition into the marketplace, and allow the city's dynamic profile come to Adams Morgan. This approach, coupled with greater enforcement from ABRA and DCRA, will help to encourage the best behavior for those establishments who want to attract patrons and capture the growth. The Adams Morgan community needs to take steps to support the growth, rather than adopt proposals that hinder it.

Adams Morgan Residents

Ms. Delagran is an economist who has lived on the 1800 block of Wyoming Street NW for twenty (20) years. As an economist, she has performed a number of analysis and cost benefit studies. She disagrees with the Institute's conclusion that allowing unlimited restaurant licenses will lead to positive development on the 18th Street corridor. Rather, commercial values will rise if ABC licenses are freely available and with that rise, rents will also increase. Rising commercial rents will feed the vicious cycle of alcohol sales to pay for the rents where other non-alcohol businesses have been squeezed out. In other words, higher rents will add pressure for ABC licensed businesses to increase alcohol sales volume and the expansion of premises.

Ms. Delagran further testified that currently too many bars are disguised as restaurants and this will not be abated by lifting the moratorium and allowing for new licenses. Existing problems will be further compounded; criminal activity, noise, litter and a lack of available parking. Ms. Delagran has little confidence that ABRA's enforcement measures will improve. Adams Morgan has a negative reputation and the people who patronize the neighborhood are more of a "party crowd", rather than a "dining crowd."

The Board also received written testimony from numerous Adams Morgan residents who agreed with the KCA proposal and requested the Board to hold firm on retaining the existing moratorium. These residents remain concerned about the disruption to peace, order and quiet in the neighborhood and believe that allowing for more licenses will only exacerbate the problem. Another frequent complaint is the lack of parking for those who reside there due to the absence of a nearby metro stop. Additionally, some residents argued that new ABC licensees will occupy real estate limiting the introduction of other types of businesses that would better serve the neighborhood. Lastly, a number of residents testified that the moratorium must remain in effect until ABRA and the Board strengthen their enforcement efforts.

Conversely, the Board also heard from residents who believe that the moratorium serves no useful purpose and it should be allowed to expire. Alan Roth is the former Chair of the Adams

Morgan ANC. He believes the Board should reject both proposals and that the Board should develop a new approach by broadening public policy based on existing regulations. Josh Gibson is the founder of the Adams Morgan Partnership Business Improvement District (AMPBID). He opposes the moratorium and believes that it does not adequately address the social ills and challenges faced by the community. Lisa Duperier is a Ward One resident and she believes that the moratorium serves to perpetuate the status quo and protect the bad operators. It is her opinion that the concerns raised by others regarding residential parking and vehicular safety are made worse by the effects of the moratorium. Charles Brodsky is a resident of Adams Morgan and is a former Chair of the Board. He is opposed to the moratorium and believes that it has had a negative economic impact and discourages new business development.

Business Owners

The Board also heard from members of the business community who support retaining the moratorium. Bardia Ferdowski is the owner of New Orleans Café. He believes the moratorium ensures safety for those who live and work in the neighborhood. He purposely closes his business early because he does not feel safe after closing hours. He has witnessed gang activity, loitering and drug dealing near his establishment.

James Nixon is a local business owner who supports the moratorium. He does not believe that AMPBID represent the views of all of the Adams Morgan business owners and resident. He is concerned that new licensees will operate as nightclubs and that ABRA investigators will not adequately address the behavior.

The Board also received comments from Adams Morgan business owners who oppose the moratorium. They believe that eliminating the moratorium altogether will promote growth and diversity in the neighborhood. They are concerned that prohibiting the issuance of new restaurant licenses will thwart the effort to truly diversify the eateries in the neighborhood.

Additionally, proponents of the elimination of the moratorium in its entirety state that it will create new possibilities for existing retail vacancies and any vacancies that may arise in the future. They also argued that any increase in patron-related problems or issues concerning peace, order, and quiet if the moratorium were to expire, should be mitigated by the operators of ABC-licensed establishments, with enhanced enforcement by ABRA.

Steven Greenleigh has been involved in the Adams Morgan community for thirty (30) years as a commercial property owner and as a leader in the business community. He opposes the moratorium because it fosters stagnation as businesses locate to neighborhoods that are not encumbered by a moratorium. The moratorium has also contributed to the placement of unused licenses in Safekeeping rather than allowing those licenses to cancel. The licenses in Safekeeping are only available to those who are willing to pay the inflated price for them.

Lynn Skyneer has owned Skyneer Designs and Gallery since 1988. She opposed the moratorium and stated that one of the unintended consequences of the moratorium is the proliferation of fast food and convenience type eateries. These types of establishments generate the vast majority of

the trash and litter on the streets. Lifting the moratorium will create an incentive for transforming the neighborhood and will help to attract a more sophisticated clientele to the dining establishments.

Office of the Mayor

Lastly, while the Board did not hear from members of the Council or the District Commander of the MPD, the Board did receive written correspondence from the Office of the Deputy Mayor for Planning and Economic Development. Specifically, Deputy Mayor Victor Hoskins commented that fourteen (14) years of moratoria appears to have led to systemic long-term vacancies with commercial development lagging behind the robust residential building market in Adams Morgan. The Deputy Mayor's Office encouraged the Board to lift the moratorium, or at a minimum, allow for new Retailer Class CR and DR licenses.

Decision of the Board

The Board took the views of ANC 1C, the KCA, the Mayor's Office and all other witnesses and written testimony into consideration. The Board did not find that the testimony supported the renewing of the existing moratorium for another five (5) years. Rather, the Board determined that the ANC proposal to continue the moratorium while allowing for modifications to lift certain restrictions constitutes a reasonable, measured, and appropriate solution for the Adams Morgan neighborhood. However, the Board did not adopt the entirety of the ANC proposal and modified the moratorium described more fully below.

In reaching its decision, the Board gave great weight to the written recommendations of ANC 1C as required by Section 13(d)(3) of the Advisory Neighborhood Councils Act of 1975, effective October 10, 1975 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)(3) (2012 Repl. & 2015 Supp.), and D.C. Official Code § 25-609 (2012 Repl. & 2015 Supp.)).

The Board also based its decision upon the appropriateness standards. Pursuant to D.C. Official Code § 25-351 (2012 Repl. & 2015 Supp.), the Board determined that it was in the public interest to renew the moratorium with certain modifications, and in doing so, the Board based its decision upon the appropriateness standards set forth in D.C. Official Code §§ 25-313 and 25-314 (2012 Repl. & 2015 Supp.). In reviewing a moratorium request, the Board must "consider the extent to which the testimony and comments show that the requested moratorium is appropriate under at least two of the appropriateness standards set forth in subchapter II of this chapter." D.C. Official Code § 25-354(d) (2012 Repl.); *see also* D.C. Official Code § 25-351(a) (2012 Repl. & 2015 Supp.).

The appropriateness standards listed in Subchapter II include: (1) "[t]he effect of the establishment[s] on real property values"; (2) "[t]he effect of the establishment[s] on peace, order, and quiet, including the noise and litter provisions set forth in D.C. Official Code §§ 25-725 and 25-726 (2012 Repl. & 2015 Supp.); (3) "[t]he effect of the establishment[s] upon residential parking needs and vehicular and pedestrian safety"; (4) "[t]he proximity of the establishment[s] to schools, recreation centers, day care centers, public libraries, or other similar

facilities”; (5) “[t]he effect of the establishment[s] on the operation and clientele of schools, recreation centers, day care centers, public libraries, or other similar facilities”; (6) “[w]hether school-age children using facilities in proximity to the establishment[s] will be unduly attracted to the establishment while present at, or going to or from, the school, recreation center, day care center, public library, or similar facility at issue”; and (7) “[w]hether issuance of [additional] licenses would create or contribute to an overconcentration of licensed establishments which is likely to affect adversely the locality, section, or portion in which the establishment[s] [are] located.” D.C. Official Code §§ 25-313(b)(1)-(3), 25-314(a)(1)-(4) (2015 Supp.).

Specifically, under D.C. Official Code § 25-313(b) (2012 Repl. & 2015 Supp.), the testimony presented at the hearing as well as written comments and the proposals submitted by ANC 1C and the KCA revealed that problems still exist in the Adams Morgan Moratorium Zone with regard to peace, order, and quiet, justifying the need for the renewal of the moratorium zone. However, the Board concluded that a modified moratorium is in the public interest as determined by the appropriateness standards set forth in D.C. Official Code §§ 25-313 and 25-314 (2012 Repl. & 2015 Supp.). In essence, while there are many licensed establishments in the Adams Morgan neighborhood, the Board does not find that the neighborhood suffers from an overconcentration of licensed establishments or that additional restaurants will adversely affect this area. Rather, testimony bears out that an increase in economic development and new construction is attracting businesses and residents alike to Adams Morgan.

Additionally, the Board finds that the limited renewal of the moratorium is warranted due to the effect of the establishments upon residential parking needs and vehicular and pedestrian traffic. Testimony from residents indicated that one of the more significant problems resulting from the night life destination in Adams Morgan is the shortage of residential parking because demand outstrips supply. The problem is further compounded by the absence of a metro stop. And while the Board agrees that the multi-million dollar street scape has improved pedestrian safety, it recognizes that the pilot program using taxicab stands to relieve congestion was not successful. Thus, the Board finds that the continuation of the moratorium helps the neighborhood to address the abundance of cars by reducing the loss of available residential parking.

The Board agrees with certain provisions of the ANC proposal. Specifically, the Board agrees to: (1) renew a modified moratorium; (2) lift the restrictions on the number of Retailer Class CR/DR licenses; (3) maintain the cap on Retailer Class CT/DT and CX/DX licenses; (4) retain the prohibition on Retailer Class CN/DN licenses; (5) retain the current exemptions for Retailer Class CH/DH licenses; (6) retain the existing language pertaining to the transfer of ownership; (7) retain the prohibition on the transfer of Retailer Class CT/DT, CX/DX or CN/DN from outside the moratorium zone to inside the moratorium zone; and (8) retain the prohibition on the change of all Retailer Class CT/DT or CN/DN licenses.

There were a couple of provisions in the ANC proposal with which the Board did not agree. Rather than a five (5) year renewal period, the Board will instead approve the renewal of the modified moratorium for three (3) years. This shorter renewal period will allow the Board, the ANC, and the community to assess the effectiveness of the proposed changes. Additionally, a shorter timeframe allows the community the greatest degree of flexibility to adapt and adjust the

moratorium to respond to the changing needs of the Adams Morgan neighborhood. The Board too, will have an opportunity to reevaluate the effectiveness of the limited moratorium, and to explore solutions that will balance, not inhibit, the neighborhood's ability to pursue economic opportunities.

Likewise, the Board does not agree with the provision of the ANC proposal to prohibit the issuance of Entertainment Endorsements to those licensees whose operations share similar characteristics of those who operate nightclubs. Like the ANC, the Board encourages food centric restaurants rather than those that are driven by the sale of alcoholic beverages, but the Board will not adopt a blanket prohibition against the issuing of endorsements. This is especially true where there are currently licensees in Adams Morgan who already enjoy the privilege of an Entertainment Endorsement, and whose privilege will be grandfathered. To prohibit Entertainment Endorsements to new licensees only contributes to the disparity of the have and have-nots currently experienced by retailers who are licensed as taverns and restaurants.

The ANC's proposal with regard to the Entertainment Endorsement raises two economic concerns. First, the prohibition may contribute to the artificial pricing of those licenses that already have the privilege attached. Secondly, licensees who do not have an Entertainment Endorsement and who otherwise would operate with an endorsement in accordance with the appropriateness standards would be competitively disadvantaged. The Board is not inclined to exacerbate the problem of ABC licenses being sold for extortionate prices, but instead to diminish this phenomenon while protecting the peace, order and quiet of the Adams Morgan community.

The Board is of the view that it is best to consider requests for an Entertainment Endorsement on a case by case basis. Additionally, as the Board held in its moratorium decision for the U and 14th Streets NW corridor in 2013, there exist already tools available to the community, such as Settlement Agreements, to limit the use of cover charges, or to prohibit promoters and pub crawls. Furthermore, the Board has the regulatory authority to strip a licensee of its Entertainment Endorsement if the licensee is not compliant with the food sales requirements pursuant to 23 DCMR § 2101.5(a).

It should be understood that the Board will not tolerate licensees who seek an Entertainment Endorsement for purposes of creating a nightclub atmosphere when food service ends. It cautions licensees who seek an Entertainment Endorsement to do so with an understanding that Adams Morgan is a unique neighborhood. As such, the Board will give great scrutiny to any request that profoundly changes the nature and character of the neighborhood.

Additionally, the Board recognizes that enforcement and compliance efforts both safeguard and enhance neighborhoods. In any regulatory environment, some licensees will comply voluntarily, some will not comply, and some will comply only if they see that others receive a sanction for non-compliance. The Board's adoption in 2013 of the new Civil Penalty Schedule rules gives greater discretion to the Board and to ABRA investigators with regard to enforcing laws and regulations. Investigators can now issue Warnings for a greater range of offenses, thus ensuring that their response to violations is immediate and predictable. The new penalty rules also grant

the Board more appropriate sanctions that are commensurate with the offense. So where Warnings put licensees on notice for a first offense, the Board can now levy a heavier penalty for second and third offenses.

Furthermore, with two (2) Board Members who reside in the community, the Board itself is a witness to the forthcoming surge of new residents in the greater Adams Morgan neighborhood. With the construction of thirty eight (38) condominiums at the AdamO located at Lanier and Adams Mill Road NW, eighty (80) condominiums at the Ontario17 at Columbia Road and 17th Street NW, and the new hotel at Columbia Road and Euclid Street NW, there will be a large influx of new residents and guests adding to the vitality and energy of a revitalized Adams Morgan neighborhood. This population will help to curb the late night, antisocial antics because it is in their best interests and investment to do so. As Commissioner Guthrie pointed out in his testimony, the destination patrons do not care about their behavior because they do not live there.

Lest it gets lost in the greater discussion, the Board makes clear that it appreciates the balance that must be struck between the interests of the residents in the neighborhood, and the interests that promote a nightlife economy. The Board recognizes that a diverse, dynamic and safe dining and entertainment environment is part of the fabric of the District, and yet, nightlife activity needs to be carefully managed in order to reduce antisocial behavior, noise, public disturbance and other problems.

The Board applauds the ANC's outreach and educational efforts that brought licensees, residents and representatives from the Business Improvement District to share their perspectives and their focus on positive steps to transform the Adams Morgan's neighborhood and improve urban vibrancy. Like the ANC, the Board believes that if managed properly, a thriving and safe nightlife can act as an economic engine by attracting new businesses and restaurants, diversifying the range of cultural offerings, creating employment opportunities, and increasing tourism. To this end, the Board is in agreement with the ANC that a new direction for the Adams Morgan moratorium that allows for responsible growth is warranted.

These rules were initially published in the *D.C. Register* as a Notice of Proposed Rulemaking on August 29, 2014 at 61 DCR 8999. Pursuant to D.C. Official Code § 25-211(b)(2) (2012 Supp.), the proposed rules were transmitted to the Council of the District of Columbia (Council), for a ninety (90) day period of Council review on March 23, 2015. The rules were approved by Council Resolution, R21-130, the "Adams Morgan Moratorium Zone Approval Resolution of 2015" on June 30, 2015. These final rules were adopted by the Board on July 8, 2015, on a vote of three (3) to zero (0) and they will become effective five (5) days after publication in the *D.C. Register*.

Section 304, ADAMS MORGAN MORATORIUM ZONE, of Chapter 3, LIMITATIONS ON LICENSES, of Title 23 DCMR, ALCOHOLIC BEVERAGES, is amended to read as follows:

304 ADAMS MORGAN MORATORIUM ZONE

- 304.1 No new Retailer's License Class CN, CT, CX, DN, DT, or DX shall be issued for a period of three (3) years from the effective date of this section in the area that extends approximately fourteen hundred (1400) feet in all directions from the intersection of 18th Street and Belmont Road, N.W., Washington D.C. This area shall be known as the Adams Morgan Moratorium Zone.
- 304.2 The Adams Morgan Moratorium Zone is more specifically described as beginning at 18th Street and Vernon Street, NW; and proceeding on both sides of all streets, unless otherwise noted; West on Vernon Street to 19th Street; Northwest on 19th Street to Wyoming Avenue; Southwest on Wyoming Avenue to 20th Street; Northwest on 20th Street to Belmont Road; East on Belmont Road to 19th Street; Northwest on 19th Street to Biltmore Street; East on Biltmore Street to Cliffbourne Street; North on Cliffbourne Street to Calvert Street; East on Calvert Street to Lanier Place; Northeast on Lanier Place to Adams Mill Road; Southeast on Adams Mill Road to Columbia Road; Northeast on Columbia Road to Ontario Road; South on Ontario Road to Euclid Street; East on Euclid Street to 17th Street; South on 17th Street to Kalorama Road; Southwest on Kalorama Road to Ontario Road; South on Ontario Road to Florida Avenue; Southwest on Florida Avenue to U Street; West on U Street (North side only); across 18th Street to the South corner of 18th and Vernon Streets, N.W., Washington D.C.
- 304.3 The following license classes shall be exempt from the Adams Morgan Moratorium Zone:
- (a) All restaurants, whether present or future;
 - (b) All hotels, whether present or future; and
 - (c) Retailer's licenses Class A and B.
- 304.4 The number of Retailer's licenses Class CT, CX, DT, or DX located within the Adams Morgan Moratorium Zone shall not exceed ten (10). The number of Retailer's licenses Class CN or DN shall not exceed zero (0). The holder of a Retailer's license Class CR or DR located within the Adams Morgan Moratorium Zone shall be prohibited from changing its license class except when the number of Retailer's licenses Class CT, CX, DT, or DX in the Adams Morgan Moratorium Zone is fewer than ten (10). Nothing in this subsection shall prohibit the Board from approving a change of license class application that was filed with the Board by the holder of a Retailer's license Class CR or DR located within the Adams Morgan Moratorium Zone prior to August 2, 2006.
- 304.5 Nothing in this section shall prohibit the Board from approving the transfer of ownership of a retailer's license Class CR, CT, CX, DR, DT, and DX within the Adams Morgan Moratorium Zone that was in effect or for which an application

was pending prior to the effective date of this section, subject to the requirements of Title 25 of the D.C. Official Code and this title.

- 304.6 Nothing in this section shall prohibit the Board from approving the transfer of a license from a location within the Adams Morgan Moratorium Zone to a new location within the Adams Morgan Moratorium Zone.
- 304.7 A license holder outside the Adams Morgan Moratorium Zone shall not be permitted to transfer its license to a location within the Adams Morgan Moratorium Zone, unless exempt by Subsection 304.3.
- 304.8 Nothing in this section shall prohibit a valid protest of any transfer or change of a license class.
- 304.9 The moratorium shall have a prospective effect and shall not apply to any license granted prior to the effective date of this section or to any application for licensure pending on the effective date of this section.
- 304.10 This section shall expire three (3) years after the date of publication of the notice of final rulemaking.

DEPARTMENT ON DISABILITY SERVICES

NOTICE OF FINAL RULEMAKING

The Director of the Department on Disability Services (DDS), pursuant to the authority set forth in Section 109 of the Department on Disability Services Establishment Act of 2006, effective March 14, 2007 (D.C. Law 16-264; D.C. Official Code § 7-761.09 (2012 Repl. & 2015 Supp.)), and Mayor's Order 2007-68, dated March 20, 2007, hereby gives notice of the adoption of amendments to Sections 119 (Payment for Rehabilitation Services) and 199 (Definitions) of Chapter 1 (Vocational Rehabilitation Services) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The Vocational Rehabilitation Services Program is administered by DDS's Rehabilitation Services Administration (RSA). This final rulemaking is necessary to: (1) comply with the federal regulations requiring all states and the District of Columbia to have a policy for establishing service rates; (2) revise and standardize vocational rehabilitation service reimbursement rates, allowing RSA to enter into agreements with current and prospective providers; (3) revise reimbursement rates so that subsequent provider agreements accurately reflect fair market rates and demand throughout the region; (4) standardize rates to ensure fair and equitable reimbursement rates for RSA's provider community, as the current process wherein rates are individually set with each provider has resulted in often substantial differences in reimbursement rates for the same units of service provided across the provider community; (5) allow RSA to include outcome payments, which incentivizes positive employment outcomes, including earnings at or above the District of Columbia living wage and long-term competitive employment; and (6) add definitions based on these rules.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on June 5, 2015, at 62 DCR 008117. DDS received one set of comments from Pendergrast Alston Consulting Services, Inc. ("Pendergrast") concerning the emergency and proposed rules during the thirty (30) day comment period, which expired on July 6, 2015, and received another set of comments from Pendergrast shortly after July 6, 2015. DDS considered all of the public comments it received, but made no changes based on them. The DDS Director adopted these rules as final on July 21, 2015, and they shall become effective upon publication of this notice in the *D.C. Register*.

Sections 119, PAYMENT FOR REHABILITATION SERVICES, and 199, DEFINITIONS, of Chapter 1, VOCATIONAL REHABILITATION SERVICES, of Title 29 DCMR, PUBLIC WELFARE, are amended as follows:

Subsections 119.9 and 119.10 are amended to read as follows:

119.9 Consistent with the scope of appropriate vocational rehabilitation services described in § 113.2 and the definitions set forth in § 199.1, the Rehabilitation Services Administration shall pay for authorized services at a rate not higher than the provider's customary charge for such services.

119.10 The Rehabilitation Services Administration shall pay for all authorized services in accordance with § 119.11 and consistent with the Procurement Practices Reform Act (D.C. Official Code §§ 2-351.01 *et seq.*).

New Subsections 119.11 to 119.13 are added to read as follows:

119.11 For the following vocational rehabilitation services, the Rehabilitation Services Administration shall reimburse the provider for such services and pay incentives based on the following tables of rates.

(a) For Benefits Planning and Job Placement, the Rehabilitation Services Administration shall reimburse the provider as follows:

Benefits Planning	Rate/Unit
Benefits Planning Report	\$1,000/person
Benefit Employment Management Report	\$250/month
Student Earned Income Exclusion request submission and approval	\$250/person
Blind Work Expense request form submission and approval	\$300/month
Impairment-Related Work Expense request form submission and approval	\$300/month
Plan For Achieving Self Support request form submission	\$300/person
Plan For Achieving Self Support request form approval	\$200/person
Expedited Reinstatement request submission	\$300/request
Benefits Summary and Analysis Report for Life Changing Events	\$350/person

Job Placement	Rate/Unit
Intake and Assessment	
Intake and Summary Assessment Report	\$400/report
Person-Centered Employment Plan	\$250/plan
Job Development	
Job Development Progress Report	\$500/monthly
Placement	
Placement Information Report	\$950/report
Job Stabilization Progress Report	\$450/report
Job Stabilization Closure Report	\$450/report

For purposes of payment for the Job Development Progress Report in the table above for Job Placement services, the provider shall be paid five hundred dollars (\$500) per month for three (3) months, unless the person is placed in a job in less than three (3) months. However, the provider shall not receive more than a total of one thousand five hundred dollars

(\$1,500) for Job Development Progress Reports. If the person is placed in a job in less than three (3) months, then the provider shall be paid the difference between one thousand five hundred dollars (\$1,500) and the amount the provider has already received for providing these services to the person.

- (b) For Supported Employment, the Rehabilitation Services Administration shall reimburse the provider as follows:

Supported Employment	Rate/Unit
Intake and Assessment	
Intake and Summary Assessment Report	\$400/report
Person-Centered Employment Plan	\$250/plan
Job Development	
Job Development Progress Report	\$600/report
Job Development Progress Report Using Customized Employment Strategy	\$1,100/report
Placement	
Initial Placement Report	\$1,000/report

- (1) For purposes of payment for the Job Development Progress Report in the table above for Supported Employment Services, the provider shall be paid six hundred dollars (\$600) per month for three (3) months, unless the person is placed in a job in less than three (3) months. However, the provider shall not receive more than a total of one thousand eight hundred dollars (\$1,800) for Job Development Progress Reports. If the person is placed in a job in less than three (3) months, then the provider shall be paid the difference between one thousand eight hundred dollars (\$1,800) and the amount the provider has already received for providing these services to the person.
- (2) For purposes of payment for the Job Development Progress Report Using Customized Employment Strategy in the table above for Supported Employment Services, the provider shall be paid one thousand one hundred dollars (\$1,100) per month for three (3) months, unless the person is placed in a job in less than three (3) months. However, the provider shall not receive more than a total of three thousand three hundred dollars (\$3,300) for Job Development Progress Reports Using Customized Employment Strategy. If the person is placed in a job in less than three (3) months, then the provider shall be paid the difference between three thousand three hundred dollars (\$3,300) and the amount the

provider has already received for providing these services to the person.

- (c) For additional vocational rehabilitation services, the Rehabilitation Services Administration shall reimburse the provider and pay incentives as follows:

Additional Vocational Rehabilitation Services	Rate/Unit
Discovery Assessment	
Positive Personal Profile	\$1,000/person
Customized Employment	\$1,500 per verified placement
Job Coaching	\$55/hour
Support Service Provider	\$55/hour
Trial Work	\$55/hour
Job Readiness Training, formerly known as Work Adjustment Training	\$55/day
Job Readiness 1: Soft Skills Training Development	\$55/day
Job Readiness 2: Transitional Work Experience	\$55/hour

Incentives
The Rehabilitation Services Administration shall pay the provider two percent (2%) of the annual salary of the person with a disability who is successfully closed in employment with employer-paid health benefits and whose salary is at or above the District of Columbia Living Wage.
The Rehabilitation Services Administration shall pay the provider two percent (2%) of the annual salary of the person with a disability who is successfully closed in employment and who earns at least fifty-two percent (52%) of the average annual salary in the District of Columbia, as defined by the Bureau of Labor Occupational Employment Statistics, with employer-paid health benefits.
The Rehabilitation Services Administration shall pay the provider up to five thousand dollars (\$5,000) per person for whom the Rehabilitation Services Administration receives Administrative, Counseling and Placement costs reimbursement if: <ol style="list-style-type: none"> (1) the person receives Supplemental Security Income or Social Security Disability Insurance benefits; (2) the person is placed in employment at the Substantial Gainful Activity (“SGA”) earnings level; (3) the provider provides proof of the employment to the Rehabilitation Services Administration; (4) the person remains employed at the SGA earnings level; and (5) the Rehabilitation Services Administration receives reimbursement.

- 119.12 The rates listed in the tables set forth in §§ 119.11(a)-(c) are for those services authorized after June 30, 2015.
- 119.13 Rates for services not listed in the tables set forth above in §§ 119.11(a)-(c) shall be negotiated by the Rehabilitation Services Administration in conjunction with its Office of Contracts and Procurement representative.

Subsection 199.1 is amended by adding the following definitions:

Administrative, Counseling, and Placement costs reimbursement - financial reimbursement that the Social Security Administration pays to the state vocational rehabilitation agency based on cost formulas unique to each state vocational rehabilitation agency and its fiscal year Administrative, Counseling, and Placement costs. Administrative, Counseling, and Placement costs include RSA's administrative and indirect costs while services are being provided, and do not include the cost of purchased services.

Benefit Employment Management Report - a report detailing the desired employment outcome of the person with a disability, the steps needed to achieve that outcome, and the person responsible for the completion of each step. The Benefit Employment Management Report shall also report on the monthly wage of the person with a disability, the monitoring of the person, any communication with the Social Security Administration regarding the person, overpayments, medical reviews, and other details.

Benefits Planning Report - a report signed by the provider discussing in-depth research, analysis, and technical assistance about Social Security Income benefits, Social Security Disability Insurance benefits and other public programs and work incentives, which are in alignment with the unique circumstances and work goals of the person with a disability.

Benefits Summary and Analysis Report for Life Changing Events - a report signed by the Community Work Incentives Coordinator for a person with a disability, which summarizes the current Social Security benefits the person with a disability receives, analyzes how employment may affect the person's benefits, lists issues with benefits unrelated to employment, and lists employment services and supports the person may need. A Life Changing Event shall have a meaning consistent with 20 C.F.R. § 418.1205.

Blind Work Expense request form submission and approval - the submission of a Blind Work Expense request form to the Social Security Administration, which is documented in the Benefit Employment Management Report and submitted by a person who receives Supplemental Security Income benefits and who is blind, and approval of

that submission by the Social Security Administration. The request form shall include information about the necessary work expenses of the person, accompanies wage reports to the Social Security Administration, and includes receipts and proof of wages, or self-employment tax returns. Blind Work Expense shall have a meaning consistent with 20 C.F.R. § 418.3325.

Competitive Integrated Employment - a term that shall have a meaning consistent with 29 U.S.C. § 705(5).

Customized Employment - competitive integrated employment for a person with a significant disability. Customized Employment is driven by an absolutely individualized determination of the strengths, needs, and interests of the person, rather than by the labor market, is designed to meet the specific and unique abilities of the person and the unmet business needs of the employer, and is carried out through flexible strategies. It may include a job exploration by the person and working with an employer to facilitate job placement in instances when there are no job positions open. Customized Employment includes tailoring the job for the person prior to the beginning of work, rather than after hire.

Discovery Assessment - an intensive person-centered assessment conducted in a person's natural environment by the person's support team, which discovers the person's interests, talents, skills and knowledge, learning styles, positive personality traits, temperaments in different settings, experiences, support systems, needs and specific challenges, accommodation requirements for different settings and activities, and dislikes, which all serve as a guide for customizing employment. Through a Discovery Assessment, a picture of what activities the person does successfully emerges, and potential vocational themes are uncovered.

Expedited Reinstatement request submission - the submission of a request to the Social Security Administration made by a person with a disability who was receiving Social Security Disability Insurance benefits or Supplemental Security Income benefits, became disqualified for continued benefits because of earnings from work, and then again became unable to work because of the disability. The request may be made through a letter or telephone call to the Social Security Administration to schedule an appointment. A Certified Benefits Specialist employed by the Department on Disability Services, Rehabilitation Services Administration may assist the person in gathering relevant information and making the request. Expedited Reinstatement shall have a meaning consistent with 20 C.F.R. § 404.1592b.

Impairment-Related Work Expense request form submission and approval - the submission of an Impairment-Related Work Expense request form to

the Social Security Administration, which is documented in the Benefit Employment Management Report and submitted by a person with a disability other than blindness if that person also receives Supplemental Security Income benefits, and approval of that submission by the Social Security Administration. The request form shall include information about the necessary work expenses of the person, accompanies wage reports to the Social Security Administration, and includes receipts and proof of wages, or self-employment tax returns. Impairment Related Work Expense shall have a meaning consistent with 20 C.F.R. § 404.1576.

Initial Placement Report - a report equivalent in content to the Placement Information Report except that the Initial Placement Report is only for people receiving Supported Employment services.

Intake and Summary Assessment Report - a report synthesizing the findings of the intake interview and review of assessments, which includes a baseline functional evaluation and forms the basis for developing the Person-Centered Employment Plan.

Job Coaching - on-the-job training of a person with a disability by an approved specialist, who uses structured intervention techniques to help the person learn to perform job tasks to the employer's specifications and to learn the interpersonal skills necessary to be accepted as a worker at the job site and in related community contacts. Job coaching also includes related assessment, job development, counseling, advocacy, travel training and other services needed to maintain the employment for the person.

Job Development - job search activities to support and assist a person with a disability in searching for an appropriate job, which may include helping in resume preparation, identifying appropriate job opportunities, developing interview skills, and making contacts with companies on behalf of the person.

Job Development Progress Report - a monthly report detailing the activities during the job development and/or customized employment job search phase and describing how the participation of the jobseeker and the efforts of the job developer or employment specialist contribute towards the jobseeker's achievement of the employment outcome. The Job Development Progress Report identifies issues and next steps, is submitted along with an attendance sign-in sheet called a Job Search Service Log, and is submitted monthly until the person is placed in a job successfully. A provider shall submit no more than three Job Development Progress Reports.

Job Placement - employment-related services (in a setting outside of supported employment) that are necessary to obtain suitable competitive integrated

employment and that are offered by providers to people with disabilities. Job Placement services include Intake and Assessment, Job Development and Placement services.

Job Readiness Training, formerly known as Work Adjustment Training - training for a person with a disability by a provider in the development of work-related skills. This training includes components that enable the person to successfully develop the capacities for achieving and maintaining employment, such as travel, work behaviors, social skills in the work setting, effective communication, accepting supervision, problem solving, grooming and hygiene, goal setting and work tolerance. Other areas that may also be addressed include work-related daily living skills, disability awareness, work traits, and work ethics.

Job Stabilization Closure Report - a report regarding a person who receives Job Placement services, which incorporates the elements of the Job Stabilization Progress Report with the addition of closure elements for consideration, such as requested accommodations that were negotiated and established, integration of natural supports, and development of a plan to achieve Competitive Integrated Employment in the event that the job placement yields less than the Washington, D.C. minimum wage.

Job Stabilization Progress Report - a report regarding a person who receives Job Placement services, which documents employment information about the person with a disability, including his or her knowledge and performance of the essential tasks of the job, the person's attendance and punctuality, the person's social adjustment in the workplace, the employer's satisfaction with the person's job performance, and the person's satisfaction with the job and ongoing support services.

Person-Centered Employment Plan - a written program of action developed and reviewed by the Human Care Agreement provider at regular intervals with the participation of the person with a disability. The Person-Centered Employment Plan outlines the person's goals and describes the services that will be provided to accomplish employment goals, which include fading support services for Supported Employment and stabilization services for Job Placement. The Person-Centered Employment Plan is submitted along with the Intake and Summary Assessment Report.

Person with a disability - a term that shall have a meaning equivalent to "individual with a disability," as defined by 29 U.S.C. § 705(20).

Placement Information Report - in a setting outside of supported employment, a report documenting relevant employment information for a person with a disability, including his or her job title, start date, employer name and address, supervisor name and contact information, work hours and salary

rate along with the job description, benefits, anticipated needs, and a guarantee that the job placement is Competitive Integrated Employment. The Placement Information Report is submitted along with an employment verification document within two business days of when job placement information has been obtained and preferably before the job's start date.

Plan for Achieving Self Support request form approval - approval given by the Social Security Administration for a person's Plan for Achieving Self Support request. A Plan for Achieving Self Support shall have a meaning consistent with 20 C.F.R. §§ 416.1180-416.1182.

Plan for Achieving Self Support request form submission - the submission of a Plan to Achieve Self-Support request form, which is made by a person with a disability to the Social Security Administration. The request form shall discuss the work goal of the person with a disability, the person's medical, vocational, or educational background, details about the Plan to Achieve Self Support, the person's expenses, funding for the work goal, information about anyone who helped the person prepare the Plan, and other details. A Plan for Achieving Self Support shall have a meaning consistent with 20 C.F.R. §§ 416.1180-416.1182.

Positive Personal Profile - a record or documentation of a Discovery Assessment identifying a person's interests, talents, skills and knowledge, learning styles, positive personality traits, temperaments in different settings, experiences, support systems, needs and specific challenges, accommodation requirements for different settings and activities, and dislikes, which all serve as a guide for customizing employment.

Student Earned Income Exclusion request submission and approval - the submission of a Student Earned Income Exclusion request to the Social Security Administration made by a person with a disability, and the approval of that submission by the Social Security Administration. The request may be made by noting, in writing, the person's student status when reporting a job and, in facilitating approval from the Social Security Administration, the person may provide proof of student status including but not limited to school grades, school enrollment, and class schedules. Student Earned Income Exclusion shall have a meaning consistent with 20 C.F.R. §§ 416.1870-416.1874.

Substantial Gainful Activity - a level of work activity and earnings that shall have a meaning consistent with 20 C.F.R. §§ 404.1510 and 404.1571-404.1576.

Support Service Provider - a group of specially trained professionals who enable people who have combined vision and hearing losses to access

their environments and make informed decisions, providing them with visual and environmental information, sighted guide services, and communication accessibility.

Trial Work - exploration of different work experiences with necessary and appropriate supports for a person with a disability consistent with informed choice, including supported employment, that will provide a vocational rehabilitation specialist an assessment of a person's strengths, abilities, challenges, and work behavior from a realistic work situation; and to determine the services needed to remove barriers to employment, for example, for the person to acquire occupational skills and develop work attitudes, appropriate work habits, work tolerance, and social and behavior patterns necessary for successful job performance. The trial work period shall also provide sufficient information for the vocational rehabilitation specialist to make a decision about whether an applicant for vocational rehabilitation services can benefit from vocational rehabilitation services to reach an employment outcome. Trial Work shall have a meaning consistent with 34 C.F.R. §§ 361.5(b)(6)(iv), 361.42(e), 361.47(a)(5), and 361.54(b)(1).

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, as amended (82 Stat. 1203; D.C. Official Code § 2-559 (2012 Repl.)), hereby gives notice of corrections to the Notices of Final Rulemaking issued by the Department of Consumer and Regulatory Affairs (DCRA) and published in the *D.C. Register* on March 28, 2014 - Part 2, at 61 DCR 3196.

The rulemakings adopt the *District of Columbia Construction Codes Supplement of 2013*, Title 12 of the District of Columbia Municipal Regulations (DCMR).

This Errata Notice’s correction to the final rulemaking published in the *D.C. Register* on March 28, 2014, is non-substantive in nature and does not alter the intent, application, or purpose of the rules. The rules are effective upon the original publication date of March 28, 2014.

District of Columbia Property Maintenance Code Supplement of 2013, 12 DCMR Subtitle G, Chapter 8, REFERENCED STANDARDS, Section 800, ASME, is amended as follows:

Correct the referenced code section number in Section 800 to read as follows, with the correction in underlined text:

800 ASME

Strike the ASME referenced standard in Chapter 8 of the International Property Maintenance Code in its entirety and insert the following new ASME referenced standards in its place to read as follows:

ASME	American Society of Mechanical Engineers Three Park Avenue New York, NY 10016-5990
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Standard Reference Number	Title	Referenced in code section number
A17.1 /CSA B44- 2010	Safety Code for Elevators and Escalators	606. <u>3.2.1</u> , 606. <u>3.2.4.1</u>
A18.1-2008	Safety Standard for Platform Lifts and Stairway Chairlifts	606. <u>3.2.2</u>
A90.1-2009	Safety Standard for Manlifts	606. <u>3.2.3</u>

B20.1-2009

Safety Standard for Conveyors and
Related Equipment

606. 3.2.4

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 4th Street, N.W., Suite 520 South, Washington, D.C. 20001, email at victor.reid@dc.gov, or via telephone at (202) 727-5090.

BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**NOTICE OF FINAL RULEMAKING**

The Board of Ethics and Government Accountability (“Ethics Board”), pursuant to the authority set forth in Section 209 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.09 (2014 Repl.)), hereby gives notice of its adoption of the following amendments to Chapter 57 (Financial Disclosures and Honoraria), and Chapter 58 (Registration of Lobbyists) of Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (“DCMR”).

D.C. Official Code § 1-1162.11(8) provides that the Director of Government Ethics shall have the power to, “require any person to submit through an electronic format or medium a report required pursuant to this title [subchapter].” This rulemaking amends Subsections 5702.1, 5702.2, and 5704.4, to require, except upon the granting of a waiver for good cause shown, electronic filing of Public Financial Disclosure Statements by Public Officials and Public Financial Disclosure Certifications by Advisory Neighborhood Commissioners. The rulemaking also amends Subsection 5803.3 and adds Subsections 5803.4 through 5803.8 to require, except upon the granting of a waiver for good cause shown, electronic filing of Lobbyist Registration and Lobbyist Activity Reports.

No comments were received on the proposed rules that were published on June 12, 2015, at 62 DCR 8345. Non-substantive technical changes were made to the rules that do not affect the intent, meaning or scope of the rules as proposed. These rules were adopted as final on August 17, 2015 and will be effective upon the date of publication in the *D.C. Register*.

Chapter 57, FINANCIAL DISCLOSURES AND HONORARIA, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Section 5702, FILING AND PUBLICATION REQUIREMENTS, is amended so that Subsections 5702.1 and 5702.2 read as follows:

5702.1 The FDS shall be filed electronically at the Board of Ethics and Government Accountability (Board) website. The FDS shall be deemed timely filed electronically no later than midnight on May 15th of each year for the prior calendar year in which the public official served.

5702.2 A public official may request a waiver of the requirement to file electronically. Waiver requests shall be submitted in writing, to the Director, no later than midnight on May 5th of each year. The Director may grant a waiver of the requirement to file electronically on good cause shown as to why the public official is unable to file electronically as follows:

- (a) A waiver granted by the Director shall be in writing and provided to the requestor.

- (b) If the waiver is granted, the FDS shall be filed in hard copy, in person or by first class mail. The FDS shall be deemed timely filed if received in the Office of Government Ethics no later than 5:00 pm on May 15th.
- (c) A denial of the waiver of the requirement to file electronically is appealable to the Board. An appeal is timely filed if submitted to the Board Chairperson and the Director, in writing, in hard copy or electronically, no later than two (2) business days after the date of the Director’s decision. The decision of the Board is final and shall be provided in writing to the requestor.

The heading for Section 5704 is amended to read as follows:

5704 CONFIDENTIAL FINANCIAL DISCLOSURE FILINGS BY EMPLOYEES”

Subsection 5704.4 is repealed.

A new Section 5705 is added to read as follows:

5705 FINANCIAL DISCLOSURE FILINGS BY ADVISORY NEIGHBORHOOD COMMISSIONERS AND CANDIDATES

5705.1 An Advisory Neighborhood Commissioner in office for at least thirty (30) days of the preceding year, or candidate as defined in D.C. Official Code § 1-1161.01(6), shall electronically file a public financial disclosure certification required by Section 224(a)(1)(G) of the Act for the preceding year.

- (a) The certification shall be due no later than midnight of May 15th of each year;
- (b) The certification shall be filed electronically with the Board at the Board website;
- (c) The certification shall be publicly filed; and

5705.2 An Advisory Neighborhood Commissioner, or candidate as defined in D.C. Official Code § 1-1161.01(6), may request a waiver of the requirement to file electronically. Waiver requests shall be submitted in writing, to the Director, no later than midnight on May 5th of each year. The Director may grant a waiver of the requirement to file electronically for good cause shown as to why the public official is unable to file electronically.

- (a) A waiver granted by the Director shall be in writing and provided to the requestor.

- (b) If the waiver is granted, the public financial disclosure certification shall be filed in hard copy, in person or by first class mail. The public financial disclosure certification shall be deemed timely filed if received in the Office of Government Ethics no later than 5:00 pm on May 15th.
- (c) A denial of the waiver of the requirement to file electronically is appealable to the Board. An appeal is timely filed if submitted to the Board Chairperson and the Director, in writing, in hard copy or electronically, no later than two (2) business days after the date of the Director's decision. The decision of the Board is final and shall be provided in writing to the requestor.

Chapter 58, REGISTRATION OF LOBBYISTS, is amended as follows:

Section 5803, FILING DEADLINES, is amended so that Subsection 5803.3 reads as follows:

5803.3 Lobbyist Activity Reports shall be filed in electronic format at the Board website and shall be considered timely if filed by midnight on the date due.

New Subsections 5803.4 through 5803.8 are added to read as follows:

5803.4 Lobbyist Registration forms filed on or before January 15th of each year shall be filed in electronic format on the Board website and will be considered timely if filed by midnight on the date due.

5803.5 First-time Lobbyist Registration forms filed pursuant to Subsection 5803.1(a) of this section shall be filed electronically at the Board website and shall be considered timely if filed by midnight on the date due.

5803.6 A lobbyist may request a waiver of the requirement to electronically file a Lobbyist Registration form or a Lobbyist Activity Report. Waiver requests shall be submitted in writing, to the Director, no later than midnight on January 1st for January Lobbyist Registration and Lobbyist Activity report filings and July 1st for July Lobbyist Activity Report filings.

5803.7 The Director may grant a waiver of the requirement to file electronically for good cause shown as to why the Lobbyist is unable to file electronically as follows:

- (a) A waiver granted by the Director shall be in writing and provided to the requestor.
- (b) If the waiver is granted, the filings shall be filed in hard copy, in person or by first class mail. The filing shall be deemed timely filed if received in the office of the Board no later than 5:00 pm on the date due.

- (c) A denial of the waiver of the requirement to file electronically is appealable to the Board. An appeal is timely filed if submitted to the Board Chairperson and the Director, in writing, in hard copy or electronically, no later than two (2) business days after the date of the Director's decision. The decision of the Board is final and shall be provided in writing to the requestor.

BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**NOTICE OF FINAL RULEMAKING**

The Board of Ethics and Government Accountability (“Ethics Board”), pursuant to the authority set forth in Sections 209 and 230 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code §§ 1-1162.09, and 1162.30 (2014 Repl.)), hereby gives notice of its adoption of the following amendments to Chapter 58 (Registration of Lobbyists) to Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (“DCMR”).

Section 2(b) of the Campaign Finance Reform and Transparency Amendment Act of 2013, effective February 22, 2014 (D.C. Law 20-79; D.C. Official Code § 1-1162.30(a)(7) (2012 Repl.)), provides that Lobbyist Activity Reports shall include “[a]ll bundled contributions in accordance with rules promulgated by the Ethics Board.” This rulemaking amends Subsection 5802.2 to include information on bundled contributions on Lobbyist Activity Reports, and requires lobbyists to provide more specific information concerning their communications with public officials.

Comments were received on the proposed rules that were published on June 12, 2015, at 62 DCR 8349. Those comments recommended technical and conforming changes to ensure the definition of “contributions” was consistent with D.C. Law 20-79. Those non-substantive changes have been incorporated into the text of the final rules. These rules were adopted as final on August 17, 2015 and will be effective upon the date of publication in the *D.C. Register*.

Chapter 58, REGISTRATION OF LOBBYISTS, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Section 5802, ACTIVITY REPORTS, Subsection 5802.2, is amended as follows:

Paragraph (f) is amended to read as follows:

- (f) Each official in the executive or legislative branch with whom the registrant has had written or oral communications, including electronic mail, text messages, or any other form of communication, during the reporting periods related to lobbying activities conducted by the registrant shall also be included in the report, identifying:
 - (i) The official with whom the communication was made;
 - (ii) The specific date on which the communication was made to a specific official;
 - (iii) The type of communication; and

- (iv) The nature and purpose of communication.

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

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

- (h) All bundled contributions, as defined in D.C. Official Code § 1-1161.01, forwarded or arranged to be forwarded from one or more persons, including:
 - (i) The name of each contributor;
 - (ii) Address, and employer of each person from whom the contributions were received, and
 - (iii) The name of the candidate or committee for whom the contributions were collected.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health Care Finance, pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2014 Repl.)), and the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, , of an amendment to Section 1934, entitled “Supported Living Services,” of Chapter 19 (Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These final rules establish standards governing reimbursement of supported living services provided to participants in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver) and conditions of participation for providers.

The ID/DD Waiver was approved by the Council of the District of Columbia (Council) and renewed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, for a five (5) year period beginning November 20, 2012. An amendment to the ID/DD Waiver was approved by the Council through the Medicaid Assistance Program Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-155; 61 DCR 9990 (October 3, 2014)).

Supported living services are provided to persons with an assessed need for assistance with acquisition, retention, or improvement in skills related to activities of daily living, and the social and adaptive skills necessary to enable persons enrolled in the Waiver to reside and successfully participate in the community. The current Notice of Final Rulemaking for 29 DCMR § 993 (Supported Living Services) was published in the *D.C. Register* on March 28, 2014- Part 1, at 61 DCR 002621. A Notice of Emergency and Proposed rulemaking was published in the *D.C. Register* on October 31, 2014 at 61 DCR 011500. That rulemaking amended the previously published final rules by increasing the rates, using the approved rate methodology, to reflect the increase in the D.C. Living Wage to comply with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.* (2012 Repl.)). DHCF received and considered comments in response to the first emergency and proposed rules and promulgated a Notice of Second Emergency and Proposed Rulemaking, which was published in the *D.C. Register* on March 6, 2015, at 62 DCR 002786. The second emergency and proposed rules amended the previous emergency and proposed rulemaking by increasing the rates for periodic services, using the approved rate methodology, to reflect the increase in the D.C. Living Wage for 2015 to comply with the Living Wage Act. DHCF did not receive written comments to the second emergency and proposed rulemaking but promulgated a Notice of Third Emergency and Proposed Rulemaking, which was published in the *D.C. Register* on May 22, 2015, at 62 DCR 006710, to continue the changes reflected in the first two notices of emergency and proposed

rulemaking described above. The third emergency and proposed rules were adopted on May 8, 2015, became effective on that date, and will remain in effect until September 5, 2015. No comments were received and no changes were made to the third emergency and proposed rules.

The DHCF Director adopted these rules as final on August 14, 2015, and they shall become effective on the date of publication of this notice in the *D.C. Register*.

Chapter 19, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Section 1934, SUPPORTED LIVING SERVICES, is amended to read as follows:

1934 SUPPORTED LIVING SERVICES

1934.1 The purpose of this section is to establish standards governing Medicaid eligibility for supported living services under the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (Waiver) and to establish conditions of participation for providers of supported living services for Medicaid reimbursement.

1934.2 Supported living services are provided to persons enrolled in the Waiver who have limited informal supports and have an assessed need for assistance with acquisition, retention, or improvement in skills related to activities of daily living, and who require assistance with the development of social and adaptive skills that are necessary to enable the person to reside in the community and successfully participate in community activities.

1934.3 To be eligible for all Medicaid reimbursable supported living services, each person shall:

- (a) Have a documented need for assistance with acquisition, retention or improvement in skills related to activities of daily living;
- (b) Require assistance with the development of social and adaptive skills necessary to enable the person to reside in the community and successfully participate in community activities; and
- (c) Have an Individual Support Plan (ISP) and Plan of Care that identifies the need for supported living services.

1934.4 To be eligible for Medicaid reimbursement, twenty-four (24) hour one-to-one supported living services in a single occupancy supported living residence (SLR), each person shall:

- (a) Have a history of challenging behaviors that may put others at risk;

- (b) Require intensive supports as determined by a psychological assessment which is updated annually or pursuant to a court order; and
 - (c) Have a behavior support plan (BSP) that identifies the challenging behaviors and the need for one-to-one supervision that was approved by the Department on Disability Services (DDS).
- 1934.5 Persons eligible for Medicaid reimbursable twenty-four (24) hour supported living services with skilled nursing must have a circulatory, respiratory, gastro-intestinal, or neurological condition or any other serious medical condition that requires frequent monitoring or at least hourly care.
- 1934.6 To be eligible for Medicaid reimbursable twenty-four (24) hour supported living with skilled nursing services, the following documents shall be required:
 - (a) A physician's order or an advanced practice registered nurse's (APRN) order documenting the scope, frequency, and duration of skilled nursing services; and
 - (b) A concise statement which sets forth the presenting problem that requires supported living with skilled nursing services and includes the responsibilities of the nurse.
- 1934.7 In order to be eligible for Medicaid reimbursable supported living periodic services in an SLR, each person shall:
 - (a) Demonstrate a need for the acquisition, and improvement of skills related to activities of daily living and the social and adaptive skills necessary for community residence, as indicated in the ISP; and
 - (b) Be willing to be supported in their own home or SLR's without twenty-four (24) hour supports and supervision.
- 1934.8 Medicaid reimbursable supported living services shall be provided in one of the following types of residences:
 - (a) An SLR owned or leased by a Waiver provider; or
 - (b) A home owned or leased by the person receiving supported living services.
- 1934.9 In order to be eligible for Medicaid reimbursement, each provider, including an out-of-state provider of supported living services, shall be a Waiver provider agency and meet the following requirements:

- (a) Comply with Section 1904 (Provider Qualifications) and Section 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 DCMR;
- (b) Provide verification of passing the DDS Provider Certification Review; and
- (c) Have at least three (3) years of experience providing in-home supports services or respite services, unless waived by DDS, when applicable.

1934.10 In addition to the requirements described under § 1934.9, each out-of-state provider shall comply with the following additional requirements to receive Medicaid reimbursement:

- (a) Remain in good standing in the jurisdiction where the program is located, if licensed or certified by the host state;
- (b) Submit a copy of the annual certification or survey performed by the host state and provider's corrective action, if applicable, to DDS; and
- (c) Allow authorized agents of the District of Columbia government, federal government, and governmental officials of the host state full access to all sites and records for audits and other reviews.

1934.11 Medicaid reimbursable supported living services may be provided with or without transportation. Each Medicaid provider shall comply with the requirements set forth in Subsection 1904.5 of Title 29 DCMR, if transportation services are provided to enable persons to gain access to Waiver services and other community services and activities in a safe and efficient manner.

1934.12 If transportation services are provided by the Direct Support Professional (DSP), such that the DSP drives the person in the vehicle provided by the provider, the DSP shall meet the requirements governing transportation services set forth in Subsections 1904.5(j) and (k) (Provider Qualifications) of Chapter 19 of Title 29 DCMR.

1934.13 When Medicaid reimbursable supported living services are provided in an SLR, the SLR shall serve one (1) to three (3) related or unrelated persons. With the exception of couples who chose to share a bedroom, the number of persons in the SLR shall not exceed the number of bedrooms in the residence unless written approval from DDS is obtained.

1934.14 In order to receive Medicaid reimbursement, the Waiver provider shall include the person living in the residence in the lease, when the SLR is owned or leased by the Waiver provider, unless the person does not meet the leasing eligibility criteria.

- 1934.15 In order to be eligible for Medicaid reimbursement, each SLR located out-of-state shall be licensed or certified in accordance with the host state's laws and regulations and must adhere to the terms and conditions set forth in an agreement between the District of Columbia and the host state.
- 1934.16 Each DSP shall meet all of the requirements set forth in Section 1906 (Requirements for Persons Providing Direct Services) of Chapter 19 of Title 29 DCMR.
- 1934.17 Each provider of Medicaid reimbursable supported living services shall assist persons in the acquisition, retention, and improvement of skills related to activities of daily living, and other social and adaptive skills necessary to enable the person to become a fully integrated member of their community. To accomplish these goals, the provider shall:
- (a) Use observation, conversation, and other interactions guided by a person-centered planning process to develop a functional assessment of the person's capabilities within the person's first month of service;
 - (b) Develop a support plan with measurable outcomes using the functional assessment that was developed using a person-centered planning process, the ISP and Plan of Care, and other available information;
 - (c) Develop and submit a quarterly report to the person, guardian, other members of the Support Team, and the DDS Service Coordinator describing the activities and support provided to help the person achieve identified outcomes and include progress to date; and
 - (d) Develop and implement the Health Management Care Plan, when necessary.
- 1934.18 Each provider of Medicaid reimbursable supported living services shall ensure that each person receives the level of support he/she needs for habilitation and other supports, when appropriate, which shall include, but not be limited to, support for the following categories:
- (a) Eating and food preparation;
 - (b) Personal hygiene;
 - (c) Dressing;
 - (d) Monitoring medication administration and healthcare needs;
 - (e) Communications;

- (f) Interpersonal and social skills;
- (g) Household chores;
- (h) Mobility;
- (i) Financial management;
- (j) Motor and perceptual skills;
- (k) Problem-solving and decision-making;
- (l) Human sexuality;
- (m) Opportunity for individual social, recreational, and religious activities utilizing community resources based on the person's interests, beliefs, culture, and preferences; and
- (n) Ensuring that adaptive equipment is appropriate, functioning and well maintained.

1934.19 Each provider of Medicaid reimbursable supported living services shall ensure that staff delivering day habilitation, employment readiness, or supported employment services shall receive training about the person's health care needs as identified by the nurse, and are informed about any needs identified in the person's Health Management Care Plan and BSP.

1934.20 Each provider of Medicaid reimbursable supported living services shall ensure that each person enrolled in the Waiver receives the professional services required to meet his or her goals as identified in the person's ISP and Plan of Care. Professional services may include, but are not limited to, the following disciplines:

- (a) Medicine;
- (b) Dentistry;
- (c) Education;
- (d) Nutrition;
- (e) Nursing;
- (f) Occupational therapy;
- (g) Physical therapy;

- (h) Psychology;
- (i) Social work; and
- (j) Speech, hearing, and language therapy.

1934.21 Each provider of Medicaid reimbursable twenty-four (24) hour supported living services with skilled nursing shall:

- (a) Provide skilled nursing services and supports to the person living in the SLR;
- (b) Complete any skilled nursing assessment and document hourly nursing interventions and treatments; and
- (c) Provide as appropriate, all of the supported living activities listed in Subsections 1934.18 and 1934.19, and Subsection 1934.20.

1934.22 In order to be eligible for Medicaid reimbursement, the duties of a registered nurse delivering twenty-four (24) hour supported living services with skilled nursing shall be consistent with the scope of practice standards for registered nurses set forth in Section 5414 of Title 17 DCMR. At a minimum, they shall include the following duties:

- (a) Prepare an initial routine physical assessment, including an individualized service nursing plan and evaluation;
- (b) Assist in the development of the Health Management Care Plan;
- (c) Coordinate the person's care and referrals;
- (d) Administer medications and treatment as prescribed by a legally authorized healthcare professional licensed in the District of Columbia, or consistent with the requirements of the appropriate jurisdiction;
- (e) Provide oversight of non-licensed medication administration personnel;
- (f) Provide wound care, tube feeding, diabetic care, and other treatment regimens prescribed by the physician, as needed;
- (g) Provide oversight and supervision to a licensed practical nurse, when delegating and assigning nursing interventions;
- (h) Record progress notes during each visit and complete quarterly reports; and

- (i) Provide training to the day habilitation, employment readiness, and supported employment staff on the person's healthcare needs by the nurse, including needs identified in the Health Management Care Plan, if applicable.

1934.23 In order to be eligible for Medicaid reimbursement, the duties of a licensed practical nurse delivering twenty-four (24) hour supported living services with skilled nursing, shall be consistent with the scope of practice standards for a licensed practical nurse set forth in Chapter 55 of Title 17 DCMR. At a minimum, they shall include the following duties:

- (a) Record progress notes during each visit and on quarterly reports;
- (b) Report immediately, any changes in the person's condition, to the supervising registered nurse;
- (c) Provide wound care, tube feeding, diabetic care, and other treatment regimens prescribed by the physician; and
- (d) Administer medications and treatment as prescribed by a legally authorized healthcare professional licensed in the District of Columbia or consistent with the requirements of the jurisdiction in which the healthcare professional is licensed.

1934.24 Medicaid reimbursable supported living one-to-one services in a single occupancy means services provided to one person exclusively by a supported living service provider who has been trained in all general requirements and possesses all training required to implement the person's specific behavioral and/or clinical protocols and support plans for a pre-authorized length of time.

1934.25 Medicaid reimbursable supported living one-to-one services in a single-occupancy SLR shall only be permitted with prior annual approval by the DDS Human Rights Committee and Restrictive Control Review Committee, or a medical treatment plan signed by the person's physician. Providers delivering one-to-one services shall require the person to have a BSP that reflects the need for one-to-one supervision.

1934.26 The BSP shall be developed according to the requirements set forth in the DDA/DDS Behavioral Supports Policy and Procedure available at: <http://dds.dc.gov/page/policies-and-procedures-dda>.

1934.27 If providers of Medicaid reimbursable supported living services are delivering one-to-one supported living services pursuant to a BSP, the assessment shall be updated on an annual basis to determine if the services are necessary.

- 1934.28 If one-to-one supported living services are delivered pursuant to a court order, the order shall be verified on an annual basis, to determine if the services are necessary.
- 1934.29 Services shall only be authorized for Medicaid reimbursement in accordance with the following provider requirement procedures:
- (a) DDS shall provide a written service authorization before the commencement of services;
 - (b) The service name and Waiver provider delivering services must be identified in the ISP and Plan of Care;
 - (c) The ISP, Plan of Care, and Summary of Supports and Services must document the amount and frequency of services to be received; and
 - (d) The services to be provided shall not conflict with the service limitations described under Subsection 1934.33.
- 1934.30 Each provider of Medicaid reimbursable supported living services shall maintain the records as prescribed under Section 1909 of Chapter 19 of Title 29 DCMR for monitoring and audit purposes for each person receiving services and shall also maintain the following documents:
- (a) If providing twenty-four (24) hour supported living services in a single occupancy or one-to-one supports, a copy of the annual BSP or court order;
 - (b) A daily log of scheduled activities to include those activities participated in by the person and a schedule of when the person is in his or her home;
 - (c) The records of any nursing care, procedures, and other supports related to the development and management of the Health Management Care Plan;
 - (d) A record of monitoring and maintenance of adaptive equipment, if applicable;
 - (e) A copy of the physician's order or an APRN's order specifying the type, frequency, scope, and duration of the skilled nursing services, if applicable;
 - (f) A copy of the job description detailing the duties of the nurse delivering the service, if applicable; and
 - (g) A copy of each assessment that the nurse has conducted and documentation of the hourly nursing interventions and treatments, if

applicable.

- 1934.31 Each provider of Medicaid reimbursable supported living services shall meet the requirements described under Section 1908 (Reporting Requirements) and Section 1911 (Individual Rights) of Chapter 19 of Title 29 DCMR.
- 1934.32 Each provider of Medicaid reimbursable supported living services shall comply with the following requirements:
- (a) Provide access and information as requested for service coordination visits and reviews;
 - (b) Review the person's ISP and Plan of Care goals, objectives, and activities at least quarterly and more often, as necessary and submit the results of these reviews to the DDS Service Coordinator no later than seven (7) business days after the end of the first quarter, and each subsequent quarter thereafter;
 - (c) Submit a quarterly report to the person, guardian, other members of the Support Team, and the DDS Service Coordinator describing the activities and support provided to help the person achieve his/her identified outcomes and his/her progress to date;
 - (d) Propose modifications to the ISP and Plan of Care, as appropriate;
 - (e) Participate in ISP and Plan of Care development;
 - (f) Assist in the coordination of all services that a person may receive by ensuring that all recommended and accepted modifications to the ISP are amended to the current ISP; and
 - (g) Coordinate the delivery of necessary behavioral support services, skilled nursing services, and other services, such as occupational therapy, physical therapy, from approved Waiver providers of those services based on the requirements of the ISP and Plan of Care.
- 1934.33 Reimbursement for Medicaid reimbursable supported living services shall not include:
- (a) Cost of room and board;
 - (b) Cost of facility maintenance, upkeep and improvement, modifications or adaptations to an SLR or home to meet the requirements of the applicable life safety code;
 - (c) Safety monitoring as a stand-alone task;

- (d) Activities for which payment is made by a source other than Medicaid;
 - (e) Time when the person is in school or employed; and
 - (f) Time when the person is hospitalized, on vacation independently, or any other time in which the person is not receiving direct care staff support from a provider.
- 1934.34 Medicaid reimbursable supported living services shall not include services delivered by the person's relative.
- 1934.35 Medicaid reimbursable supported living skilled nursing services shall not include custodial care.
- 1934.36 Medicaid reimbursable supported living services shall not be authorized concurrently with the following Waiver services:
- (a) Residential Habilitation;
 - (b) Respite;
 - (c) Host Home;
 - (d) Shared Living;
 - (e) In-Home Supports; and
 - (f) Transportation, when the provider chooses to provide supported living services with transportation services.
- 1934.37 The reimbursement rate for Medicaid reimbursable supported living services shall be calculated based on the staff on duty and shall include:
- (a) All supervision of the DSP;
 - (b) All nursing provided in the residence for medication administration, physician ordered protocols and procedures, charting, other supports as per physician's orders, and maintenance of a Health Management Care Plan;
 - (c) All transportation, if applicable;
 - (d) Programmatic supplies and fees;
 - (e) Functioning adaptive equipment as ordered by a clinician;

- (f) Quality assurance costs, such as incident management systems and staff development; and
- (g) General administrative fees for Waiver services.

1934.38 Supported living services shall be Medicaid reimbursable for emergency situations when the person is not physically residing at the SLR or home, but is temporarily residing in a hotel or other facility and continues to receive support from the provider.

1934.39 An acuity evaluation to set levels of support shall be determined by the Support Team and approved by the DDS Waiver Unit through review of current staffing levels; available health and behavioral records; and any available standardized acuity instrument results to determine if a person has a health or behavioral acuity that requires increased supports. A person may be assessed at a support level that is consistent with their current staffing level if other acuity indicators are not in place.

1934.40 Skilled nursing that is incorporated into the supported living Medicaid reimbursement rate is for routine physical assessment, the development of the Health Management Care Plan, nursing assessment, oversight of adaptive equipment, assistance with medication administration by non-licensed personnel, or actual administration of medication.

1934.41 The Medicaid reimbursement rate for supported living services without transportation shall be as follows:

- (a) Basic Support Level 1: Provides asleep overnight support for a home with three (3) residents and a direct care staff support ratio of 1:3 during all hours when individuals are awake and receiving services. The reimbursement rate shall be two hundred fifty-six dollars and three cents (\$256.03) per day;
- (b) Basic Support Level 2: Provides awake overnight support for a home with three (3) residents and a direct care staff support ratio of 1:3 for staff awake overnight and 1:3 during all awake hours when the residents are receiving services. The reimbursement rate shall be two hundred seventy-four dollars and eighteen cents (\$274.18) per day;
- (c) Moderate Support Level 1: Provides asleep overnight support for a home with three (3) residents and a direct care staff support ratio of 2:3 for eight (8) hours a day, 1:3 during the remaining awake hours, and 1:3 staff asleep overnight coverage. The reimbursement rate shall be three hundred twenty dollars and ninety one cents (\$320.91) per day;

- (d) Moderate Support Level 2: Provides awake overnight support for a home with three (3) residents and a direct care staff support ratio of 2:3 for eight (8) hours a day, 1:3 during remaining awake hours, and 1:3 staff awake coverage overnight. The reimbursement rate shall be three hundred thirty-nine dollars and six cents (\$339.06) per day;
- (e) Intensive Support Level 1: Provides support for a home with three (3) residents and a direct care staff support ratio of 1:3 for staff awake overnight and 2:3 during all awake hours when the residents are receiving services and adjusted for increased absenteeism from day and employment programs. The reimbursement rate shall be three hundred seventy-eight dollars and seventy-four cents (\$378.74) per day;
- (f) Intensive Support Level 2: Provides support for a home with three (3) residents and a direct care staff support ratio of 2:3 for staff awake overnight and 2:3 during all awake hours when the residents are receiving services and adjusted for increased absenteeism from day and employment programs. The reimbursement rate shall be four hundred thirty-eight dollars and ninety-five cents (\$438.95) per day;
- (g) Basic Support Level 1: Provides asleep overnight support for a home with two (2) residents and a direct care staff support ratio of 1:2 during all hours when individuals are awake and receiving services. The reimbursement rate shall be three hundred and nineteen dollars and nine cents (\$319.09) per day;
- (h) Basic Support Level 2: Provides awake overnight support for a home with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 1:2 during all awake hours when the residents are receiving services. The reimbursement rate shall be three hundred and forty-six dollars and four cents (\$346.04) per day;
- (i) Moderate Support Level 1: Provides awake overnight support for a home with two (2) residents and a direct care staff support ratio of 2:2 for four (4) hours a day, 1:2 during remaining awake hours and 1:2 staff awake coverage over night. The reimbursement rate shall be four hundred and ten dollars and forty-one cents (\$410.41) per day;
- (j) Moderate Support Level 2: Provides support in a SLR with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 2:2 for eight (8) hours a day, 1:2 during remaining awake hours when residents are in the home and adjusted for increased absenteeism. The rate shall be four hundred and ninety-five dollars and seventy-one cents (\$495.71) per day;

- (k) Intensive Support Level 1: Provides support in a home with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 2:2 for all awake hours when residents are in the home and adjusted for increased absenteeism. The rate shall be five hundred and thirty-four dollars (\$534.00) per day;
- (l) Supported living periodic services, as described under Subsection 1934.6, shall be authorized up to sixteen (16) hours per day without transportation. The hourly rate shall be twenty-three dollars and eighty-eight cents (\$23.88) billable in quarter hour units (fifteen minutes) of five dollars and ninety-seven cents (\$5.97) per billable unit;
- (m) There shall be a specialized service rate for supported living with skilled nursing services, described under Subsection 1934.5. The rate shall be six hundred and two dollars and fifty-four cents (\$602.54) per day without transportation, when there are at least three (3) people living in the SLR or residing in a home that require skilled nursing services and demonstrate extraordinary medical needs; and
- (n) There shall be a specialized service rate for twenty-four hour one-to-one supported living service for a person living in a single occupancy SLR, described under Subsection 1934.4. The rate shall be five hundred sixty-three dollars and twenty cents (\$563.20) for asleep overnight staff and six hundred and twenty-four dollars (\$624.29) for one-to-one awake overnight staff.

1934.42 The Medicaid reimbursement rate for supported living services with transportation shall be as follows:

- (a) Basic Support Level 1: Provides asleep overnight support for a home with three (3) residents and a direct care staff support ratio of 1:3 during all hours. The reimbursement rate shall be two hundred seventy-six dollars and thirty-seven cents (\$276.37) per day;
- (b) Basic Support Level 2: Provides awake overnight support for a home with three (3) residents and a direct care staff support ratio of 1:3 for staff awake overnight and 1:3 during all awake hours. The reimbursement rate shall be two hundred and ninety-four dollars and fifty-two cents (\$294.52) per day;
- (c) Moderate Support Level 1: Provides asleep overnight support for a home with three (3) residents and a direct care staff support ratio of 2:3 for eight (8) hours a day, 1:3 during the remaining awake hours, and 1:3 staff asleep overnight coverage. The reimbursement rate shall be three hundred and forty-one dollars and twenty-five cents (\$341.25) per day;

- (d) Moderate Support Level 2: Provides awake overnight support for a home with three (3) residents and a direct care staff support ratio of 2:3 for eight (8) hours a day, 1:3 during remaining awake hours, and 1:3 staff awake coverage overnight. The reimbursement rate shall be three hundred and fifty-nine dollars and forty cents (\$359.40) per day;
- (e) Intensive Support Level 1: Provides support for a home with three (3) residents and a direct care staff support ratio of 1:3 for staff awake overnight and 2:3 during all awake hours when the residents are receiving services and adjusted for increased absenteeism from day and employment programs. The reimbursement rate shall be three hundred and ninety-nine dollars and eight cents (\$399.08) per day;
- (f) Intensive Support Level 2: Provides support for a home with three (3) residents and a direct care staff support ratio of 2:3 for staff awake overnight and 2:3 during all awake hours when the residents are receiving services and adjusted for increased absenteeism from day and employment programs. The reimbursement rate shall be four hundred and fifty-nine dollars and twenty-nine cents (\$459.29) per day;
- (g) Basic Support Level 1: Provides asleep overnight support for a home with two (2) residents and a direct care staff support ratio of 1:2 staff asleep overnight coverage and 1:2 staff awake coverage when residents are receiving services. The reimbursement rate shall be three hundred and thirty-nine dollars and forty-three cents (\$339.43) per day;
- (h) Basic Support Level 2: Provides overnight support for a home with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 1:2 during all awake hours when the resident is receiving services. The reimbursement rate shall be three hundred and sixty-six dollars and thirty-eight cents (\$366.38) per day;
- (i) Moderate Support Level 1: Provides awake overnight daily rate for a home with two (2) residents and a direct care staff support ratio of 2:2 for four (4) hours a day, 1:2 during remaining awake hours and 1:2 staff awake coverage overnight shall be four hundred and thirty dollars and seventy-five cents (\$430.75) per day;
- (j) Moderate Support Level 2: Provides support in a home with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 2:2 for eight (8) hours a day, 1:2 during remaining awake hours when residents are receiving services and adjusted for increased absenteeism from day and employment programs. The reimbursement rate shall be five hundred and sixteen dollars and five cents (\$516.05) per day;

- (k) Intensive Support Level 1: Provides support in a home with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 2:2 for all awake hours when residents are receiving services and adjusted for increased absenteeism from day and employment programs. The reimbursement rate shall be five hundred and fifty-four dollars and thirty-four cents (\$554.34) per day;
- (l) Supported Living periodic services, described under Subsection 1934.6, shall be authorized up to sixteen (16) hours per day. The hourly rate shall be twenty six dollars and forty-four cents (\$26.44) per hour billable in quarter hour units of six dollars and sixty-one cents (\$6.61) per fifteen (15) minute unit; and
- (m) There shall be a specialized service rate for supported living with skilled nursing services, described under Subsection 1934.5. The reimbursement rate is six hundred and twenty-two dollars and eighty-eight cents (\$622.88) per day, when there are at least three (3) people living in the SLR or home who require Skilled Nursing Services and demonstrate extraordinary medical needs.
- (n) There shall be a specialized service rate for twenty-four hour one-to-one supported living service for a person living in a single occupancy SLR, described under Subsection 1934.4. The reimbursement rate is five hundred and eighty-three dollars and fifty-four cents (\$583.54) for asleep overnight staff and six hundred and forty-four dollars and sixty-three cents (\$644.63) for one-to-one awake overnight staff.

1934.43 For purposes of staffing and determining the Medicaid reimbursement rates for supported living services, awake hours of the day with absence from day program, weekend, or holiday shall be the time period between 6:00 a.m. to 10:00 p.m., and for purposes of awake hours for all other days shall be the time period from 6:00 a.m. to 10:00 a.m. and 2:00 p.m. to 10:00 p.m.

1934.44 For purposes of staffing and determining the Medicaid reimbursement rates for supported living services, the overnight period shall be the time period between 10:00 p.m. to 6:00 a.m.

1934.45 The billable unit of service for Medicaid reimbursable supported living services excluding periodic supported living services, shall be one (1) day (*i.e.* twenty-four (24) hours).

1934.46 The Medicaid reimbursement rate assumes a ninety-three percent (93%) annual occupancy and includes any unanticipated absences due to illness from any day/vocational services.

- 1934.47 Each provider of Medicaid reimbursable supported living services shall maintain the staffing ratio, described under Subsections 1934.40 and 1934.41, associated with the approved acuity rate for the residence. The DDA Service Coordinator shall generate an incident report if it is discovered that the staffing ratio is not maintained during DDA's quarterly visits to the SLR.
- 1934.48 The Medicaid provider shall notify the DDS Service Coordinator to schedule a meeting to address the cause of any unanticipated absences that may result in a less than ninety-three percent (93%) occupancy rate or a reduced staffing ratio.
- 1934.49 Daily activities including participation in day programs such as day habilitation services, individualized day supports services, employment readiness or supported employment services, and are typically scheduled for five (5) hours per day, five (5) days per week. The reimbursement rate for Medicaid reimbursable supported living periodic services shall not include any period of time during which the person is enrolled in a day program.
- 1934.50 Medicaid reimbursable supported living periodic services are calculated based on the time the person is scheduled to be in their place of residence, except the provider may include the time the person is being transported by the provider to day programs, employment, professional appointments, community activities, and events.

Section 1999, DEFINITIONS, is amended by adding the following:

Couples - A couple refers to those married or unmarried persons in a relationship, including same-sex relationships.

Health Management Care Plan - A written document designed to evaluate a person's health care status and to provide recommendations regarding the treatment and amelioration of health care issues by identifying types of risk, interventions to manage identified risks, persons responsible for carrying out interventions, and persons responsible for providing an evaluation of outcomes and timeframes.

Person – An individual enrolled in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities.

Supported Living Residence (SLR) - A residence owned or leased by the provider or a residence owned or leased by the person receiving services.

D.C. DEPARTMENT OF HUMAN RESOURCES**NOTICE OF FINAL RULEMAKING**

The Director of the D.C. Department of Human Resources (DCHR), with the concurrence of the City Administrator, pursuant to the authority under Mayor's Order 2008-92, dated June 26, 2008; in accordance with the Jobs for D.C. Residents Amendment Act of 2007, effective February 6, 2008 (D.C. Law 17-108; D.C. Official Code §1-515.01 (2012 Repl.)); and in accordance with the provisions of Sections 801(e), 859, 957, and 1059 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-608.01 (e), 1-608.59, 1-609.57, and 1-610.59 (2014 Repl.)), hereby gives notice of the intent to adopt rules to amend Chapter 3 (Residency), of Subtitle B of Title 6 (Government Personnel), of the District of Columbia Municipal Regulations (DCMR).

The rulemaking amends Chapter 3to: (1) amend Section 301 to incorporate language relating to the implementation of DCHR's Applicant Tracking System (ATS) that will require that the ten (10) points for the residency preference be awarded at the rating and ranking stage; (2) delete the provisions on the residency preference in employment for attorneys in the Excepted Service currently in Section 302; (3) amend Section 309 to clarify the submission of employee information to the Office of Tax and Revenue; (4) and amend Section 307 to delete the requirement to hold a prehearing conference prior to an evidentiary residency hearing and to update the rules to allow for a more consistent and transparent process. Finally, non-substantive changes are being made in Sections 301, 304, 305, 306, 307 309, and 399.

No comments were received and no changes were made to the rules as published in a Notice of Proposed Rulemaking published May 8, 2015 at 61 DCR 005752. The rules were adopted as final on July 10, 2015 and shall become effective upon publication of this notice of the *D.C. Register*.

Chapter 3, RESIDENCY, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is amended to read as follows:

300 APPLICABILITY

300.1 The requirements set forth in this chapter shall apply to any applicant for or any person occupying a position in the Career Service, Legal Service, including the Senior Executive Attorney Service, Excepted Service, Management Supervisory Service, or Executive Service.

301 RESIDENCY PREFERENCE FOR EMPLOYMENT IN THE CAREER, EDUCATIONAL, LEGAL, AND MANAGEMENT SUPERVISORY SERVICES

301.1 A person who applies for competitive employment in the Career Service, Educational Service, Legal Service other than the Senior Executive Attorney Service, or Management Supervisory Service and who is a bona fide resident of the District of Columbia shall be awarded a residency preference of ten (10) points at the rating and ranking stage, unless the person declines the preference points.

- 301.2 An employee who applies for a competitive promotion in the services listed in Subsection 301.1 who is a bona fide resident of the District of Columbia shall be awarded a residency preference of ten (10) points at the rating and ranking stage, unless the employee declines the preference points.
- 301.3 When a person is selected for a position and awarded the residency preference points pursuant to this section, the person shall submit proof of bona fide residency.
- 301.4 Except as provided in Subsection 301.13, an applicant or employee awarded the ten (10) point residency preference and selected for a position in the services listed in Subsection 301.1, shall agree in writing at the time of appointment to maintain bona fide District residency for a period of seven (7) consecutive years from the effective date of appointment.
- 301.5 The requirement to maintain bona fide District residency as provided in Subsection 301.4 shall be applicable to any applicant or employee who claims a residency preference and is selected for the position on or after February 6, 2008.
- 301.6 Failure to maintain bona fide District residency as provided in Subsections 301.4 or 301.5 shall result in forfeiture of employment.
- 301.7 For all competitive employment appointments, the personnel authority shall rank applicants on a one hundred (100) point scale. Applicants entitled to a residency preference shall have their total score increased by an additional ten (10) points at the rating and ranking stage. For example, a residency preference applicant who is scored a one hundred (100) on the one hundred (100) point scale will have a total score of one hundred and ten (110) points.
- 301.8 To fill a position in any of the services listed in Subsection 301.1 when two (2) or more applicants have the same numerical rating, the applicant awarded the ten (10) point preference shall be listed and selected ahead of the non-preference candidate.
- 301.9 Each applicant for a position in any of the services listed in Subsection 301.1 shall be informed in writing by the personnel authority of the provisions of Subsections 301.1 through 301.8.
- 301.10 Each person who is awarded a ten (10) point residency preference and who is competitively selected for a position in any of the services listed in Subsection 301.1 shall be informed, in writing, by the personnel authority, no later than the effective date of the appointment, of the requirement to maintain bona fide District residency for a period of seven (7) consecutive years from the effective date of appointment and that failure to do so shall result in forfeiture of employment.
- 301.11 In order to be a bona fide resident of the District of Columbia, a person must maintain a place of abode in the District of Columbia as his or her actual, regular, and principal place of residence and must have the intent to remain in the District for a minimum of seven (7) consecutive years from the date of appointment.

301.12 Any person who meets either of the following criteria shall be granted a residency preference at the rating and ranking stage for a competitive promotion in any of the services listed in Subsection 301.1:

- (a) Any person who was employed by the District of Columbia government on December 31, 1979, and who is still employed by the District of Columbia government without having had a break in service of one (1) workday or more since that date; or
- (b) Pursuant to the provisions of Section 7 of the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (Pub. L. No. 98-621; 98 Stat. 3376; 24 U.S.C. § 225e (b)) (Pub. L. No. 98-621), any former employee of the U.S. Department of Health and Human Services at St. Elizabeths Hospital who accepted employment with the District government without a break in service effective October 1, 1987, and who has not had a break in service since that date.

301.13 Each applicant for appointment or promotion shall be required to indicate at the time of application his or her claim to residency preference in a manner prescribed by the Mayor.

302 [RESERVED]

303 RESIDENCY PREFERENCE IN REDUCTION IN FORCE

303.1 Preference shall be given in a reduction in force conducted pursuant to Chapter 24 of these regulations by adding three (3) years of service credit to the service computation date of all of the following:

- (a) Each competing employee who is a bona fide resident of the District of Columbia;
- (b) Each competing employee who is not a resident of the District of Columbia, but who was hired prior to January 1, 1980 and has continued employment without a break in service of one (1) workday or more since that date; and
- (c) Each competing employee who is not a resident of the District of Columbia, but who was a former employee of the U.S. Department of Health & Human Services at St. Elizabeths Hospital who accepted employment with the District government without a break in service effective October 1, 1987, and who has continued employment without a break in service of one (1) workday or more since that date.

303.2 When the provisions of this section conflict with the provisions of an effective collective bargaining agreement, the provisions of the collective bargaining agreement shall govern to the extent that there is a conflict.

304 SENIOR EXECUTIVE ATTORNEY SERVICE RESIDENCY REQUIREMENT

- 304.1 Any attorney appointed to the Senior Executive Attorney Service (SEAS) under the authority of D.C. Official Code §§ 1-608.51 *et seq.* (2012 Repl.) shall:
- (a) Be a bona fide resident of the District of Columbia at the time of appointment and remain a District resident for the duration of employment; or
 - (b) Become a bona fide resident of the District of Columbia within one-hundred eighty (180) days of his or her appointment and remain a District resident for the duration of employment.
- 304.2 Each person appointed to the SEAS shall be informed in writing by the personnel authority of the residency provisions of Subsections 304.1 and 304.4 before the effective date of appointment.
- 304.3 On the date of appointment, each person appointed to the SEAS shall be informed in writing by the personnel authority of the residency provisions of Subsections 304.1 and 304.4.
- 304.4 Failure to meet the residency requirement set forth in Subsection 304.1 shall result in forfeiture of employment.
- 304.5 The residency requirement set forth in this section shall not apply to any person appointed to the SEAS who meets either of the following criteria:
- (a) Any person who was employed by the District of Columbia government on December 31, 1979, and who is still employed by the District of Columbia government without having had a break in service of one (1) workday or more since that date; or
 - (b) Pursuant to the provisions of Section 7 of Pub. L. 98-621, any former employee of the U.S. Department of Health and Human services at St. Elizabeths Hospital who accepted employment with the District government without a break in service effective October 1, 1987, and who has not had a break in service since that date.
- 304.6 Upon request, the Director of the D.C. Department of Human Resources (Director of DCHR), may waive the residency requirement for a new hire appointed to a hard to fill position in the SEAS, as follows:
- (a) The Attorney General in the case of the OAG and any independent personnel authority subject to D.C. Official Code §§ 1-608.51 *et seq.* (2012 Repl.), may request a waiver of the residency requirement to the Director of DCHR, for a new hire appointed to a hard to fill position in the SEAS.
 - (b) For the purposes of this section, the term “hard to fill position” shall have the meaning ascribed in Section 399 of this chapter, except that a SEAS position shall be designated as hard to fill only by the Director of DCHR.

- (c) Any request for a waiver shall be in writing, made and granted before the effective date of appointment of the candidate for the waiver.
- (d) Any request for a waiver shall include appropriate documentation and information to demonstrate that the position is hard to fill and justify consideration of the request. Appropriate documentation and information demonstrating that the position is hard to fill shall include but not be limited to:
 - (1) A statement containing the qualification requirements for the position, and explaining the uniqueness of the duties and responsibilities of the position and the unusual combination of highly specialized qualification requirements which make it hard to fill;
 - (2) A copy of the position description or statement of duties for the position;
 - (3) A copy of the recruitment plan for the position or a statement explaining the recruitment plan;
 - (4) Copies of any vacancy announcements or other types of advertisement issued and published for the position;
 - (5) A statement detailing any special outreach and recruitment efforts undertaken in trying to fill the position and the date on which recruitment efforts to fill the position began;
 - (6) The employment application or résumé of the person for which the waiver is being requested; and
 - (7) A statement explaining the reasons why the waiver should be granted.

304.7 Upon receipt of a request for a waiver pursuant to this section, the Director of DCHR, shall promptly determine whether to grant the waiver and notify the requestor of the decision, in writing.

304.8 Any employee occupying a position in the SEAS for which a waiver of the residency requirement has been granted pursuant to Subsection 304.6 shall be exempt from the residency requirement for as long as he or she continues to occupy that position.

305 EXCEPTED SERVICE AND EXECUTIVE SERVICE DOMICILE REQUIREMENT

305.1 Except as provided in Subsections 305.8 and 305.9, any person who is appointed to a position in the Excepted Service, or the Executive Service on or after October 1, 2002 shall meet one (1) of the following criteria:

- (a) Be a domiciliary of the District of Columbia at the time of appointment and maintain such domicile for the duration of his or her employment; or
- (b) Become a domiciliary of the District of Columbia within one-hundred eighty (180) days of the date of his or her appointment and maintain such domicile for the duration of his or her employment.

305.2 Failure to meet the domicile requirement set forth in Subsection 305.1 shall result in forfeiture of employment.

305.3 Notwithstanding the provisions of Subsections 305.1 and 305.2, a person nominated to serve in an acting or interim capacity in an Executive Service position or appointed to an Excepted Service position requiring confirmation by the Council of the District of Columbia (Council) shall not become subject to the domicile requirement until after confirmation by the Council and promulgation of a Mayor's Order or a personnel action appointing him or her to the position. Specifically, such person shall become a domiciliary of the District of Columbia within one-hundred eighty (180) days from the date specified in the Mayor's Order as the date of appointment, or from the effective date of the personnel action processed after Council confirmation to appoint him or her to the position, whichever occurs first. The personnel authority shall inform each employee to whom this subsection applies, in writing, of the exact date by which he or she shall meet the domicile requirement.

305.4 Except as provided in Subsections 305.7 and 305.8, any employee in the Excepted or Executive Service who was hired prior to October 1, 2002, and who was required to be or become a bona fide resident of the District of Columbia within one-hundred eighty (180) days of appointment and maintain that residency or forfeit employment, shall continue to be bound by the residency requirement that was in effect before October 1, 2002.

305.5 Each appointee to a position in the Excepted or Executive Service shall be informed in writing by the personnel authority of the provisions of Subsections 305.1 and 305.2 before the effective date of appointment.

305.6 District of Columbia domicile shall be proven by affirmative acts by an Excepted and Executive Service employee who is not a District domiciliary at the time of appointment. Proof of District of Columbia domicile shall be established and certified by meeting the requirements in Subsections 306.4 and 306.6.

305.7 The domicile requirement shall not apply to any person who meets either of the following criteria:

- (a) Any person who was employed by the District of Columbia government on December 31, 1979, and who is still employed by the District of Columbia government without having had a break in service of one (1) workday or more since that date; or

- (b) Pursuant to the provisions of Section 7 of P.L. 98-621, any former employee of the U.S. Department of Health and Human Services at St. Elizabeths Hospital who accepted employment with the District government without a break in service effective October 1, 1987, and who has not had a break in service since that date.

305.8

The personnel authority may grant a waiver of the domicile requirement to a person appointed to a position in the Excepted Service on or after October 1, 2002 under the authority of Section 903 (a)(1) and (2) of the Comprehensive Merit Personnel Act (CMPA)(D.C. Official Code § 1-609.03 (a)(1) and (2)) (2012 Repl.), who is appointed to a hard-to-fill position or presents exceptional circumstances. The Mayor (or designee) may grant a waiver of the domicile requirement to a person appointed to a position in the Executive Service on or after October 1, 2002 under the authority of Title X-A of the CMPA (D.C. Official Code §§ 1-610.51 *et seq.* (2012 Repl.)), who is appointed to a hard-to-fill position or presents exceptional circumstances. The provisions for the granting of waivers of the domicile requirement are as follows:

- (a) In the case of a hard-to-fill position in the Excepted Service, an agency head may request a waiver of the domicile requirement for the appointee to the position by submitting written justification to the personnel authority that the position is hard-to-fill. The request shall include appropriate documentation and information to demonstrate that the position is hard-to-fill and justify consideration of the request for the waiver. Appropriate documentation and information shall include:
- (1) A statement containing the qualification requirements for the position and explaining the uniqueness of the duties and responsibilities of the position and the unusual combination of highly specialized qualification requirements which make it hard-to-fill;
 - (2) A copy of the position description or statement of duties for the position;
 - (3) A copy of the recruitment plan for the position or a statement explaining the recruitment plan;
 - (4) Copies of any vacancy announcements or other types of advertisement issued and published for the position;
 - (5) A statement detailing any special outreach and recruitment efforts undertaken in trying to fill the position and the date on which recruitment efforts to fill the position began;
 - (6) The employment application or résumé of the person for which the waiver is being requested; and
 - (7) A statement setting forth the reasons that the waiver should be

granted.

- (b) Financial hardship associated with becoming a domiciliary of the District of Columbia shall not be considered as a basis for designating a position as hard-to-fill for the purpose of granting a waiver of the domicile requirement.
- (c) Upon receiving a request for a waiver of the domicile requirement for an appointee to a position in the Excepted Service deemed as hard-to-fill by the agency making the request, the personnel authority shall promptly consider the factors enumerated in Subsections 305.9(a)(1) through (7) and 305.9(b) , and any other applicable factors; determine if the position shall be designated as hard-to-fill and the waiver granted to the person appointed to the position; and notify the agency of the decision.
- (d) In designating an Executive Service position as hard-to-fill and granting a waiver of the domicile requirement to the appointee to the position in question, the Mayor (or his or her designee) shall consider the factors enumerated in Subsections 305.9(a)(1) through (7), 305.9(b), and any other factors he or she deems applicable.
- (e) Any waiver of the domicile requirement granted based on the designation of a position as hard-to-fill for that purpose shall remain in effect only for as long as the employee occupies the position for which the waiver was granted.
- (f) A determination to grant a waiver of the domicile requirement due to exceptional circumstances shall be based on personal circumstances of the appointee to the position, or a member of his or her immediate family, of such a nature that would cause extreme hardship to the person if he or she were required to become a domiciliary of the District of Columbia. Financial hardship associated with becoming a domiciliary of the District of Columbia shall not be considered as a personal circumstance for which a waiver should be granted. The determining factor for consideration by the personnel authority authorized to grant a waiver due to exceptional circumstances should be that the particular circumstances of the appointee, combined with his or her qualifications for the position and the benefit to the District government, outweigh the need to require that the person become a domiciliary of the District of Columbia.
- (g) When considering the appointment of a non-District domiciliary who is deemed as presenting exceptional circumstances to a position in the Excepted Service, the agency head (or designee) shall submit a request for a waiver of the domicile requirement for the appointee to the personnel authority, in writing, before the effective date of the appointment. The request shall include appropriate documentation and information to substantiate the claim that the appointee to the position presents exceptional circumstances that may warrant the granting of a waiver of the domicile requirement.

- (h) Upon receiving a request for a waiver of the domicile requirement for an appointee to a position in the Excepted Service due to exceptional circumstances, the personnel authority shall promptly consider the documentation and information submitted by the agency; determine if the waiver should be granted; and notify the agency of the decision.
- (i) A waiver of the domicile requirement due to exceptional circumstances granted by the Mayor (or his or her designee) to an appointee to an Executive Service position shall be based on the criteria specified in Subsection 305.9(f).
- (j) Any waiver of the domicile requirement granted due to exceptional circumstances shall remain in effect only for as long as the employee occupies the position for which the waiver was granted.

305.9 Under no circumstance shall a waiver of the domicile requirement pursuant to Subsection 305.8, regardless of the basis for the request, be granted after the effective date of appointment of the person for whom the waiver is sought. In the case of an appointee to the Executive Service, the term “effective date of appointment” means the date the person is appointed in an acting capacity.

305.10 A waiver of the residency requirement granted to an Excepted Service employee before October 1, 2002 shall remain in effect for as long as the employee occupies the position for which the waiver of the residency requirement was granted.

306 PROOFS, CERTIFICATION, AND DOCUMENTATION OF DISTRICT RESIDENCY

306.1 The provisions of this section apply to any person required to submit proof of bona fide District residency or, in the case of persons appointed to the Excepted and Executive Services on or after October 1, 2002, proof of District of Columbia domicile.

306.2 Documentation, certification, and affidavits required shall be in a form prescribed by the personnel authority.

306.3 No single document is conclusive in order to determine bona fide residency; however, the following may be considered:

- (a) Voter registration, if any;
- (b) Motor vehicle registration, if any;
- (c) Motor vehicle driver permit, if any;
- (d) Withholding and payment of individual income taxes including:
 - (1) Copies of District of Columbia tax returns certified by the D.C.

Office of Tax and Revenue; and

- (2) Copies of certified federal tax returns filed with the U.S. Internal Revenue Service;
- (e) Certified deed or lease or rental agreement for real property;
- (f) Cancelled checks or receipts for mortgage or rental payments;
- (g) Utility bills and payment receipts;
- (h) A copy of a bank account statement in the District of Columbia in the name of the employee;
- (i) Copies of credit card or brokerage account statements mailed to the employee's principal place of residence in the District of Columbia; and
- (j) Copies of automobile insurance statements for the employee based upon the employee's principal place of residence in the District of Columbia.

306.4 When a person is required to submit documents to support a claim of bona fide District residency, no less than eight (8) of the documents set forth in Subsection 306.3 shall be submitted to the personnel authority.

306.5 For each Excepted or Executive Service appointee subject to the domicile requirement pursuant to Section 305 of this chapter, proof of District domicile or of the intent of the appointee to change his or her domicile to the District of Columbia and acquire a principal place of residence in the District of Columbia shall include the following documents in addition to a minimum of four (4) of the documents set forth in Subsection 306.3:

- (a) A copy of a change of address form filed with the United States Postal Service containing the address of the employee's principal place of residence in the District of Columbia;
- (b) A copy of an executed contract of sale for the real property that was the employee's principal place of residence at the time of accepting the employment, if the employee owns a principal place of residence outside of the District of Columbia; or a copy of a change in the public records of the state where the employee was domiciled to show that the residence outside of the District of Columbia is no longer the employee's principal place of residence;
- (c) Copies of utility bills, including electric, gas, telephone, cable, water or other residency bills associated with occupying real property in the District of Columbia, where the billing and mailing address are the same as the principal place of residence;
- (d) A copy of a bank account statement in the District of Columbia in the name

of the employee;

- (e) A copy of District of Columbia and federal income tax returns that use the District of Columbia address which is the employee's principal place of residence;
- (f) Copies of professional dues statements mailed to the employee's principal place of residence in the District of Columbia;
- (g) A sworn affidavit from the employee that the administration of the employee's estate is subject to District of Columbia probate and estate taxes;
- (h) Copies of credit card or brokerage account statements mailed to the employee's principal place of residence in the District of Columbia;
- (i) Copies of automobile, health, and life insurance contracts for the employee based upon the employee's principal place of residence in the District of Columbia;
- (j) Copies of mortgage statements for the employee's principal place of residence in the District of Columbia, or an executed lease for the employee's principal place of residence in the District of Columbia; and
- (k) A sworn affidavit from the employee that the employee's income, from any source, is subject to District of Columbia withholding tax and taxation.

306.6 An Excepted or Executive Service employee subject to the domicile requirement shall fulfill the requirements of Subsection 306.5 by filing a sworn affidavit with the personnel authority that affirms that the employee has undertaken affirmative acts to comply with each requirement, and when the requirement is not applicable, the reasons why the requirement does not apply.

306.7 A person who claims a residency preference as provided in Subsections 301.1 or 301.2 and who is selected for the position shall, on or before the effective date of appointment or promotion, sign a statement that certifies the following:

- (a) That the person has received written notification of the residency preference requirement;
- (b) That the person has read the notice, has been given an opportunity to ask questions about the residency preference requirement, and understands the residency preference requirement;
- (c) That the person understands that failure to maintain bona fide residency in the District of Columbia for a period of seven (7) consecutive years from the effective date of appointment will result in forfeiture of the position; and
- (d) That the place of residence stated in the certification is the person's actual, regular, and principal place of residence.

- 306.8 A person who is appointed to a position in the Excepted or Executive Services on or after October 1, 2002 and who claims that he or she is a District domiciliary shall sign a statement on or before the effective date of appointment to the position, whether it is an initial appointment or other appointment, which certifies the following:
- (a) That the person has received written notification of the domicile requirement;
 - (b) That the person has read the notice, has been given an opportunity to ask questions about the domicile requirement, and understands the domicile requirement;
 - (c) That the person understands that failure to remain a District domiciliary for the duration of employment shall result in forfeiture of the position; and
 - (d) That the place of residence stated in the certification is the person's domicile.
- 306.9 Unless exempted pursuant to Subsections 305.7 and 305.8, each Excepted or Executive Service appointee or employee who is not a domiciliary of the District of Columbia on the date of appointment to a position, whether it is an initial appointment or other appointment, shall sign a statement when appointed, which certifies the following:
- (a) That the person has received written notification of the domicile requirement;
 - (b) That the person has read the notice, has been given an opportunity to ask questions about the domicile requirement, and understands the domicile requirement;
 - (c) That the person intends to become a domiciliary of the District of Columbia within one-hundred eighty (180) days of the date of appointment;
 - (d) That the person understands that failure to become a domiciliary of the District of Columbia within one-hundred eighty (180) days from the date of appointment shall result in forfeiture of the position; and
 - (e) That the person understands that failure to remain a District domiciliary for the duration of employment shall result in forfeiture of the position.
- 306.10 Each Excepted or Executive Service appointee subject to the requirements of Subsection 305.1 who is not a domiciliary of the District of Columbia on the date of appointment shall provide to the personnel authority, within one-hundred eighty (180) days of the date of appointment, sufficient documentation, as provided in Subsections 306.3, 306.5 and 306.6, which demonstrates that he or she has become a domiciliary of the District of Columbia.
- 306.11 Each agency head or independent personnel authority shall designate an agency representative to fulfill the requirements specified in Subsections 306.12, 306.13,

307, and 309.

306.12 Between November 1 and November 30 of each year after the first year of employment, up to the end of the required period of bona fide District residency or District domicile, each employee required to be a bona fide resident or District domiciliary shall submit to the agency representative an affidavit which certifies at least the following:

- (a) That he or she is currently, and has been continuously for the preceding twelve (12) month period, in compliance with the provisions of the residency or domicile requirements, as applicable;
- (b) The home address(es) for the preceding twelve (12) month period;
- (c) The address used on the individual income tax return filed with the District of Columbia during the preceding twelve (12) month period; and
- (d) The address used on the individual income tax return filed with the United States Internal Revenue Service during the preceding twelve (12) month period.

306.13 The agency representative, at a time he or she shall determine, but within one (1) year following the date on which the employee became subject to the residency or domicile requirements, shall request, and the employee shall provide, sufficient documentation to demonstrate that the employee is in compliance.

307 DETERMINATION HEARINGS

307.1

- (a) Whenever the personnel authority has reasonable cause to believe that an employee of an agency subject to its personnel authority is not in compliance with the residency or domicile requirements, the personnel authority shall issue to the employee a written notice to show cause why his or her employment should not be forfeited.
- (b) Whenever an agency head has reasonable cause to believe that an employee of the agency is not in compliance with the residency or domicile requirements, the agency head shall notify the personnel authority, and request that the personnel authority issue to the employee a written notice to show cause why his or her employment should not be forfeited.

307.2 The personnel authority shall issue the notice to show cause why employment should not be forfeited only during the period of time that the employee is required to maintain bona fide District residency or be a District domiciliary.

307.3 The personnel authority shall designate a hearing officer or officers to conduct residency determination hearings.

307.4 The standard of proof in a residency or domicile determination case shall be by a

preponderance of the evidence.

- 307.5 The agency representative bears the burden of proof and persuasion concerning the employee's alleged non-compliance with the residency or domicile requirement.
- 307.6 If the hearing officer determines, after a record review, that the agency representative has established by a preponderance of the evidence that the employee is not in compliance with the residency or domicile requirements, the burden of proof shall shift to the respondent employee.
- 307.7 The respondent employee shall have an opportunity to rebut the evidence presented by the agency representative, cross-examine any witness called by the agency, and by present evidence that demonstrates compliance with the residency or domicile requirements.
- 307.8 The respondent employee may be represented at any evidentiary hearing by counsel if he or she so chooses.
- 307.9 The agency representative shall have an opportunity to cross-examine any witness called by the respondent employee, and any witness who testifies on behalf of the respondent employee, including the respondent employee.
- 307.11 After any evidentiary hearing, the hearing officer shall issue a proposed written determination on the residency status of the respondent employee within a reasonable period of time and shall serve a copy of the proposed determination on the agency representative and on the respondent employee.
- 307.12 The employee shall have a period of ten (10) days from the receipt of the proposed determination to file written exceptions with the hearing officer and serve a true copy to the agency in response to a proposed determination of noncompliance with the residency or domicile requirements.
- 307.13 Upon review of the record, including any timely filed pleadings, the hearing officer shall order an evidentiary hearing or issue a proposed final decision on compliance with the residency or domicile requirements.
- 307.14 The personnel authority shall issue a written final decision on the issue of compliance with the residency or domicile requirement to the employee, the agency representative, and the agency head.
- 307.15 A final decision by the personnel authority of noncompliance with the residency or domicile requirements shall result in forfeiture of employment by the employee.
- 307.16 The Director of DCHR, shall notify a subordinate agency head, and the Mayor, when there is reasonable cause to believe that a subordinate agency head is not in compliance with the residency or domicile requirements, as applicable. Upon notification, the Mayor shall determine the appropriate course of action to be taken.

308 [RESERVED]

309 REPORTING REQUIREMENTS

- 309.1 By November 1 of each year, each personnel authority shall submit to DCHR a listing of employees which shall include the name, social security number, and employing agency of each employee subject to the residency or domicile requirements who was appointed prior to January 1 of the current year.
- 309.2 Each personnel authority shall obtain permission from employees identified in Subsection 309.1 for the personnel authority to request tax returns from the Office of Tax and Revenue.
- 309.3 The DCHR, on a date specified by the Director of DCHR, shall request from the Office of Tax and Revenue the filing status and mailing address used on the individual income tax return filed in that calendar year for each employee identified pursuant to Subsection 309.1.
- 309.4 Agencies of the District of Columbia government having regulatory or administrative authority relating to any factor that may be used in making a determination of bona fide residency or District of Columbia domicile shall provide the agency representative with information that may be requested. Information requested and released under this section shall be in accord with applicable statutory privacy restrictions.
- 309.5 The Mayor shall integrate into each subordinate agency's annual performance objectives the rate of success in hiring District of Columbia residents. Audit reports of the residency preference shall be submitted annually to the Council. Audit reports shall be submitted annually to the Council.

399 DEFINITIONS

- 399.1 When used in this chapter, the following meanings apply:

Agency – the meaning set forth in D.C. Official Code § 1-603.01(1) (2012 Repl.), but including boards and commissions as described in D.C. Official Code § 1-603.01(2) (2012 Repl.), and excluding the courts.

Agency head – the highest ranking executive official of an agency.

Agency representative – any person(s) designated by the agency head to receive and review factors and documents, conduct investigations, and represent the agency at residency preference or District of Columbia domicile determination hearings.

Assembled examining procedure – a computerized or multiple-choice written examination or test which may include a typing or data-entry skills test.

Bona fide resident – any person who maintains a place of abode in the District of Columbia as his or her actual, regular, and principal place of residence.

Claim – completion of *Form DC-2000RP, Residency Preference for Employment*, by a bona fide District resident at the time of application for competitive employment or competitive promotion who agrees in writing that, if selected, he or she will maintain bona fide District residency for seven (7) consecutive years from the date of appointment or promotion.

Competitive promotion – the change of an employee to a position at a higher grade or class level within the same job classification system and pay schedule, or to a position with a higher representative rate in a different job classification system and pay schedule, as a result of open competitive procedures.

Counsel – an attorney at law who may be chosen by an employee to represent the employee in a residency or District of Columbia domicile determination adjudication.

Days – calendar days, unless otherwise stated. In computing a period of time prescribed by these regulations, the day of the action or event triggering the count is not included in the computation. The last day of the period shall not be a Saturday, Sunday, or legal holiday, but shall be the end of the next day which is not a Saturday, Sunday, or legal holiday.

District domicile – physical presence in the District of Columbia; and an intent to abandon any and all former domiciles and remain in the District of Columbia for the duration of an Excepted or Executive Services appointment.

Exceptional circumstances – conditions or facts that are uncommon, deviate from or do not conform to the norm, or are beyond willful control, which are presented to the personnel authority by an agency head or the Mayor, when hiring an individual to fill a position in the Excepted or Executive Services, and which shall be considered by the personnel authority in determining the reasonableness of granting a waiver of the domicile requirement to that individual.

Forfeiture – the loss of employment as a result of the failure of the employee to comply with the provisions of the residency preference or domicile requirements.

Hard to fill position – a position so designated by the personnel authority on the basis of demonstrated recruitment and retention problems inherent in the position due to the uniqueness of the duties and responsibilities and the unusual combination of highly specialized qualification requirements for the position.

Immediate family – a person who is related to the appointee to a position in the Excepted Service pursuant to Sections 903(a)(1) and (2) of the Comprehensive Merit Personnel Act (CMPA) (D.C. Official Code §§ 1-609.03 (a)(1) and (2)) (2012 Supp.) or the Executive Service as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece,

husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

Mayor – the Mayor of the District of Columbia or his or her designee.

Personnel authority—an individual or entity authorized by D.C. Official Code § 1-604.06 (2012 Repl.) to implement personnel rules and regulations for employees of an agency or group of agencies of the District of Columbia; or persons delegated that authority by that individual or entity.

Preponderance of evidence – that which is more convincing to the mind—more likely than not. That amount (weight) of evidence which convinces as to its truthfulness.

Reasonable cause – that composite of facts from which a reasonably prudent person might determine that an employee is not in compliance with the residency preference or domicile requirements.

Subordinate agency – any agency under the direct administrative control of the Mayor, including, but not limited to, the agencies listed in Section 301(q) of the CMPA (D.C. Official Code § 1-603.01(17) (2012 Repl.)).

Unassembled examining procedure – an examination that does not require a written test.

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD**

NOTICE OF THIRD PROPOSED RULEMAKING

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in the Omnibus Alcoholic Beverage Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-187; D.C. Official Code § 25-211(b) (2012 Repl.)) and Mayor's Order 2001-96, dated June 28, 2001, as revised by Mayor's Order 2001-102, dated July 23, 2001, hereby gives notice of proposed rulemaking action to publish a third proposed rulemaking that makes amendments to Chapters 1 (Provisions of General Applicability), 2 (License and Permit Categories), 4 (General Licensing Requirements), 5 (License Applications), 6 (License Changes), 7 (General Operating Requirements), 8 (Enforcement, Infractions, and Penalties), 9 (Prohibited and Restricted Activities), 10 (Endorsements), 12 (Records and Reports), 17 (Procedural Requirements for Board Hearings), and 18 (Petition Procedures) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR).

The proposed rules amend the definition of back-up drinks and add a definition for bottle service in Chapter 1. The proposed amendments to Chapter 2 create exemptions from licensing requirements. In Chapter 4, the rules clarify those circumstances under which the Board may rescind its previously issued license approval. Additionally, the rulemaking no longer permits a license located in a moratorium zone to be kept in safekeeping for the length of the moratorium. Chapter 6 is amended to add a new section regarding limited liability companies.

The proposed rules make several amendments to Chapter 7. Licensees who remove their licenses from safekeeping after two years must provide the Board with detailed plans of its return to operations, including its anticipated re-opening date. The rules clarify that licensees are required to register with the Board to sell and serve alcoholic beverages until 4 a.m. on January 1st and other District and federal holidays. The rules create a pub crawl license and set forth related requirements. The rulemaking clarifies that the holder of a manufacturer's license can file and be approved by the Board for a one-day substantial change application. The rules also establish requirements for on-premises retailers to provide bottle service and buckets of beer to seated patrons.

The proposed rulemaking for Chapters 8, 9, 10, and 12 expands upon the existing definition of "egregious" for sale to minor violations, and expands the listed violations in the civil penalty schedule. The rules also amend the American Primary Source of Supply to make clear that wholesalers can transfer and invoice between those owned by the same individuals. The proposed rules clarify several sections regarding those circumstances where the Board will issue a cease and desist order as a result of the licensee's non-compliance with other District requirements. The rules further clarify that a licensee may provide entertainment only during the hours permitted under its entertainment endorsement. The rules also clarify that licensed restaurants and hotels are responsible for maintaining three years of sufficient documentation to allow the Board to verify the correctness of information contained on the licensee's submitted quarterly reports.

Lastly, the proposed rules make several amendments to Chapter 17. Service of papers may now be filed electronically. The computation of time has been clarified regarding the calculation of hours and days. Additionally, the rules include new language regarding the Chairperson's authority to schedule and conduct hearings. The proposed rules also create new requirements for the submission of documentary evidence, post-hearing pleadings, and the protest information form.

The proposed rules were initially adopted by the Board on October 15, 2014 by a six (6) to zero (0) vote, and were published in the *D.C. Register* on December 26, 2014 at 61 DCR 13149 for a thirty (30) day comment period.

On November 13, 2014, the Board held a hearing pursuant to D.C. Official Code § 25-354 (2012 Repl.) to receive public comment on the proposed rules. At the public hearing, the Board received valuable comments and testimony from the public and throughout the comment period. Commenters included members of the industry, ANC Commissioners, D.C. residents and citizens and civic associations.

Following is a summary of the testimony presented at the public hearing, as well as testimony submitted by written comment.

Restaurant Association Metropolitan Washington (RAMW)

Andrew Kline testified on behalf of RAMW. RAMW represents over 800 restaurants and restaurant service providers in the greater D.C. Metropolitan area to include 500 restaurants in the District of Columbia. RAMW thanked the Board for bringing the rulemaking forward for public comment and is generally supportive of the proposed amendments to current rules.

One of the more troubling concerns for RAMW in the proposed rules is the circumstances where the Board may issue a Cease and Desist Order. One circumstance in particular is where an ABC Licensee may not have current documents or licenses issued by other District agencies. RAMW's concern here is that mistakes are made by District agencies and their employees that have detrimental consequences which may lead to a temporary, but unwarranted closure of the ABC licensed establishment. Additionally, it is not always easy to get matters resolved with other agencies so additional time may be needed to rectify the problem.

RAMW recently experienced a similar concern with the D.C. Department of Health (DOH). RAMW convinced DOH that unless there is an imminent danger to the public, noncompliance with regulatory and administrative requirements should not lead to a cease and desist order. RAMW also argued that if another District agency issues its own cease and desist order, there is no point for the Board to issue a second order when the licensed establishment is already closed.

RAMW agrees that the electronic service of documents in contested proceedings is appropriate and most efficient. However, there is also a concern that safeguards and precautions be put in place. RAMW suggests that when parties first appear before the Board or the Board's Agent, that the party be required to fill out an Entry of Appearance form to include indicating that they consent to electronic service.

RAMW also suggests that ABRA establish a dedicated electronic mailbox, such as ABRAadjudications@dc.gov to which all pleadings would be submitted and from where all communications from the Legal and Adjudications Division would come. There would be less confusion by parties who may be corresponding with different Adjudications Division staff personnel if all communications to parties came from one singular email address. RAMW also suggests that initial formal pleadings such as notices to show cause continue to be served by personal service or certified mail.

RAMW is also concerned about the proposed language deeming an application abandoned or withdrawn if documentation is not submitted within forty-five (45) days of a request from ABRA. RAMW argues that if strict deadlines are going to be imposed on applicants, than similar deadlines should also be imposed on ABRA. Often an applicant may not hear back from the agency well into thirty (30) days after filing an application. It is imperative that ABRA's Licensing Division communicate more regularly and timely with applicants. Additionally, applicants would appreciate knowing from ABRA when they can expect placards for posting to their establishments and when they can expect publication in the *DC Register*. At a minimum, ABRA should provide notice to an applicant that an application has been deemed to be abandoned or withdrawn.

Rod Woodson, Holland and Knight

Mr. Woodson testified regarding the Board's practice of handling protest hearings on license renewal applications and the handling of evidentiary submissions related to those hearings. He addressed the need to harmonize Sections 311, 313 and 315 of the D.C. Official Code.

Mr. Woodson praised the Board for the improvements in the quality of the investigative reports relied upon by the Board and parties for protest hearings. These reports have allowed parties to understand in advance of a given hearing what the disputed issues are. Identifying the disputed issues in advance of the hearing has allowed the Board to reduce the length of the hearings from the days of old when hearings would take 11 or 12 hours to conclude. The Board should not have to concern itself with issues that are not raised in the investigative report. Nor should the Board concern itself with issues that are raised, but are not substantiated. For example, if the parties are concerned with noise issues, there is no need to spend time at the hearing discussing parking issues.

Notwithstanding the improved reports, Mr. Woodson testified that greater efficiencies in the protest hearings might be derived if parties were to receive the investigative report in advance of the hearings and prior to the submission of the Protest Information Form. The reports have little value if they are not issued timely because neither party knows what the other party deems to be an issue in dispute.

Greater efficiencies might also be derived by a re-ordering of the proceedings. Specifically, with regard to hearings on renewal applications, the Board may want to consider requiring the protestants to proceed first, followed by rebuttal by the Applicant. The ultimate burden of proof would remain with the applicant, but the evidentiary record would be developed on the narrow

issues raised by the protestants in their case-in-chief. Narrowing the issues saves the parties and the Board time and resources.

Mr. Woodson does not believe the Board should have a hard and fast rule regarding the order in which parties proceed to put on their case, but he does think that applicants should be permitted to argue their case in rebuttal for proceedings that concern the renewal of an already approved and issued license. The standard for substantial evidence is taken from the record as a whole, so it should not matter who presents the evidence or when.

Paul Pascal and Risa Hirao, District of Columbia Association of Beverage Alcohol Wholesalers

Mr. Pascal commented that the wholesalers are dedicated to a safe environment for the sale and consumption of alcoholic beverages, and thus appreciate when the Board updates its regulatory scheme. He agreed with the testimony presented by Mr. Kline and Mr. Woodson and added a few concerns of his own.

Specifically, with regard to section 213.1, the Wholesalers are concerned that if certain entities are exempted from licensure requirements, the Wholesalers will not know to whom they can sell their product, where the product would come from if the Wholesalers aren't providing it and how that product will be tracked. Ms. Hirao proposed that the Board require the unlicensed entity to sign an affidavit in order to protect the Wholesalers from an unintended violation of D.C. Official Code § 25-102 (a) (2012 Repl.).

Similar to RAMW, Mr. Pascal expressed concern about the proposed ability of ABRA to dismiss an application if required documents aren't submitted within forty-five (45) days from the request for documents. Mr. Pascal believes that the short deadline is very unreasonable given the significant financial costs applicants invest into their businesses. Additionally, delays in complying with the submission deadline is often attributable to other agencies over whom the applicant has no control.

A third concern of the wholesalers is the proposed regulation regarding bottle service. If an ABC licensed establishment provides bottle service to a table of patrons and brings the bottle uncapped or uncorked, there is no guarantee that the product in the bottle is not unadulterated or undiluted. Mr. Pascal also believes that bottle service should be allowed for holders of licenses for caterers and common carriers. Ms. Hirao also raised a concern about the presence of a minor at the table who may inadvertently get served by the wait staff and whether that violation would extend to the licensed retailer.

Fourthly, Mr. Pascal also has concerns regarding the proposed circumstances under which a cease and desist order might issue. He argues that the Board is not realistic in its expectations about the length of time required to obtain documents and licenses from other District agencies. It took months for one of his clients to change its legal status from a corporation to a Limited Liability Company. Often times other District agencies such as DCRA do not notify their customers that DCRA licenses have expired. Mr. Pascal believes the Board should provide notice to the ABC licensee before the Cease and Desist is issued to allow time for correction of the underlying documents and other agency issued licenses.

Denis James, President of Kalorama Citizens Association (KCA)

Mr. James concurred with the other parties' testimony that protest hearings should be streamlined and that improvements in the investigative report have helped in that regard. He does have concerns that on occasion a report might not identify specific issues if those issues are not caught during the investigator's monitoring period.

Mr. James also raised concerns regarding the proposed rule that creates a Pub crawl license. He likes the idea of a license for these events, but he believes that the application should be subject to protests similar to other license applications. Protests against Pub crawl licenses will allow neighborhoods to protect themselves against bad behavior.

Additionally, he believes that the civil penalty section in the regulations should list violations for pub crawl licenses and should assign a tier and fine penalty. Mr. James also commented on the reduction from six (6) weeks to thirty (30) days as to when the pub crawl organizer must submit its application.

Abigail Nichols, DC Noise Coalition

Ms. Nichols expressed disappointment that the Board did not address noise regulations in its proposed rules. She also has a concern about the length of protest proceedings, but encouraged the Board to not necessarily ban repetitive testimony at hearings because everyone wants to be heard. She supported Mr. Woodson's suggestion that protestants proceed first in hearings held for renewal applications, in part because it may be easier for community witnesses to participate.

She believes the Board would benefit from a forum held to discuss the conduct of hearings and how they can be improved. She also encouraged the Board to host a separate hearing to hear from the public on just noise issues.

Written Comments

In addition to the testimony received by those in attendance at the public hearing, the Board also received written comments from several parties.

Skip Coburn on behalf of the D.C. Nightlife Association objected to the forty-five (45) day deadline to submit documents and other paperwork required by the terms of the application. Mr. Coburn also objected to the language listing what conditions could trigger a cease and desist order by the Board.

Likewise, Dante Ferrando owner of Circle 1 Productions, Inc. t/a Black Cat questioned the Board's authority to issue cease and desist orders for matters that are under the jurisdiction of other District agencies. Mr. Ferrando also sought assurances that the pub crawl definition did not extend to annual events, festivals or block parties.

The DC Nightlife Noise Coalition (Coalition) submitted comprehensive suggestions encouraging

the Board to draft regulations that relate specifically to noise that would improve enforcement and compliance with the DC Noise Control Act and D.C. Official Code § 25-725 (2012 Repl. And 2013 Supp.). Specifically, the Coalition has requested that the Board increase its fees for entertainment endorsements and increase its fees for penalties for noise violations. The Coalition would also like to have the Board amend the application procedure for entertainment endorsements. Lastly, the Coalition suggests that the Board reform inspections and enforcement procedures, and create a “fast-track” process for residents experiencing noise problems.

The Dupont Circle Citizens Association also echoed the concerns raised by the Coalition regarding entertainment endorsements, fines and penalties, and noise disturbances. The Shaw Dupont Citizens Alliance (SDCA) believes that ABRA’s safekeeping regulations should be overhauled so that licenses will be cancelled when no the establishment is no longer operational, and then, when the licensee returns to operations, they can apply for a new license at that location. Additionally, the SDCA encouraged the Board to change the words “may” to “shall” because the term “may” is inappropriate in many contexts throughout the rules and the permissive language allows the Board to disregard the regulations.

Chris Young, President of the Meridian Hill Neighborhood Association, provided written testimony indicating that the proposed rules were deficient. He requested that the Board amend proposed language in Sections 716 and 1001 to make clear that privileges granted by the Board do not override restrictions contained in Settlement Agreements. Mr. Young also requested that the Board consider changing the word “may” to “shall” in several instances throughout the proposed rules. He argued that the word “shall” would enhance certainty, enforceability and the Board’s own authority.

Decision of the Board

The Board took the views of those who submitted written comment and provided oral testimony into consideration. The Board found the initial hearing to be productive even on those matters and rules that were not necessarily raised in the proposed rulemaking.

The Board is sympathetic to the concerns of the public and applicants regarding the length of protest proceedings, however it is not convinced that re-ordering the hearing process to have the protestant present its case-in-chief first is necessarily the solution to that problem given that both parties have ninety (90) minutes to argue their case. While the Board does not find that such changes to the regulations are appropriate at this time, the Board does remain open minded to suggestions that may result in a more focused and streamlined hearing process.

The Board agrees with the parties who suggested that an effort needs to be made to narrow the issues for hearing. The Board believes this objective can be achieved in two ways: 1) make full use of mediation, and 2) utilize the Protest Information Form (PIF) as the tool it was created to be.

The purpose of mediation at ABRA is to identify issues, clarify misunderstandings, explore solutions and mediate a settlement agreement. If a dispute is not resolved through mediation, then the parties will proceed to a protest hearing.

ABRA's mediator may provide information about the protest process, raise issues and help explore options, but the primary role of the mediator is to facilitate a voluntary resolution by the parties. If that can't be accomplished, then the mediation will at a minimum, help to narrow and identify the issues.

With that understanding, it is incumbent upon the parties, with the mediator's help, to narrow the issues that remain in dispute, and only bring those disputed issues to the Board for resolution at the protest hearing. Issues not in dispute or those resolved at mediation should not be the subject of the hearing. This will allow the parties to focus the more narrow issues for the Board and it affords the parties more time to address those issues that need attention.

Secondly, the Board intends to create a revised PIF that more adequately and succinctly captures only those issues that remain in dispute. The Board looks to the parties to be complete in their recitation and to not include those matters that were never in dispute or that may have been resolved at some point in the protest process.

Specifically, the PIF will now include a section that addresses stipulated facts and issues and it will also include a section that allows parties to list those disputed items that remain for the Board to resolve. Any issue not listed as a disputed issue will be barred from being raised at the protest hearing.

The Board also appreciated the comments from the public regarding the seven circumstances that may trigger a cease and desist order. The Board recognizes that ABC licensees are subject to the regulation of other DC agencies and thus may be at the mercy of those agencies regarding the issuance of other licenses. The operative word in the Board's proposed rules is "may". The Board intends to be judicious and will exercise great caution when considering the issuance of a cease and desist order. It is not the Board's intention to be capricious regarding these types of orders but rather to bring the ABC licensee into compliance with regard to regulatory requirements, even if they are deemed by the licensee to be merely administrative.

The Board also expanded bottle service to include the service of buckets of beer, and that bottle service is permitted for all on-premises licensees. The Board also amended the proposed rules to ensure that the licensee's server shall not deliver bottle service or a bucket of beer to minors or to patrons who appear intoxicated.

The Board rejected the Kalorama Citizens Association's request to allow the public to protest pub crawl license applications, but it did adopt additional rules that strengthen the application process requirements and placed safeguards for the community in the event the licensee fails to control the environment. Additionally, the rules make very clear that the issuance of a pub crawl license remains within the discretion of the Board.

Additionally, the Board rejected the suggestion by the Coalition Group, the SDCA, the DCCA, and the Meridian Hill Neighborhood Association regarding the replacement of the word "may" with the word "shall" in some instances. The Board is opposed to removing or limiting its discretion.

By their very nature, administrative decisions often include the exercise of discretion. This discretion allows the Board to make a choice about whether to act or not act, to approve or not approve, or to approve with conditions. The role of the Board is to make an independent judgment taking into account all relevant information and after all various possibilities have been considered. This authority serves to guide the Board's discretion towards the public interest.

Second Hearing on Amended Proposed Rules

The amended proposed rules were adopted by the Board on February 25, 2015 by a six (5) to zero (0) vote, and were published in the *D.C. Register* on May 8, 2015, at 62 DCR 005732 for a thirty (30) day comment period.

On April 29, 2015, the Board held a second hearing pursuant to D.C. Official Code § 25-354 (2012 Repl.) to receive public comment on the proposed rules as amended from the first round of comments. At the second public hearing, the Board received additional valuable comments and testimony, much of which was repetitive of testimony received in response to the initial rulemaking and the hearing.

Following is a summary of the testimony presented at the second public hearing as well as testimony submitted by written comment.

Restaurant Association Metropolitan Washington (RAMW)

Andrew Kline testified again on behalf of RAMW. He narrowed his testimony to three issues raised in the initial rulemaking and to a fourth issue raised in the amended rules. Mr. Kline again objected to the proposed amendments regarding when the Board will issue a cease and desist order. He believes that the Board is offering a solution in search of a problem and that the Board already has the authority to act when a licensee has another agency's license suspended or revoked.

Mr. Kline's second concern is the provision regarding the abandonment of applications. He again raised the issue of the unfairness that there are no countervailing restrictions on the agency to ensure the reciprocity of adherence to deadlines when responding to applicants. Specifically, there are no standards in place to ensure that the agency responds to applicants in a timely manner.

Mr. Kline's third concern is the service of papers, documents and pleading by electronic mail. He requests that the agency provide a dedicated email address to ensure that all communications are sent and received from one source. This will eliminate any confusion and may likely reduce lost emails that are caught in one's spam filter.

Lastly, Mr. Kline objected to the Board's expansion of the definition of egregious as it is applied to the sale to minor offenses. He does not understand why the Board is opposed to the issuance of warnings for first-time sale to minor violations. He argued that the warning system works well and that education is the tool to ensure compliance, not excessive penalties or discipline.

Paul Pascal, District of Columbia Association of Beverage Alcohol Wholesalers

Mr. Pascal also testified at the second hearing and again raised concerns regarding the deadlines for the submission of documents to support the filing of an application. The 45 day limitation for initial submission and the 15 day limitation on supplemental submissions are unrealistic deadlines to impose upon applicants. The Board's proposed deadlines unreasonably penalize an applicant for circumstances and delays beyond their control. Mr. Pascal asked the Board to consider lengthening the submission deadlines and to set forth a process whereby applicants can request an extension of time to comply.

Secondly, with regard to the new provisions for issuing cease and desist orders, Mr. Pascal asked the Board to consider giving licensees notice that a cease and desist order may issue, so that the licensee has time to cure the underlying defect in order to prevent disruption to business operations. Adequate notice to the licensee will allow that licensee to restore its status with other agencies, while protecting itself against the loss of revenue and preserving its good standing.

Dante Ferrando, Co-Owner of Black Cat and Member of The Live Performance Coalition

Mr. Ferrando again raised his concerns with the Board's proposed rules. His first issue concerns the proposed language regarding the cease and desist orders. His business, the Black Cat, requires numerous basic business licenses issued by DCRA. Mr. Ferrando has experienced instances where DCRA clerical errors have caused the lapse or expiration of a business license, or where a renewal of a business license was not properly recorded. He does not believe that the Board should temporarily suspend his license in those instances where another District agency has erred. It is not uncommon that it may take weeks, if not months, to resolve another agency's record keeping. Equally importantly, some lapses, such as a trade name registration, should not register a cease and desist order. Mr. Ferrando suggested that the Board consider omitting the proposed rules with regard to expired licenses and bounced checks, or in the alternative require the Board to hold a hearing before the issuance of the cease and desist order.

Katherine Ferrando, Co-Owner of Black Cat and Member of The Live Performance Coalition

Ms. Ferrando testified on behalf of The Live Performance Coalition, a new D.C. organization comprised of live music clubs. She also shared her concerns regarding the Board's proposed rules for the issuance of cease and desist orders. She stated that mere administrative problems with other agencies should not serve as a mechanism for temporary suspension without notice to or a hearing for the licensee. Cease and desist orders should only be issued where there is a risk of immediate and irreparable harm to the public. Otherwise, temporary closure inflicts the harm on the live music venue which may be black-listed by promoters as a result of a cancelled performance. Not only do tickets need to be refunded, but the band needs to be paid in full and, the venue may be contractually liable for every band on that booking agent's roster. Ms. Ferrando urged the Board to reconsider the proposed rules for cease and desist orders because they suspend due process in the absence of any emergency or strong Governmental interest. At a minimum, she requested that the Board provide notice and an opportunity to be heard.

Dr. Coralie Farlee, Chair of the ABC Committee for Advisory Neighborhood Commission 6D

Dr. Farlee submitted written comments and provided oral testimony regarding pub crawls. She encouraged the Board to retain provisions in the current regulations rather than replacing them in their entirety with the new language that addresses requirements for a pub crawl license. She raised six specific points for the Board's consideration; all pub crawl applications should be submitted sixty (60) days in advance of the event, the license fee should be one hundred dollars (\$100) a day, the organizer should hire one Reimbursable Detail Officer for every two hundred fifty (250) participants, tighten eligibility requirements for participating licensed establishments, permit ANCs to prohibit pub crawls, and permit ANCs to prohibit participants from carrying pistols into licensed taverns.

The Board's Decision Regarding the Amended Rules

Two areas of the proposed rules were raised by parties at each of the hearings and in the written comments. One of those areas concerns the Board's proposed deadlines regarding the submission of required documents and the failure to submit the documents in a timely manner triggering the Board's dismissal of the incomplete application. The Board is persuaded by the testimony that there can be occasions where the failure to timely submit documents may be beyond the control of the applicant. Thus the Board has amended its proposed rules to not only lengthen the deadline to submit documents from forty-five (45) to sixty (60) days, but it also agrees with the Wholesalers to add a provision allowing for the applicant to seek an extension. The extension is not to exceed thirty (30) days.

The second area of concern was the Board's expansion of the use of its cease and desist authority under certain conditions. Here again, the parties indicated that a licensee's non-compliance with another agency's requirement, such as the renewal of a basic business license, may very well be the fault of that other agency. The Board was also persuaded by the testimony and after consideration, added language to provide notice to licensees in those instances where there is non-compliance with another agency's requirements. In almost all cases, these types of violations will involve procedural, administrative or recordkeeping omissions where the health, safety or welfare of the licensee or establishment is not endangered. This will allow the licensee the time and opportunity to remedy the underlying licensing or tax problems before the Board issues its cease and desist orders.

A third area of the proposed rules was raised by the RAMW concerning the enlargement of the definition of the term "egregious" regarding first time sale to minor convictions. It should be understood that the Board does not object to the issuance of warnings for first time sale to minors in those instances where the licensee's conduct is not egregious. However, a recent confluence of events and circumstances has led the Board to recommend changes and clarifications to strengthen the rules regarding the selling of alcoholic beverages to minors.

First, there has been a series of high-profile acts of violence involving licensed establishments in recent months where underage minors were among those who were seriously injured or arrested. These incidents were not confined to one neighborhood, but they happened across the District.

Second, ABRA regularly conducts compliance checks where underage minors are sent into licensed establishments in an effort to purchase alcoholic beverages. The percentage of establishments that have failed - that have illegally sold to underage minors - has increased over the last several years. This sample of hundreds of compliance checks cannot be ignored.

Third, the law passed by the Council several years ago to address the sale to minor pattern of prior alcoholic beverage sales or service to minors was adopted on an emergency and temporary basis, and the Council has since allowed that law to lapse. There is currently no regulation on the books to address the matter of a first-time offender with a provable pattern of behavior. No matter how serious that pattern might be, the Board would be permitted only to issue a warning for a first offense under the existing rules.

This proposed change to the rules seeks to restore and add clarity to the regulation by expanding the definition of "egregious" to cover the kind of conduct described above. The Board notes that there is no minimum age limit to trigger "egregious" under the current regulation. A licensee could sell to a twelve (12) year old and get a warning. The proposed rulemaking would trigger the egregious standard at age sixteen (16) or younger - a full five years below the legal age to purchase alcohol.

The Board has adjudicated cases where dozens of underage patrons have scattered from an establishment during an enforcement action. In such cases, the Office of the Attorney General must now have to prove that the licensee intentionally sold to all of the minors. The Board believes that the sale of alcohol to three or more underage minors during the same enforcement action is enough to establish a pattern, and is therefore egregious.

The proposed rules clarify the requirement that licensees do their part by checking IDs. The Board understands that a server or doorman might occasionally neglect to check an ID, but to repeatedly fail to do so is not excusable.

The Board has always taken very seriously its responsibility to ensure public safety. Thus the Board finds it necessary to expand the definition of "egregious" so that some penalty other than a warning can serve to ensure compliance and deter the serious type of conduct described above.

In Summary

The Board appreciates the many and varied comments submitted on the initial round of proposed rules. Because the Board adopted substantive amendments to the second proposed rulemaking, the Board intends to submit these proposed rules for public comment in the *D.C. Register*. Directions for submitting comments on this third amended rulemaking may be found at the end of this Notice.

The third amended proposed rules were adopted by the Board on July 22, 2015, by a vote of five (5) to zero (0).

The Board also gives notice of its intent to take final rulemaking action to adopt these rules on a permanent basis in not less than thirty (30) days after the date of publication of this notice in the

D.C. Register.

Pursuant to D.C. Official Code § 25-211(b)(2) (2012 Repl.), these proposed rules are also being transmitted to the Council of the District of Columbia (Council) for a ninety (90) day period of review. The final rules shall not become effective absent approval by the Council.

Section 199, DEFINITIONS, of Chapter 1, PROVISIONS OF GENERAL APPLICABILITY, of Title 23 DCMR, ALCOHOLIC BEVERAGES, is amended by amending the definition of back-up drinks and adding the definition of bottle service to read as follows:

199 DEFINITIONS

Back-up drinks - - shall include second drinks served as part of a “two-for-one” promotion, second drinks served just prior to last call, and second drinks provided complimentary by the licensee or purchased by other patrons. Except as provided in the preceding sentence, back-up drinks shall not include two different drinks served together such as a beer or a shot or any other industry drink that can be considered a shot and a mixer. The prohibition against back-up drinks shall also not apply to the service of wine with a meal where the patron has not finished a previously served cocktail, nor shall it apply to containers of alcoholic beverages served in accordance with 23 DCMR § 721.

Bottle service - - shall include the service of alcoholic beverages in any container holding multiple servings of alcoholic beverages.

Section 207, LICENSURE PERIODS, of Chapter 2, LICENSE AND PERMIT CATEGORIES, is amended by replacing Subsection 207.2 to read as follows:

207 LICENSURE PERIODS

...

207.2 The three-year renewal period for each license listed below shall occur sequentially every three years starting with the following dates:

License Class	Licensure Period	Ending Year
Manufacturer A	Apr. 1 to Mar. 31	2015
Wholesaler A	Apr. 1 to Mar. 31	2015
Retailer A	Apr. 1 to Mar. 31	2015
Manufacturer B	Apr. 1 to Mar 31	2017
Wholesaler B	Oct. 1 to Sept. 30	2017
Retailer B	Oct. 1 to Sept. 30	2017
Retailer CR	Apr. 1 to Mar. 31	2016
Retailer CT	Oct. 1 to Sept. 30	2016

License Class	Licensure Period	Ending Year
Retailer CN	Oct. 1 to Sept. 30	2016
Retailer CH	Apr. 1 to Mar. 31	2016
Multipurpose facility CX	Apr. 1 to Mar. 31	2016
Common Carrier CX	Apr. 1 to Mar 31	2016
Retailer Arena CX	Apr. 1 to Mar 31	2016
Retailer DR	Apr. 1 to Mar. 31	2016
Retailer DT	Oct. 1 to Sept. 30	2016
Retailer DN	Oct. 1 to Sept. 30	2016
Retailer DH	Apr. 1 to Mar. 31	2016
Multipurpose facility DX	Apr. 1 to Mar. 31	2016
Common carrier DX	Apr. 1 to Mar 31	2016
Caterer	Apr. 1 to Mar 31	2016
Solicitor	July 1 to June 30	2017
Club CX	Apr. 1 to Mar 31	2016
Club DX	Apr. 1 to Mar 31	2016
Farm winery retail	Oct. 1 to Sept. 30	2015
Alcohol certification provider permit	July 1 to June 30	2017

Section 213, EXEMPTION FROM LICENSING REQUIREMENT, is amended to read as follows:

213 EXEMPTION FROM LICENSING REQUIREMENT

213.1 A license shall not be required for any event where alcoholic beverages are provided gratuitously for on-premises consumption on the host’s own premises. Notwithstanding the foregoing, a license shall be required if the operator of the premises provides professional services for the on-premises consumption of alcoholic beverages which are provided gratuitously to guests; or if the operator of the premises rents out the facility or provides entertainment, food or nonalcoholic beverages for compensation.

213.2 An applicant for a new license shall not permit the consumption of alcoholic beverages on the premises unless the applicant has obtained a stipulated or temporary license. The applicant for a new license may also permit a licensed caterer to host an event on the premises so long as the caterer retains the responsibility for the event, including control over the modes of ingress and egress into the establishment, bar and security staff, and the service of alcoholic beverages.

Section 405, LICENSE APPROVAL BEFORE ISSUANCE OF CERTIFICATE OF OCCUPANCY, of Chapter 4, GENERAL LICENSING REQUIREMENTS, is amended by adding a new Subsection 405.5 to read as follows:

405 LICENSE APPROVAL BEFORE ISSUANCE OF CERTIFICATE OF

OCCUPANCY

...

405.5 Notwithstanding § 405.4, the Board may, after holding a hearing, rescind its previously issued approval to an applicant under this section when: (1) the license is still pending issuance after two or more years, and (2) the applicant no longer has legal authority to operate at the approved location.

Section 500, APPLICATION FORMAT AND CONTENTS, of Chapter 5, LICENSE APPLICATIONS, is amended by adding new Subsections 500.2, 500.3, and 500.4 to read as follows:

500 APPLICATION FORMAT AND CONTENTS

...

500.2 The Board may deem an application abandoned or withdrawn if an applicant fails to provide all of the documents required to process the application within sixty (60) days of the submission of the application.

500.3 The Board may require an applicant to submit additional documents and information needed to properly process an application. The Board may deem an application abandoned or withdrawn if an applicant fails to provide any additional documents within thirty (30) days of the request.

500.4 An applicant may seek an extension of time to submit documents needed to process the application upon a showing of good cause. An extension granted by the Board shall not exceed thirty (30) days.

A new Section 602, LIMITED LIABILITY COMPANY CHANGES, of Chapter 6, LICENSE CHANGES, is added to read as follows:

602 LIMITED LIABILITY COMPANY CHANGES

602.1 The Board shall only approve as a member or managing member of a limited liability company an owner owning more than zero percent (0%) for purposes of recognizing applicants or licensees.

602.2 Nothing in this subsection shall prevent an individual with an ownership of zero percent (0%) in a limited liability company from serving as a manager or an officer of the limited liability company.

602.3 A manager or an officer of a limited liability company with an ownership interest of zero percent (0%) shall not be considered by the Board as an owner of the license, applicant or licensee.

Section 704, SURRENDER OF LICENSE, of Chapter 7, GENERAL OPERATING REQUIREMENTS, is amended by deleting Subsections 704.3 and 704.4 in their entirety, and adding a new Subsection 704.3 to read as follows:

704 SURRENDER OF LICENSE

...

704.3 Whenever a license has been in safekeeping with the Board for longer than two years, the licensee shall, upon requesting the removal of the license from safekeeping, submit for Board approval detailed plans of its operations upon reopening, and shall notify the Board of the anticipated reopening date.

Section 705, HOURS OF SALE AND DELIVERY FOR OFF-PREMISES RETAIL LICENSEES, is amended by replacing Subsection 705.11 to read as follows:

705 HOURS OF SALES AND DELIVERY FOR OFF-PREMISES RETAIL LICENSEES

...

705.11 A licensee under an on-premises retailer’s license that provides written notification and a public safety plan to the Board at least thirty (30) days in advance may sell and serve alcoholic beverages until 4:00 a.m. and operate twenty-four (24) hours during the dates set forth in D.C. Official Code Section 25-723(c)(1) unless the licensee has a settlement agreement that restricts the establishment’s closing hours or hours of operation.

Section 712, PUB CRAWLS, is amended to read as follows:

712 PUB CRAWLS

712.1 A promoter/organizer of a “pub crawl” shall be required to obtain a pub crawl license. The promoter/organizer shall submit an application for a pub crawl license at least thirty (30) days prior to the applicant’s first scheduled event.

712.2 For purposes of this section a “pub crawl” shall be defined as an organized group of establishments within walking distance which participate in the promotion of the event featuring the sale or service of alcoholic beverages during a specified time period.

712.3 The application fee for a pub crawl license shall be two-hundred and fifty dollars (\$250). A pub crawl license shall expire at the end of the calendar year in which it is issued.

- 712.4 Within thirty (30) days of the scheduled date of the event, the applicant must provide the Metropolitan Police Department and the Board with a written description of the event to include but not limited to:
- (a) The names and addresses of all licensed establishments which are expected to participate;
 - (b) The geographic area where the event will take place;
 - (c) The anticipated number and maximum number of participants;
 - (d) The actual hours of the event;
 - (e) The operational plan and security plan; and
 - (f) The location of the designated registration area(s).
- 712.5 The operational and security plan shall include but not be limited to the name and number of security personnel contracted for the event; a plan for the control of underage drinking; and the method to be used for checking the identification of participants.
- 712.6 The applicant must post the operational and security plan at any designated registration area(s).
- 712.7 The list of submitted participating licensed establishments shall be subject to approval by the Board based upon the eligibility of each participating licensed establishment. No establishment with more than two primary tier violations within two years of the scheduled date of the event may participate in a pub crawl. No establishment may participate in a pub crawl if it is prohibited from participating by the terms of its Settlement Agreement.
- 712.8 Pub crawls may not promote excessive drinking and may not include unlimited amounts of drinks for one price (all you can drink).
- 712.9 Literature describing “responsible drinking practices” shall be available at all designated registration area(s).
- 712.10 All advertising and promotional materials for pub crawls shall:
- (a) Include a statement that “You must be 21 or older to participate”;
 - (b) Promote the use of public transportation; and
 - (c) Include the plan for a designated driver program for the event.

- 712.11 Establishments that are required by law to serve food shall have food available for purchase during the hours of the pub crawl.
- 712.12 The issuance of a pub crawl license shall be solely in the discretion of the Board.
- 712.13 The Board may place restrictions upon the number, nature or size of events held under a pub crawl license in order to protect public safety. The Board may also fine, suspend, or revoke the pub crawl license if the applicant fails to control the environment of a pub crawl, or has sustained community complaints or police action, or has otherwise violated the provisions of this title.
- 712.14 When determining the qualifications of an applicant for a new pub crawl license or the renewal of a pub crawl license, the Board may consider the conduct and management of previous pub crawls for which the applicant has been responsible.
- 712.15 A pub crawl license is not required for a pub crawl containing fewer than two hundred (200) participants.

Section 716, ONE DAY SUBSTANTIAL CHANGES, is amended by replacing Subsection 716.1 to read as follows:

716 ONE DAY SUBSTANTIAL CHANGES

- 716.1 The holder of an on-premises retailer's license or a manufacturer's license may file a one-day substantial change request with the Board to sell or serve alcoholic beverages, have entertainment, extended hours of operation, a cover charge, dancing, or operate at a location not permitted by the applicant's license as part of a specific event. The one-day substantial change request may be granted, in the Board's discretion, unless the activities sought by the applicant are otherwise prohibited by the applicant's ABC license or by the terms of a valid settlement agreement.

A new Section 721, BOTTLE SERVICE, is added to read as follows:

721 BOTTLE SERVICE

- 721.1 The holder of an on-premises retailer's license shall be permitted to provide bottle service of alcoholic beverages to one or more seated patrons.
- 721.2 A licensee may serve a bucket filled with containers of beer to one or more seated patrons.
- 721.3 The licensee's server shall not deliver an alcoholic beverage to any patron in accordance with this section until the licensee has taken reasonable steps to ensure that no alcoholic beverage is delivered to a patron below the legal age or that otherwise appears intoxicated. The server shall open all closed containers at the

table before they are served to the seated patrons.

- 721.4 The licensee shall not permit or allow any patrons to remove the bottle or pitcher from the table, bar or other seating area where served. This provision shall not apply to a single container of beer delivered in a bucket or where patrons have been served alcoholic beverages at the bar prior to receiving table service.

Section 800, ABRA CIVIL PENALTY SCHEDULE, of Chapter 8, ENFORCEMENT, INFRACTIONS, AND PENALTIES, is amended by adding the following to the Schedule:

Section	Description	Violation	Warning
25-112(b)	Knowingly Allowing Patron to Open Containers in Off-Premises Licensed Establishments	Primary	Y
25-112(c)(2A)	Purchasing Alcoholic Beverages from an Off-Premises Licensee When Wholesalers are Open	Primary	Y
25-113	Violating Terms of On-Premise Retailer's License	Primary	Y
25-113a	Offering Entertainment After the Approved Entertainment Hours	Secondary	Y
§ 25-113(b)(3)(B)	Failure of Restaurant to Comply with Food Sales Requirement	Primary	Y
§ 25-113(e)(5)(B)	Failure of Hotel to Comply with Food Sales Requirement	Primary	Y
25-113(j)(3)(A)	Failure to Maintain Records on Premises	Primary	Y - Mandatory
25-113(j)(3)(B)	Failure to Obtain Board Approval for Off-Site Storage	Secondary	Y - Mandatory
25-113(j)(3)(C)	Failure of the Licensee to Keep or Maintain its Books, Records, or Invoices	Primary	Y
25-113a(b)	Cover Charge Without Endorsement	Secondary	Y
25-113a(b)	Dancing Without Endorsement	Secondary	Y
25-119	Importing Alcohol by Licensee Without Permit	Primary	Y
25-126(a)	Sale, Serve and/or Consumption Without the On-Site Sale and Consumption Permit – Manufacturer Licensees	Primary	N
25-126(b)	Sale, Serve, and/or Consumption Outside of the On-Site Sale and Consumption Permit Approved Hours – Manufacturer Licensees	Primary	N
25-127	Violating Terms of Festival License	Primary	N
25-403(e)(3)(G)(i)	Failure to Ensure Cameras are Operational	Primary	Y
25-	Failure to Ensure Any Footage of a Crime of	Primary	Y

403(e)(3)(G)(ii)	Violence is Maintained for a Minimum of 30 days		
25-403(e)(3)(G)(iii)	Failure to Ensure Security Footage is Available within 48 Hours Upon Request	Primary	Y
25-701	Board-Approved Manager Required	Secondary	N
25-703	Licensee or Board Approved Manager Superintending the Licensed Establishment under the Influence of Alcohol or Illegal Drugs	Primary	N
25-723(b)	Sale and Service Outside of Licensed Hours	Primary	N
25-723(c)(4)	Failure to Obtain Operating Holiday Extension Hours - Class C and D Retailers	Primary	Y
25-823(a)(7)	Failure to Follow the Terms of License Approved by the Board	Primary	Y
25-823(a)(8)	Failure to Preserve a Crime Scene	Primary	N
23 DCMR 712	Violating Terms of a Pub Crawl License	Primary	Y
23 DCMR 719.1	Sign re: Pregnancy, Legal Drinking Age/Valid ID, Drinking and Driving	Secondary	Y - Mandatory

Section 800 is amended by deleting the following:

Section	Description	Violation	Warning
25-102(a)	Selling Alcoholic Beverages Without a License	Primary	N
25-102(b)	Wholesaler/Manufacturer Sale to Non-licensed Person for Resale	Primary	N
25-102(c)	Failure to Obtain Importation Permit by a Person Located Outside of the District	Primary	Y
25-102(d)	Permitting Consumption of Alcoholic Beverage Without a License	Primary	N
25-501	Failure to Pay Annual Fee	Primary	Y
25-762(b)(8)	Failure to Obtain Approval to Provide Music or Entertainment if None Previously	Primary	N
25-762(b)(9)	Failure to Obtain Approval to Change from Recorded to Live Music or Live Entertainment or Change the Kind of Music or Entertainment Provided	Secondary	Y - Mandatory

Section 807, SALE TO MINOR VIOLATIONS, is amended to read as follows:

807 SALE TO MINOR VIOLATIONS

807.1 The Board shall give warnings for first-time sale to minor offenses, excluding “egregious” sale to minor violations.

807.2 “Egregious” shall be defined as a “sale to minor violation” where the licensee:

- (a) Sold or served an alcoholic beverage to a minor who was unable to produce a valid identification after a request from the licensee to do so; or
- (b) Sold or served an alcoholic beverage to a minor under the age of seventeen (17) years; or
- (c) Sold or served an alcoholic beverage to three or more minors under the age of twenty-one (21) years during an ABRA or MPD enforcement action or operation; or
- (d) Sold or served an alcoholic beverage to two or more minors without checking identification during an ABRA or MPD enforcement action or operation; or
- (e) Intentionally sold an alcoholic beverage to a minor; or
- (f) Can be established to have had a pattern of prior alcoholic beverage sales or service to minors.

A new Section 808, CEASE AND DESIST ORDERS, is added to read as follows:

808 CEASE AND DESIST ORDERS

808.1 The Board, in its discretion, may issue a cease and desist order immediately suspending a licensee’s liquor license when one of the following has occurred:

- (a) the licensee has been issued a notice of summary suspension by the Department of Health;
- (b) the licensee’s basic business license has expired;
- (c) the licensee’s certificate of occupancy has been revoked or expired;
- (d) the licensee’s sales tax certificate has been suspended or revoked by the Office of Tax and Revenue;
- (e) the corporation, limited liability company, or partnership owning the liquor license is no longer in good standing to operate in the District;
- (f) the licensee has failed to pay a Board ordered fine or a citation by the payment deadline; or
- (g) where payment was made to ABRA with a check returned unpaid.

808.2 The Board shall give notice to the licensee of its intent to issue a cease and desist order. The licensee shall have fourteen (14) calendar days to respond to the notice. If the Board thereafter determines that the licensee’s failure to address the issues set forth in § 808.1 is not for good cause, the Board shall issue the cease and desist order.

Section 900, PRIMARY AMERICAN SOURCE OF SUPPLY, of Chapter 9, PROHIBITED AND RESTRICTED ACTIVITIES, is amended by adding a new Subsection 900.3 to read as follows:

900 PRIMARY AMERICAN SOURCE OF SUPPLY

...

900.3 Nothing in this section shall prohibit the subsequent interstate purchase, transfer, and invoicing of alcoholic beverage between licensed wholesalers who are wholly owned by the same individuals or entities, and authorized by the Primary American Source of Supply to sell such products in each state.

Section 1001, ENTERTAINMENT ENDORSEMENT APPLICATION, of Chapter 10, ENDORSEMENTS, is amended by adding a new Subsection 1001.8 to read as follows:

1001 ENTERTAINMENT ENDORSEMENT APPLICATION

...

1001.8 A licensee shall provide entertainment only during the hours permitted under its Board-approved entertainment endorsement. It shall be a violation of this subsection for an applicant to provide entertainment during hours not permitted by its entertainment endorsement or by the terms of a valid settlement agreement.

Section 1207, QUARTERLY STATEMENTS AND ANNUAL REPORTS OF RESTAURANTS AND HOTELS, of Chapter 12, RECORDS AND REPORTS, is amended by adding a new Subsection 1207.10 to read as follows:

1207 QUARTERLY STATEMENTS AND ANNUAL REPORTS OF RESTAURANTS AND HOTELS

...

1207.10 A Retailer’s license Class CR, CH, DR, or DH shall be responsible for ensuring that it maintains for three (3) years sufficient documentation to allow the Board to verify the correctness of the information contained on the licensee’s submitted quarterly reports. Failure of the licensee to maintain sufficient documentation to allow the Board to verify the correctness of the information contained on the licensee’s submitted quarterly reports shall be a violation of this subsection.

Section 1702, COMPUTATION OF TIME, of Chapter 17, PROCEDURAL REQUIREMENTS FOR BOARD HEARINGS, is replaced in its entirety to read as follows:

1702 COMPUTATION OF TIME FOR FILINGS

1702.1 Whenever a party to a proceeding under this chapter has the right or is required to perform some act within a specified time period after the service of notice upon the party, and the notice is served upon that party by mail, three (3) days shall be added to the prescribed period.

1702.2 Except as otherwise provided by law, any time period prescribed by this chapter may, for good cause shown, be extended by the Board with notice to all parties.

1702.3 For purposes of computing time that is stated in days or a longer unit of time, exclude the day of the event that triggers the computation of time.

1702.4 For purposes of computing time that is stated in days or a longer unit of time, every day, including intermediate Saturdays, Sundays and legal holidays is counted. Count the last day of the period, but if the last day is a Saturday, Sunday or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday or legal holiday.

1702.5 For purposes of computing time that is stated in hours, begin counting every hour immediately at the conclusion of the event that triggers the period, including hours during intermediate Saturdays, Sundays and legal holidays. If the time period would end on a Saturday, Sunday, or legal holiday, the time period continues to run until the same time on the next day that is not a Saturday, Sunday, or legal holiday.

1702.6 Unless a different time is set by a statute, regulation or Board Order, the last day of a specified time period is at midnight for electronic filing, and at the close of business on the last day for filing by any other means.

Section 1703, SERVICE OF PAPERS, is amended by replacing Subsection 1703.2 to read as follows:

1703 SERVICE OF PAPERS

...

1703.2 When a party has appeared through a representative, who has filed a written notice of appearance pursuant to § 1707.1, service shall be made upon the representative of record.

Subsection 1703.4 is replaced to read as follows:

1703.4 Service upon a party may be made in the following manner:

- (a) By personal delivery;
- (b) By use of a process server;
- (c) By registered or certified mail;
- (d) By electronic mail; or
- (e) As otherwise authorized by law.

Section 1710, SCHEDULING AND CONDUCT OF HEARINGS: GENERAL PROVISIONS, is amended by deleting existing Subsection 1710.4 and adding new subsections to read as follows:

1710 SCHEDULING AND CONDUCT OF HEARINGS

...

1710.4 The Chairperson of the Board shall preside over all proceedings conducted by the Board under the authority of Title 25 of the D.C. Official Code.

1710.5 The Chairperson of the Board shall conduct all proceedings in accordance with the provisions of this chapter, Title 25 of the D.C. Official Code, and the District of Columbia Administrative Procedures Act.

1710.6 The Chairperson of the Board shall have the authority to:

- (a) Open and close a meeting or hearing;
- (b) Administer oaths and affirmations;
- (c) Regulate the course of the hearing and the conduct of the parties and their counsel;
- (d) Receive relevant evidence of the hearing and the conduct of the parties and their counsel or representative; and
- (e) Take any other action in accordance with the above provisions in furtherance of a fair and orderly hearing.

1710.7 In the event the Chairperson is unable or unavailable to preside over a hearing or meeting, the Chairperson shall designate a member of the Board to act as the

presiding officer in the Chairperson’s absence.

Section 1711, EVIDENCE: GENERAL RULES, is amended by adding new subsections to read as follows:

1711 EVIDENCE: GENERAL RULES

...

- 1711.5 In all protest hearings before the Board, the applicant shall have the burden of proof to show by substantial evidence in the record that the licensing action meets the appropriate standards in accordance with D.C. Official Code § 25-313.
- 1711.6 In all show cause proceedings before the Board, the District of Columbia shall have the burden of proof to show by substantial evidence in the record that the respondent has committed a violation of Title 25 or these regulations.
- 1711.7 In all protest hearings before the Board, the applicant shall open and close the case insofar as presentation of evidence and argument are concerned.
- 1711.8 In all show cause proceedings before the Board, the District of Columbia shall open and close the case insofar as presentation of evidence and argument are concerned.

Section 1713, DOCUMENTARY EVIDENCE, is amended by adding new subsections to read as follows:

1713 DOCUMENTARY EVIDENCE

...

- 1713.5 All exhibits that a party intends to introduce at hearing must be identified on an exhibit form accompanying the Protest Information Form and copies of the exhibits must be attached to the Form.
- 1713.6 Exhibits reasonably anticipated to be used for impeachment need not be included on the exhibit form or attached.
- 1713.7 If a document is readily available to the general public, a party need only provide a complete citation to the source of the document and how the document may be accessed.
- 1713.8 The Board may exclude at the hearing any exhibits not disclosed on the exhibit form if the Board finds that the opposing party has been prejudiced by the failure to disclose or if there has been a knowing failure to disclose.

- 1713.9 The Board shall have the discretion to receive documentary evidence from the parties not already listed or attached to the exhibit form upon a finding of good cause.
- 1713.10 The investigative report and attachments shall be part of the Board's record and it shall not be necessary for the parties to formally move the admission of the investigative report or portions of it into the evidentiary record.
- 1713.11 The Exhibit Form and any attachments shall be served on all parties and the Board's Office of General Counsel seven (7) days prior to the hearing.
- 1713.12 If a power point presentation or similar presentation is used by the parties, a paper copy of the exhibit shall be filed with the Board.

Section 1716, MOTIONS, is amended by deleting Subsection 1716.5 in its entirety.

Section 1717, POST-HEARING SUBMISSIONS, is amended to read as follows:

1717 POST-HEARING SUBMISSIONS

- 1717.1 No document or other information shall be accepted for the record after the close of a hearing except as follows:
- (a) Unless accompanied by a Motion to re-open the record demonstrating good cause and the lack of prejudice to any party;
 - (b) Until all parties are afforded due notice and an opportunity to rebut the information; or
 - (c) Upon official notice of a material fact not appearing in the evidence in the record, in accordance with D.C. Official Code § 2-509(b).

Section 1718, DECISIONS OF THE BOARD, is amended by deleting Subsection 1718.4 in its entirety.

Section 1721, TRANSCRIPTS OF HEARINGS, is amended by deleting Subsection 1721.2 in its entirety.

A new Section 1722, PROTEST INFORMATION FORMS, is added to read as follows:

1722 PROTEST INFORMATION FORMS

- 1722.1 All parties who have been granted standing to a protest proceeding shall file a protest information form.
- 1722.2 The protest information form shall identify the following specific items:

- (a) Agreements made by the parties as to any protest issues which limit the issues for hearing to those issues not disposed of or resolved by mediation;
 - (b) Unresolved issues that remain the subject of the protest hearing;
 - (c) Witnesses who are expected to testify;
 - (d) Exhibits the party intends to offer into evidence, with attached exhibit form;
 - (e) List of material facts, or the contents or authenticity of any document to which the parties have agreed to stipulate; and
 - (f) The relief sought.
- 1722.3 The protest information form must be signed by the party's representative or by the party if the party is proceeding *pro se*.
- 1722.4 The protest information form must contain a copy of the resume for any witness for whom a party intends to seek expert status.
- 1722.5 The Board may exclude at the hearing any witnesses or exhibits not disclosed on the protest information form if the Board finds that the opposing party has been prejudiced by the failure to disclose or if there has been a knowing failure to disclose.
- 1722.6 The Board shall have the discretion to receive documentary evidence from the parties not already listed or attached to the protest information form upon a finding of good cause.
- 1722.7 The protest information form and any attachments shall be served on all parties and the Board's Office of General Counsel seven (7) days prior to the hearing.

Section 1801, PROTEST PETITIONS, of Chapter 18, PETITION PROCEDURES, is amended by deleting Subsection 1801.3 in its entirety.

Copies of the proposed rulemaking can be obtained by contacting Martha Jenkins, General Counsel, Alcoholic Beverage Regulation Administration, 2000 14th Street, N.W., 4th Floor, Washington, D.C. 20009. All persons desiring to comment on the emergency and proposed rulemaking must submit their written comments, not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*, to the above address or via email to martha.jenkins@dc.gov.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority in the District of Columbia Official Code Title 29 (Business Organizations) Enactment Act of 2010, effective July 2, 2011 (D.C. Law 18-378; D.C. Official Code § 29-101.05 (2012 Repl.)), and Mayor’s Order 2011-178, dated October 25, 2011, hereby gives notice of the intent to revise Chapter 89 (Trade Name Registration) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

The proposed rulemaking clarifies the requirements for creating and maintaining a trade name registration as outlined in Chapter 89.

In addition, the Director gives notice of intent to take final rulemaking action to adopt this amendment in not less than forty-five (45) days from the date of publication of this notice in the *D.C. Register*.

Chapter 89, TRADE NAME REGISTRATION, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, of the District of Columbia Municipal Regulations is amended to read as follows:

CHAPTER 89 TRADE NAME REGISTRATION

8900 APPLICABILITY

8900.1 Each person or entity who carries on, conducts or transacts business in the District of Columbia under any trade name shall register that trade name with the D.C. Superintendent of Corporations, as required under D.C. Official Code § 47-2855.02.

8901 APPLICATION FORM

- 8901.1 Each applicant shall:
 - (a) Complete the trade name application from DCRA; and
 - (b) Provide information as specified under D.C. Official Code § 47-2855.02.

8902 TERM OF REGISTRATION

- 8902.1 The trade name registration shall expire two (2) years from the year of initial registration or last renewal year, whichever comes first.
- 8902.2 The expiration date in § 8902.1 shall be the first business day in the month of September.

8903 RENEWAL

8903.1 A trade name shall be renewed by April 1st of the second year from the year of initial registration or the year of last renewal.

8903.2 Trade name renewals received after the April 1st deadline shall incur a late fee.

8903.4 A person or entity that fails to renew the trade name by April 1st and the trade name has expired pursuant to § 8902.2, shall complete a new trade name application and pay all fees associated with the trade name application.

8904 REQUIRED SIGNATURES

8904.1 The trade name application shall be executed as specified under D.C. Official Code § 47-2855.02(c).

8905 PROTECTIONS AND WARRANTIES

8905.1 Registration of a trade name with the DCRA does not guarantee or warrant that no other applicant has or will register the same trade name with DCRA.

8905.2 DCRA's acceptance of a trade name registration shall not in any way be deemed a warranty of the applicant's right to do business in the District under the name registered, or exclusive use of that trade name by the applicant.

8905.3 DCRA shall not be responsible for determining whether there is an existing business or organization carrying on, conducting, or transacting business using the same trade name, or that the same trade name is registered to more than one person or entity.

8906 JUDICIAL FILINGS

8906.1 No person or entity carrying on, conducting, or transacting business under any trade name shall be entitled to file an action under that trade name in any of the courts of the District until the person or entity has properly completed the registration with the Superintendent according to this chapter.

8906.2 A person or entity's failure to properly register a trade name shall not impair the validity of any contract or act of such person or entity and shall not prevent such person or entity from defending any suit in any court of the District.

8907 CHANGES IN REGISTRATION, CANCELLATION, AND FILING REQUIREMENTS

8907.1 An amendment that changes the owner of the trade name is deemed a new registration and shall be filed with the Superintendent.

8907.2 A notice of cancellation or other amendment(s) to a trade name shall be filed according to D.C. Official Code § 47-2855.03.

8908 FEES AND REFUNDS

8908.1 The Superintendent shall charge and collect fees as specified under D.C. Official Code § 47-2855.04.

8908.2 The Superintendent shall charge a person or entity a late fee equivalent to an initial trade name application fee in cases where a trade name renewal application is submitted after the renewal deadline, but before expiration or cancellation.

8908.3 Duplicate fees are refundable under the following conditions:

- (a) The request for a refund is submitted to the Superintendent within sixty (60) calendar days from the date of payment; or
- (b) The request for a refund is submitted to the Superintendent within sixty (60) calendar days from the date of DCRA's rejection notification letter.

8908.4 The Superintendent shall retain all fees not requested within sixty (60) calendar days from the date of payment or from the date of the Superintendent's rejection notification letter.

8909 DENIAL, CANCELLATION OR REVOCATION OF TRADE NAME REGISTRATION

8909.1 Any person or entity that when a false or misleading statement in the filing of the trade name registration, or the trade name registration application is incomplete as required under this chapter, shall be denied or canceled by the Superintendent.

8909.2 Any person or entity who files a trade name registration application that fails to meet the requirements of this chapter shall be denied or canceled by the Superintendent.

8909.3 Failure to comply with this chapter shall result in a civil infraction and fines as provided under the Civil Infraction; Schedule of Fines, 16 District of Columbia Municipal Regulation § 3201.1(c).

8909.4 Any fraudulent or willful conduct in complying with this chapter shall result in a civil infraction and fines as provided under the Civil Infractions; Schedule of Fines, 16 DCMR § 3201.1(b).

8909.5 The Superintendent shall cancel a trade name when:

- (a) A filing entity, as defined under D.C. Official Code § 29-101.02(13), is the owner of the trade name; and

(b) The filing entity has an inactive status with DCRA.

8909.6 Failure to meet the renewal deadline found in § 8903 of this chapter shall result in cancellation of the trade name upon expiration, as specified in § 8902.2.

8910 GOOD STANDING REQUIREMENT FOR FILING ENTITIES

8910.1 In cases where a filing entity, as defined under D.C. Official Code § 29-101.02 (13), applies for a trade name as the owner, the filing entity shall be in good standing, as specified in Title 29 of the D.C. Official Code, prior to completing the trade name registration application.

8911 NAME REQUIREMENTS FOR TRADE NAMES

8911.1 In addition to the requirements specified under D.C. Official Code § 47-2855.02(d), a person or entity seeking to register a trade name that is similar to an existing trade name may register the similar trade name if the owner of the existing trade name provides written consent to the Superintendent authorizing the registration of the similar trade name.

8911.2 A trade name shall not include the following suffixes or any derivative:

- (a) Incorporated, “Inc.”;
- (b) Limited, “Ltd.”;
- (c) Professional Corporation, “P.C.”;
- (d) Chartered, “Chtd” ;
- (e) Limited Partnership, “L.P.”, “LP”;
- (f) Limited Liability Limited Partnership, “L.L.L.P.”, “LLLLP”;
- (g) Registered Limited Liability Limited Partnership, “R.L.L.L.P.”, “RLLLLP”;
- (h) Limited Liability Company, “L.L.C.”, “LLC”;
- (i) Limited Company, “L.C.”, “LC”;
- (j) Professional Limited Liability Company, “P.L.L.C.”, “PLLC”;
- (k) Limited, “Ltd.”;
- (l) Cooperative Association, “Co-op” or “Coop”; or

(m) Limited Cooperative Association, Limited Cooperative, “L.C.A.”, “LCA”.

8999 DEFINITIONS

8999.1 As used in this chapter, the following terms shall have the mean:

Department- District of Columbia Department of Consumer and Regulatory Affairs.

DCRA - District of Columbia Department of Consumer and Regulatory Affairs.

Inactive status – the organizational standing of an entity that was formerly but is no longer registered with the DCRA to do business in the District because the entity has been administratively or voluntarily dissolved, merged out of existence, converted into a non-filing entity, domesticated outside of the District, had its certificate of registration administratively rescinded or voluntarily withdrawn, or is not in active status for any other reason.

Superintendent - DCRA Superintendent of Corporations.

Trade Name Application - a DCRA issued document requiring information to register any name used in the course of business that does not include the full legal name of all the owners or any name that differs in any respect from the business name registered with the Superintendent.

All persons desiring to comment on these proposed regulations should submit written comments in to Aamir Mansoor, Legislative Counsel Fellow, Department of Consumer and Regulatory Affairs, 1100 Fourth Street, S.W., Room 5164, Washington, D.C. 20024, or by e-mail to aamir.mansoor@dc.gov, not later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of the proposed rules can be obtained from the address listed above. A copy fee of one dollar (\$1.00) will be charged for each copy of the proposed rules requested. Free copies are available on the DCRA website at <http://dcra.dc.gov> by going to the “About DCRA” tab, clicking “News Room”, and clicking on “Rulemaking”.

DEPARTMENT OF THE ENERGY AND ENVIRONMENT

NOTICE OF PROPOSED RULEMAKING

Food Service Ware Infractions

The Director of the Department of Energy and Environment (DOEE), in accordance with the authority set forth in the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.04 (2012 Repl.)); 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.* (2013 Repl.)); the Sustainable D.C. Omnibus Amendment Act of 2014, effective December 11, 2014 (D.C. Law 20-385; D.C. Official Code §§ 8-1531 *et seq.* (2013 Repl.)); Mayor’s Order 2006-61, Section 29, dated June 14, 2006; Mayor’s Order 2015-069, dated February 4, 2015; and Mayor’s Order 2015-191, dated July 23, 2015, hereby gives notice of the intent to adopt the following amendment to Chapter 40 (Department of the Environment (DDOE) Infractions) of Title 16 (Consumers, Commercial Practices, and Civil Infractions) of the District of Columbia Municipal Regulations (DCMR).

The proposed rulemaking establishes a schedule of civil infractions for violation of the District’s prohibition on expanded polystyrene food service products.

After careful consideration of comments, the proposed rules will be submitted to the Council of the District of Columbia for review and approval, in accordance with D.C. Official Code § 2-1801.04. The rules will become final upon Council approval, or thirty (30) days after submission if the Council has not earlier disapproved the proposed rules, and following publication of the final rules in the *D.C. Register*.

Chapter 40, DEPARTMENT OF THE ENVIRONMENT (DDOE) INFRACTIONS, of Title 16 DCMR, CONSUMERS, COMMERCIAL PRACTICES, AND CIVIL INFRACTIONS, is amended as follows:

A new Section 4011, FOOD SERVICE WARE INFRACTIONS, is established to read as follows:

4011 FOOD SERVICE WARE INFRACTIONS

4011.1 [RESERVED]

4011.2 [RESERVED]

4011.3 [RESERVED]

4011.4 Violation of the following provision shall be a Class 4 infraction:

- (a) 21 DCMR § 2301.1 (selling or providing food or beverage in expanded polystyrene food service products).

All persons desiring to comment on the proposed regulations should file comments in writing no later than thirty (30) days after the publication of this notice in the *D.C. Register*. Comments should identify the commenter and be clearly marked “DOEE Foam Proposed SOF Comments.” Comments may be (1) mailed or hand-delivered to DOEE, 1200 First Street NE, 5th Floor, Washington, D.C. 20001, Attention: DOEE Foam SOF Regulations, or (2) sent by e-mail to DOEE.FoamRegulations@dc.gov, with the subject indicated as “DOEE Foam Proposed SOF Comments.”

The proposed rules are available for viewing at: <http://doee.dc.gov/foam>. Additionally, a copy of these proposed rules will be on file for viewing at the Martin Luther King, Jr. Library, 901 G St., NW, Washington, D.C. 20001, during normal business hours.

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF PROPOSED RULEMAKING

Expanded Polystyrene Prohibition

The Director of the Department of Energy and Environment (DOEE or Department), in accordance with 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.* (2013 Repl.)); the Sustainable D.C. Omnibus Amendment Act of 2014 (“Act”), effective December 11, 2014 (D.C. Law 20-385; D.C. Official Code §§ 8-1531 *et seq.* (2012 Repl.)); Mayor’s Order 2015-069, dated February 4, 2015; and Mayor’s Order 2015-191, dated July 23, 2015, hereby gives notice of the intent to amend Title 21 (Water and Sanitation) of the District of Columbia Municipal Regulations (DCMR) by adopting a new Chapter 23 (Expanded Polystyrene Prohibition) to establish the standards for prohibiting expanded polystyrene food service products in the District of Columbia.

The proposed regulations implement the District’s prohibition on expanded polystyrene food service products under the Act. The proposed rulemaking establishes procedures for enforcement, administrative appeals, and judicial review, and defines the term “business or institutional cafeteria.”

Title 21 DCMR, WATER AND SANITATION, is amended by adding a new Chapter 23 as follows:

CHAPTER 23 EXPANDED POLYSTYRENE PROHIBITION

- 2300 PURPOSE**
- 2301 EXPANDED POLYSTYRENE PROHIBITION**
- 2302 [RESERVED]**
- 2303 ENFORCEMENT**
- 2304 ADMINISTRATIVE APPEALS AND JUDICIAL REVIEW**
- 2399 DEFINITIONS**

2300 PURPOSE

2300.1 The purpose of this chapter is to implement Title IV, Subtitle A, of the Sustainable D.C. Omnibus Amendment Act of 2014, effective December 11, 2014 (D.C. Law 20-385; D.C. Official Code §§ 8-1531 *et seq.*) to reduce the amount of expanded polystyrene entering the District’s rivers and streams and the nation’s landfills.

2301 EXPANDED POLYSTYRENE PROHIBITION

2301.1 By January 1, 2016, no food service business shall sell or provide food or beverages in expanded polystyrene food service products, regardless of where the food or beverage will be consumed.

2301.2 This section shall not apply to food or beverages that were filled and sealed in expanded polystyrene containers before a food service business received them or to materials used to package raw, uncooked, or butchered meat, fish, poultry, or seafood for off-premises consumption.

2302 [RESERVED]

2303 ENFORCEMENT

2303.1 Violation of any of the requirements of this chapter or Title IV, Subtitle A, of the Sustainable D.C. Omnibus Amendment Act of 2014, shall subject a food service business to the penalties set forth in this section.

2303.2 The Department may enforce a violation of this chapter by issuing one or more of the following:

(a) Notice of violation; or

(b) Notice of infraction.

2303.3 The Department may issue a notice of infraction without first issuing a notice of violation or threatened violation.

2303.4 Sanctions, including civil fines and penalties, may be imposed pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801 *et seq.*).

2303.5 The Department may also initiate a civil action in the Superior Court of the District of Columbia to secure a temporary restraining order, preliminary injunction, or other relief necessary for enforcement of this chapter.

2303.6 Each instance or day of a violation of each provision of this chapter shall be a separate violation.

2303.7 The Department may enter any food service business during normal business hours for the purpose of determining whether a food service business is selling or providing food or beverages in expanded polystyrene food service products.

2304 ADMINISTRATIVE APPEALS AND JUDICIAL REVIEW

2304.1 A person adversely affected by an enforcement action of the Department shall exhaust administrative remedies by timely filing an administrative appeal with, and requesting a hearing before, the Office of Administrative Hearings (OAH), established pursuant to the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code, §§ 2-1831.01 *et seq.*), or OAH's successor.

- 2304.2 The appeal to OAH shall be filed in writing within fifteen (15) calendar days of service, or twenty (20) calendar days if service is made by United States mail.
- 2304.3 The Department may toll a period for filing an administrative appeal with OAH if it does so explicitly in writing before the period expires.
- 2304.4 OAH shall:
- (a) Resolve a notice of infraction by:
 - (1) Affirming, modifying, or setting aside the Department's action complained of, in whole or in part;
 - (2) Remanding for Department action or further proceedings, consistent with OAH's order; or
 - (3) Providing such other relief as the governing statutes, regulations, and rules support;
 - (b) Act with the same jurisdiction, power, and authority as the Department may have for the matter currently before OAH; and
 - (c) Render a final decision that shall constitute a final agency action subject to judicial review.
- 2304.5 The filing of an administrative appeal shall not in itself stay enforcement of an action, except that a person may request a stay according to the rules of OAH.
- 2304.6 The burden of production in an appeal of an action of the Department shall be allocated to the person who appeals the action, except that it shall be allocated:
- (a) To the party who asserts an affirmative defense; and
 - (b) To the party who asserts an exception to the requirements or prohibitions of a statute or rule.
- 2304.7 The final OAH decision on an administrative appeal shall thereafter constitute the final, reviewable action of the Department, and shall be subject to the applicable statutes and rules of judicial review for OAH final orders.
- 2304.8 Nothing in this chapter shall be interpreted to:
- (a) Provide that a filing of a petition for judicial review stays enforcement of an action; or

- (b) Prohibit a person from requesting a stay of the OAH proceedings according to the rules of the court.

2399 DEFINITIONS

2399.1 When used in this chapter, the following terms shall have the meanings ascribed:

Business or institutional cafeteria - A facility operated by a for-profit, non-profit, or government entity that has a dedicated space for food preparation and serves food on a recurring basis.

Department - The Department of Energy and Environment.

Expanded polystyrene - blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by a number of techniques, including fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene).

Expanded polystyrene food service products - food containers, plates, hot and cold beverage cups, meat and vegetable trays, egg cartons, and other products made of expanded polystyrene and used for selling or providing food.

Food service business - full service restaurants, limited-service restaurants, fast foods restaurants, cafes, delicatessens, coffee shops, supermarkets, grocery stores, vending trucks or carts, food trucks, business or institutional cafeterias, including those operated by or on behalf of District departments and agencies, and other businesses selling or providing food within the District for consumption on or off the premises.

All persons desiring to comment on the proposed regulations should file comments in writing no later than thirty (30) days after the publication of this notice in the *D.C. Register*. Comments should identify the commenter and be clearly marked “DOEE Foam Proposed Rule Comments.” Comments may be (1) mailed or hand-delivered to DOEE, 1200 First Street NE, 5th Floor, Washington, D.C. 20001, Attention: DOEE Foam Regulations, or (2) sent by e-mail to DOEE.FoamRegulations@dc.gov, with the subject indicated as “DOEE Foam Proposed Rule Comments.”

The proposed rules are available for viewing at: <http://doee.dc.gov/foam>. Additionally, a copy of these proposed rules will be on file for viewing at the Martin Luther King, Jr. Library, 901 G St., NW, Washington, D.C. 20001, during normal business hours.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in Sections 4902 and 4908 of the Department of Health Functions Clarification Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code §§ 7-731(a)(8) and (c), and 7-737 (2012 Repl. & 2015 Supp.)), and Mayor’s Order 2006-34, dated March 12, 2006, hereby gives notice of the intent to take proposed rulemaking action to adopt the following amendments to Chapter 35 (Licensing Fees) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the rulemaking is to establish initial licensing and renewal fees for manufacturers, distributors, importers, and vendors of medical devices in the District of Columbia.

These regulations will become effective after a thirty (30) day comment period in the *D.C. Register*.

Chapter 35, LICENSING FEES, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Section 3500, FEES, Subsection 3500.1, is amended as follows:

A new category is added in alphabetical sequence to read as follows:

MANUFACTURERS, DISTRIBUTORS, IMPORTERS, VENDORS OF MEDICAL DEVICES:	
Initial Licensure Fee	\$500.00
Renewal Fee (annual)	\$500.00

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C., 20002, or to Van.Brathwaite@dc.gov. Copies of the proposed rules may be obtained from the Department of Health at the same address during the hours of 9 a.m. to 5 p.m., Monday through Friday, excluding holidays.

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

The District of Columbia Public Library Board of Trustees, 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 (2012 Supp.)); 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 (2012 Supp.)); 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 (2012 Supp.)); the Procurement Reform Amendment Act of 1996, effective April 12, 1997, as amended (D.C. Law 11-259; 44 DCR 1423 (March 14, 1997)); and Section 156 of An Act Making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes, approved October 21, 1998 (112 Stat. 2681, Pub. L. 105-277; D.C. Official Code § 39-105 (2012 Repl.)); hereby gives notice of its intent to amend Sections 811, 816, and 817 of Chapter 8 (Public Library) of Title 19 (Amusements, Parks, and Recreation) of the District of Columbia Municipal Regulations (DCMR).

The Board of Trustees has appointed the Chief Librarian/Executive Director, through D.C. Official Code § 39-105(a)(10) (2012 Repl.), to establish rules and manage the day-to-day operations of the library. On August 3, 2015, the Executive Director of the District of Columbia Public Library ("DCPL") approved the proposed new amendment(s) to the District of Columbia Public Library Regulations. The proposed amendments will permit the DCPL's Executive Director and/or designee to manage the in-kind and fixed asset donation process.

Chapter 8, PUBLIC LIBRARY, of Title 19, AMUSEMENTS, PARKS, AND RECREATION, is amended as follows:

Section 811, DCPL PROCEDURES FOR SOLICITATION AND/OR DONATION OF FINANCIAL, IN-KIND AND FIXED ASSET GIFTS, is amended as follows:

Subsection 811.2 is amended by striking the word "entitles" and inserting the word "entities" in its place, so that the subsection reads as follows.

811.2 The policies and guidelines set forth are based on the legislation titled "Public Charter School Assets and Facilities Preservation Amendment Act of 2006" which amends D.C. Official Code §§ 39-101 *et seq.* The new legislation provides that the Board of Library Trustees (the "Board") may accept donations, gifts by devise or bequest, grants, and any other type asset from individuals, groups, organizations, corporations, partnerships, and other governmental entities.

Section 816, IN-KIND AND FIXED ASSET DONATIONS, is amended as follows:

Subsection 816.2 is amended to read as follows:

816.2 The Director of Collections and/or Branch Manager shall access whether the acceptance of the proposed donation would be a greater cost than benefit to the DCPL.

Subsection 816.3 is amended to read as follows:

816.3 The Director of Collections and/or Branch Manager shall determine if the donation is in a usable condition for the DCPL; if not, the donation shall be declined.

Subsection 816.10 is amended by striking the words “Office of the General Counsel” and inserting the words, “Director of Collections and/or Designee”, so that the subsection reads as follows:

816.10 The Director of Collections and/or Designee shall send a thank you letter to the Donor for the donation and give a copy to the Office of Budget and Finance.

Section 817, MONITORING, REPORTING, AND PUBLIC INSPECTION OF DONTATIONS, is amended as follows:

Subsection 817.1 is amended by striking the words “Office of the General Counsel” and inserting the words “Chief Librarian and/or Designee” in its place and striking the words “Chief Librarian” and inserting the words “Office of General Counsel” in its place, so that the subsection reads as follows:

817.1 The Chief Librarian and/or Designee shall prepare a bi-annual report of all donations to be monitored and tracked by the Office of General Counsel. The OCFO shall prepare a report on the status of budget expenditures and available balance to be used in conjunction with the bi-annual report.

Subsection 817.2 is amended as follows:

817.2 Each report shall have the donor's name, the brief description of the donation, the total value of the approved solicited and accepted donation, and the donation approval date. A copy of the donation report shall be provided to the Office of General Counsel.

Subsection 817.3 is amended by striking the words “General Counsel” and inserting “Chief Librarian and/or Designee” in its place, so the subsection reads as follows:

817.3 The Chief Librarian and/or Designee shall file quarterly reports listing all donations with the Office of Administrative Documents and Issuances to be printed in the *D.C. Register*.

Subsection 817.4 is amended to read as follows:

817.4 The DCPL, through its Chief Librarian and/or Designee, shall also publish a monthly report of all donations accepted and approved on the DCPL web page monthly. This report shall include the donor's name, the brief description of the donation, the total value of the approved solicited and accepted donation, and donation approval date.

Any person desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be submitted to Grace Perry-Gaiter, DCPL, General Counsel, Martin Luther King Jr. Memorial Library, 901 'G' Street, N.W., 4th Floor, Washington, D.C. 20001. Telephone: (202) 727-1134. Copies of the proposed rulemaking may be obtained by writing to the address stated above.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (2012 Repl. & 2014 Supp.)), and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of an amendment to Section 1913, entitled “One-Time Transitional Services,” of Chapter 19 (Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These emergency and proposed rules establish standards governing reimbursement for one-time transitional services provided to participants in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver) and conditions of participation for providers.

The ID/DD Waiver was approved by the Council of the District of Columbia (Council) and renewed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), for a five-year period beginning November 20, 2012. The corresponding amendment to the ID/DD Waiver was approved by the Council through the Medicaid Assistance Program Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-155; 61 DCR 9990 (October 3, 2014)). The amendment must also be approved by CMS, which will affect the effective date for the emergency rulemaking.

One-time transitional services are one-time, non-recurring start-up expenses for persons in the ID/DD Waiver who are transitioning from an institution or provider-operated living arrangement to a living arrangement in a private residence where the person is directly responsible for their own living expenses. The current Notice of Final Rulemaking for 29 DCMR § 1913 (One-Time Transitional Services) was published in the *D.C. Register* on February 28, 2014, at 61 DCR 001647. These rules amend the previously published final rules by: (1) specifying requirements for lease agreements; (2) clarifying that furniture purchases must match the person’s preference; (3) eliminating the requirement that providers comply with Section 1909 of Chapter 19 of Title 29 DCMR; (4) eliminating the requirement that providers comply with Section 1908 of Chapter 19 or Title 29 DCMR; and (5) adding a requirement for reporting to the Department on Disability Services.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of waiver participants who are in need of one-time transitional services. The new requirements will enhance the quality of services. Therefore, in order to ensure that the person’s health, safety, and welfare are not threatened by lack of access to one-time transitional services provided pursuant to the updated delivery guidelines, it is necessary that these rules be published on an emergency basis.

The emergency rulemaking was adopted on August 6, 2015, but these rules shall become effective for services rendered on or after September 1, 2015, if the corresponding amendment to the ID/DD Waiver has been approved by CMS with an effective date of September 1, 2015, or on the effective date established by CMS in its approval of the corresponding ID/DD Waiver amendment, whichever is later. The emergency rules shall remain in effect for not longer than one hundred and twenty (120) days from the adoption date or until December 4, 2015, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. If approved, DHCF shall publish the effective date with the Notice of Final Rulemaking. The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Chapter 19, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Section 1913, ONE-TIME TRANSITIONAL SERVICES, is deleted in its entirety and amended to read as follows:

1913 ONE-TIME TRANSITIONAL SERVICES

- 1913.1 This section establishes the conditions of participation for Medicaid providers enumerated in § 1913.6 (Medicaid Providers) to provide one-time transitional (OTT) services to persons enrolled in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver).
- 1913.2 OTT services are one-time, non-recurring start-up expenses for persons enrolled in the ID/DD Waiver who are transitioning from an institution or provider-operated living arrangement to a living arrangement in a private residence where the person is directly responsible for his or her own living expenses.
- 1913.3 In order to be eligible for reimbursement, each Medicaid provider shall obtain prior authorization from the Department on Disability Services (DDS) before providing OTT services. The request for prior authorization shall include a written justification that demonstrates how the services will aid the person in transitioning to their own living arrangements; their ability to pay for the expenses; or their inability to obtain the services from other sources.
- 1913.4 In order to be eligible for Medicaid reimbursement, each Medicaid provider shall document the following in the person's Individual Support Plan (ISP) and Plan of Care:
- (a) The date when OTT funds were provided; and
 - (b) A description and amount of each expense as described in § 1913.5.

- 1913.5 Medicaid reimbursable OTT services may include the following:
- (a) Security deposits that are required to obtain a lease for an apartment or home. In order to qualify for OTT services, the lease or other written residency agreement shall include all of the responsibilities and protections from eviction that apply under the jurisdiction's landlord-tenant laws.
 - (b) Essential household furnishings, which reflect the person's preferences, and other expenses required to occupy or maintain an apartment or home;
 - (c) Start-up fees or deposits for utility or service access, including telephone, gas, electricity, and water;
 - (d) Services necessary for the person's health, safety and wellbeing, such as pest eradication and one-time cleaning prior to occupancy;
 - (e) Home accessibility adaptations including carpeting, one-time general home repair, including roof repair, painting and fence repair; and
 - (f) Moving expenses related to transporting personal belongings.
- 1913.6 Medicaid reimbursable OTT services shall be provided by the following types of providers who possess a human care agreement with DDS:
- (a) A provider of supported living services as described under Section 1934 of Chapter 19 of Title 29 DCMR; and
 - (b) A provider of residential habilitation services as described under Section 1929 of Chapter 19 of Title 29 DMCR.
- 1913.7 Each provider of Medicaid reimbursable OTT services shall comply with Section 1904 (Provider Qualifications) and Section 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 DCMR.
- 1913.8 Each provider of Medicaid reimbursable OTT services shall maintain the following documents for monitoring and audit reviews: Copy of receipts documenting the date, item, amount expended, and any related warranty.
- 1913.9 Each provider of Medicaid reimbursable OTT services shall submit a written report, thirty (30) days after the service has been completed, that includes an itemized list of all expenses tied to the person's ISP goal, referencing the receipts provided, and indicating the process used to support the person to select items and set up their new home.

- 1913.10 Each provider of Medicaid reimbursable OTT services shall comply with the requirements described under Section 1911 (Individual Rights) of Chapter 19 of Title 29 DCMR, as applicable.
- 1913.11 Medicaid reimbursement for OTT services shall not be available for:
- (a) Monthly rental or mortgage expenses;
 - (b) Food;
 - (c) Regular utility charges;
 - (d) Household appliances or items that are intended for purely recreational purposes (*e.g.*, television, cable or satellite installation for television programming, stereo or other audio equipment, or computerized gaming equipment);
 - (e) Environmental accessibility adaptation services that are of direct medical or remedial benefit to the person including specialized electric and plumbing systems necessary to accommodate medical equipment and supplies; and
 - (f) Any durable medical equipment.
- 1913.12 Medicaid reimbursement for OTT services shall be limited to a maximum of five thousand dollars (\$5,000) per person for the duration of the ID/DD Waiver period as a one-time, non-recurring expense.

Comments on these emergency and proposed rules shall be submitted, in writing, to Claudia Schlosberg, J.D., Senior Deputy Director/State Medicaid Director, District of Columbia Department of Health Care Finance, 441 Fourth Street, N.W., Suite 900 South, Washington, D.C. 20001, by telephone on (202) 442-8742, by email at DHCFPublicComments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rules may be obtained from the above address.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (2012 Repl. & 2014 Supp.)), and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of an amendment to repeal Section 1917, entitled “Shared Living Services,” of Chapter 19 (Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Register (DCMR).

The repealed section established standards governing reimbursement of shared living services (formerly known as live-in caregiver services) provided to participants in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver) and conditions of participation for providers. The ID/DD Waiver was approved by the Council of the District of Columbia (Council) and renewed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), for a five-year period beginning November 20, 2012. The corresponding amendment to the ID/DD Waiver, which was approved by the Council through the Medicaid Assistance Program Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-155; 61 DCR 9990 (October 3, 2014)), no longer includes shared living services because these services were not utilized by participants in the ID/DD Waiver. The amendment must also be approved by CMS, which will affect the effective date for the emergency rulemaking.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of Waiver participants who need to know which ID/DD Waiver services are available to meet identified person-centered needs. These emergency rules are needed so that, on or after May 1, 2015, or the effective date of the Waiver as modified and approved by CMS, rules are in place consistent with the new Waiver so participants and providers are able to identify the services available under the approved Waiver.

The emergency rulemaking was adopted on August 6, 2015, but these rules shall become effective on or after September 1, 2015, if the corresponding amendment to the ID/DD Waiver has been approved by CMS with an effective date of September 1, 2015, or on the effective date established by CMS in its approval of the corresponding ID/DD Waiver amendment, whichever is later. The emergency rules shall remain in effect for not longer than one hundred and twenty (120) days from the adoption date or until December 4, 2015, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. If approved, DHCF shall publish the effective date with the Notice of Final Rulemaking. The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Chapter 19, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Section 1917, SHARED LIVING SERVICES, is deleted in its entirety and amended to read as follows:

1917 [REPEALED]

Comments on these emergency and proposed rules shall be submitted, in writing, to Claudia Schlosberg, J.D., Senior Deputy Director/State Medicaid Director, District of Columbia Department of Health Care Finance, 441 Fourth Street, N.W., Suite 900 South, Washington, D.C. 20001, by telephone on (202) 442-8742, by email at DHCFPublicComments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rules may be obtained from the above address.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (2012 Repl. & 2014 Supp.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of an amendment to Section 1921, entitled “Dental Services,” of Chapter 19 (Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These emergency and proposed rules establish standards governing reimbursement of dental services provided to participants in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver) and conditions of participation for providers.

The ID/DD Waiver was approved by the Council of the District of Columbia (Council) and renewed by the U.S. Department of Health and Human Services’, Centers for Medicare and Medicaid Services (CMS), for a five-year period beginning November 20, 2012. The corresponding amendment to the ID/DD Waiver was approved by the Council through the Medicaid Assistance Program Amendment Act of 2014, effective February 29, 2015 (D.C. Law 20-155; 61 DCR 9990 (October 3, 2014)). The amendment must also be approved by CMS, which will affect the effective date for the emergency rulemaking.

The current Notice of Final Rulemaking for 29 DCMR § 1921 (Dental Services) was published in the *D.C. Register* on March 28, 2014 – Part 1, at 61 DCR 002602. These rules amend the previously published final rules by changing the requirements for maintaining records.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of waiver participants who are in need of dental services. The new requirements will enhance the quality of services. Therefore, in order to ensure that the residents’ health, safety, and welfare are not threatened by lack of access to dental services provided pursuant to the updated delivery guidelines, it is necessary that these rules be published on an emergency basis.

The emergency rulemaking was adopted on August 6, 2015, but these rules shall become effective for services rendered on or after September 1, 2015, if the corresponding amendment to the ID/DD Waiver has been approved by CMS with an effective date of September 1, 2015, or on the effective date established by CMS in its approval of the corresponding ID/DD Waiver amendment, whichever is later. The emergency rules shall remain in effect for not longer than one hundred and twenty (120) days from the adoption date or until December 4, 2015, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. If approved, DHCF shall publish the effective date with the Notice of Final Rulemaking. The Director of

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

Chapter 19, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Subsection 1921.7 of Section 1921, DENTAL SERVICES, is amended to read as follows:

1921.7 Each provider of Medicaid reimbursable dental services shall maintain records in accordance with professional standards, in a manner that protects a person's confidentiality and meets the confidentiality requirements for Protected Health Information under the Health Insurance Portability and Accountability (HIPAA) Act and implementing regulations.

Comments on these emergency and proposed rules shall be submitted, in writing, to Claudia Schlosberg, J.D., Senior Deputy Director/State Medicaid Director, District of Columbia Department of Health Care Finance, 441 Fourth Street, N.W., Suite 900 South, Washington, D.C. 20001, by telephone on (202) 442-8742, by email at DHCFPublicComments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rules may be obtained from the above address.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8(c) (1),(2),(3), (4) (7), (10), (11), (14), (16), (18), (19) and (20), 14, 15, and 20j of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986, as amended by the Vehicle-for-Hire Innovation Amendment Act of 2014 (“Vehicle-for-Hire Act”), effective March 10, 2015 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c)(1),(2),(3), (4) (7), (10), (11), (14), (16), (18), (19) and (20), 50-313, 50-314, and 50-329 (2012 Repl. & 2015 Supp.)), hereby gives notice of its intent to adopt amendments to Chapter 16 (Dispatch Services and District of Columbia Taxicab Industry Co-op) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This proposed rulemaking would amend Chapter 16 to modify the requirements for the D.C. Universal Taxicab App (“DC TaxiApp”) and the D.C. Taxicab Industry Co-op (“Co-op”). The emergency rules are necessary because there is an immediate need to preserve and promote the safety and welfare of the District’s taxicab industry by: (1) expediting formation of the Co-op prevent further delays in the formation of the Co-op by clarifying the obligations of industry stakeholders who are currently expending substantial time and resources to develop the Co-op in the manner authorized and required by this chapter; (2) making the Co-op available for testing and licensing of the DC TaxiApp; (3) clarifying the process for developing the Co-op’s draft bylaws; (4) clarifying and expanding the requirements for the Co-op’s bylaws, to ensure that the Co-op will be owned and operated for the mutual benefit of all of its members, and that the Co-op will not be owned or operated in manner which violates its bylaws, or District, State, or Federal laws; (5) establishing procedures to allow app developers to conduct live field testing of apps for taxicab service in the District without registering a digital dispatch service with the Office; and (6) accomplishing other lawful and appropriate purposes justifying the immediate effectiveness of these rules in advance of final rulemaking.

This emergency rulemaking was adopted by the Commission on May 29, 2015 and took effect immediately. The emergency rules shall remain in effect for one hundred and twenty (120) days after the date of adoption (expiring September 25, 2015), 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 of proposed rulemaking in the *D.C. Register*. Directions for submitting comments may be found at the end of this notice.

Chapter 16, DISPATCH SERVICES AND DISTRICT OF COLUMBIA TAXICAB INDUSTRY CO-OP, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Sections 1612 and 1613 are amended to read as follow:

1612 DISTRICT OF COLUMBIA UNIVERSAL TAXICAB APP

- 1612.1 Not later than September 1, 2015 (“implementation date”), each DCTC taxicab operator shall provide service only when signed in to the District of Columbia Universal Taxicab App (“DC TaxiApp”). A violation of this subsection shall subject an operator to a civil fine of twenty five dollars (\$25).
- 1612.2 Each taxicab owner shall ensure that all of its vehicles are equipped, if necessary, to allow its associated taxicab operators to comply with the provisions of § 1612.1. A violation of this subsection shall subject the owner to a civil fine of fifty dollars (\$50) per vehicle.
- 1612.3 For purposes of this section and § 1613, the term “app” and “application” shall mean a piece of software designed to fulfill a particular purpose, which is downloadable by a user to a mobile device, such as a tablet or smartphone. Unless otherwise stated, an app’s purpose is the digital dispatch, or the digital dispatch and digital payment, of trips by vehicles-for-hire.
- 1612.4 Nothing in this title shall be construed to prevent any person from using an app provided by a registered digital dispatch service other than the Co-op.
- 1612.5 The Commission shall enact no rule or regulation respecting the rates and charges, if any, for trips booked through the DC TaxiApp. Such rates and charges shall be established only by the Co-op, as provided in § 1613.
- 1612.6 Any person developing an app (“app developer”) for taxicab service may engage in live field testing in the District provided the app developer meets the following requirements.
- (a) Prior to commencing live field testing in the District:
- (1) The app developer shall submit an application using a form made available by the Office, executed under oath, consisting of the following information and documentation:
- (A) The app developer is licensed to do business in the District;
- (B) The app developer maintains a registered agent in the District;
- (C) The rates and charges to be used during the testing;

- (D) The app developer is, or prior to commencing testing will be, in compliance with the provisions of paragraph (b) of this subsection;
 - (E) An initial inventory of all owners, operators, and vehicles that would participate in the testing;
 - (F) Such other information and documentation which the Office determines to be necessary and appropriate;
 - (G) A bond of fifty thousand dollars (\$50,000) effective during the period of testing and twelve (12) months thereafter, to cover claims by the Office for documented violations of this section; and
 - (H) Be accompanied by an application fee of two thousand five hundred dollars (\$2,500).
- (2) The Office shall review the application within ten (10) days, and issue a decision in writing. If the decision grants the application, it may include terms and conditions for the live field testing relating to safety, consumer protection, the passenger surcharge, or any other provision of this title or other applicable law. The testing period shall not exceed one hundred twenty (120) days but may be extended by the Office pursuant to the same requirements for a new application under this subsection. The app developer shall not conduct live field testing if the Office does not grant the application.
- (b) Following the Office's approval, the app developer shall:
- (1) Use only:
 - (A) The DCTC-licensed vehicles listed on the inventory required by § 1612.6(b)(7);
 - (B) The DCTC-licensed taxicab owners and operators listed on the inventory required by § 1612.6(b)(7), who volunteer to participate; and
 - (C) Passengers who volunteer to participate in the testing, who are informed of the rates and charges used by the app, and are provided with an estimated fare;
 - (2) Not interfere with the collection or payment to the District of the passenger surcharge;

- (3) Comply with §§ 1604.3, 1604.5, 1604.6, 1604.8, 1604.11, 1604.12, 1604.14, and 1605.9 (as promulgated on an emergency basis in the Notice of Emergency and Proposed Rulemaking approved on March 11, 2015, or in the corresponding provisions of any final rulemaking), to the same extent as if the app developer were a digital dispatch service;
- (4) Provide passengers with contact information for the Office and for the app developer;
- (5) 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;
- (6) Be subject to the provisions of Chapter 7, and shall cooperate with the Office to promptly resolve an issue relating to the testing, such as interference with a person's ability to comply with a provision of this title or other applicable law, or a passenger's complaint about the app;
- (7) Maintain with the Office a current and accurate inventory of all owners, operators, and vehicles participating in the testing;
- (8) Maintain its business records for two (2) years following the conclusion of the testing, which shall be subject to inspection by the Office;
- (9) Comply with all applicable provisions of this title for enforcement and compliance to the same extent as if the app developer were a taxicab company or association;
- (10) File a public complaint with the Office against any person who engages in conduct which constitutes a clear threat to public safety or consumer protection, or which constitutes grounds for immediate suspension of a vehicle operator's license under § 706; and
- (11) Promptly reimburse any participant in the testing for a documented loss resulting from the testing, such as a miscalculation of a fare.

1612.7 The Office, by written notice upon the app developer, may suspend or revoke its approval for live field testing where the testing:

- (a) Is conducted in violation of § 1612.6 (including violation of any terms or conditions stated in the Office's approval under § 1612.6(a)(2));
- (b) Threatens safety, consumer protection, or the payment to the District of the passenger surcharge; or
- (c) Interferes with the Office's ability to enforce any provision of this title or other applicable law.

1612.8 An app which is the subject of approved live field testing shall not be launched in the District unless and until it is provided by a digital dispatch service registered as required by this chapter and other applicable law.

1612.9 No person shall conduct or participate in live field testing of an app for the dispatch of taxicabs in the District except as provided in this section. An entity which conducts or participates in live field testing in violation of this section shall be subject to a civil fine not to exceed one thousand dollars (\$1,000) per day based on the circumstances. An operator who knowingly participates in live field testing that violates this section shall be subject to a civil fine of twenty five dollars (\$25) for each trip booked through the app.

1612.10 Each taxicab company required by D.C. Official Code § 50-329.02 to provide dispatch services shall participate in live field testing of the DC TaxiApp if required to do so in an administrative issuance.

1613 DISTRICT OF COLUMBIA TAXICAB INDUSTRY CO-OP

1613.1 The Co-op shall be a cooperative association or other business entity authorized by the Business Corporation Act of 2011 (D.C. Official Code §§ 29-301.01, *et seq.*), which allows the Co-op and all of its members to meet all the requirements of this section, § 1612, and other applicable laws.

1613.2 The Co-op shall be owned and operated for the mutual benefit of all of its members, for the purpose of promoting the use of available DCTC-licensed taxicabs, including wheelchair accessible vehicles, by the residents of and visitors to the District, and such other purposes as stated in this section and § 1612.

1613.3 Unless otherwise provided in a license agreement with the Office, the Co-op shall provide all necessary management, service, and support for the DC TaxiApp in the manner prescribed by this section and § 1612, and by the license agreement.

1613.4 Any two or more persons who are permitted or required by § 1613.8(j) to be members of the Co-op shall incorporate the Co-op not later than June 5, 2015.

1613.5 Following incorporation of the Co-op, the incorporators shall:

- (a) Promptly obtain a physical place of business for the Co-op within the District;
- (b) Cooperate with the Office to conduct any necessary testing of the DC TaxiApp;
- (c) Take or facilitate all actions required by this chapter and other applicable law to ensure that the Co-op is ready and able to begin full operations not later than the implementation date; and
- (d) Schedule a meeting to be held within thirty (30) to sixty (60) days after the issuance of public notice to all prospective members of the Co-op, to:
 - (1) Elect a board of directors,
 - (2) Adopt the Co-op's bylaws following their approval by the Office; and
 - (3) Engage in such other business as necessary to begin full operation of the Co-op and to enable the use of the DC TaxiApp by all taxicab operators not later than the implementation date.

1613.6 The Co-op shall be governed by its bylaws, as approved by the Office pursuant to § 1613.12.

1613.7 Draft bylaws shall be prepared by a bylaw drafting advisory group whose members shall be:

- (a) Representatives of each taxicab company with current operating authority required by D.C. Official Code § 50-329.02 to provide dispatch services as of May 29, 2015; and
- (b) An equal number of individuals selected at random by the Office from among those who volunteer to participate, each of whom shall either:
 - (1) Be permitted but not required to be members of the Co-op pursuant to § 1613.8(j)(2); or
 - (2) Represent a group of individuals each of whom is permitted but not required to be members of the Co-op pursuant to § 1613.8(j)(2).

1613.8 The draft bylaws filed with the Office pursuant to § 1613.6 shall include terms and conditions providing that:

- (a) The Co-op shall not give preferential treatment to any person or group of persons in the taxicab industry through its operations, through the marketing, availability, or functionality of the DC TaxiApp, through the rates and charges which the Co-op sets for trips booked through the DC TaxiApp, or through the revenue generated by the DC TaxiApp;
- (b) The Co-op shall establish and maintain a digital dispatch service, registered and operated in compliance with this chapter, which at all times, maintains integration between the DC TaxiApp and each PSP in a manner consistent with § 408.16, to ensure that:
 - (1) Each passenger who books a ride through the DC TaxiApp may choose to make either an in-vehicle payment (cash or payment card) or a digital payment;
 - (2) The passenger surcharge is collected from the passenger and paid to the District for each trip; and
 - (3) The PSP is able to comply with all obligations under Chapters 4 and 6.
- (c) The provisions of § 1613.8(b) shall not apply if the DC TaxiApp does not provide the functionality needed for integration;
- (d) The Co-op shall establish competitive, market-based rates and charges for trips booked through the DC TaxiApp;
- (e) The Co-op shall execute any necessary license agreement with the District for the use of the DC TaxiApp, shall comply with all terms and conditions thereof, and shall not use, acquire, license, test, market, develop, or otherwise be associated with any other app without the written approval of the Office;
- (f) The Co-op shall develop, distribute, and require the acceptance of terms of service for the use of the DC TaxiApp by taxicab operators and passengers;
- (g) The Co-op shall ensure that operators receive the revenue they generate through the use of the DC TaxiApp within twenty four (24) hours or one (1) business day;
- (h) The Co-op shall promote the availability of wheelchair accessible taxicab service, and may use incentives to owners and operators to support such availability;

- (i) The Co-op shall carry such commercial insurance as necessary in connection with the use of the DC TaxiApp;
- (j) The Co-op's membership shall be limited to:
 - (1) Persons required to be members: each taxicab company with current operating authority that is required by D.C. Official Code § 50-329.02 to provide dispatch services and who pays the required capital contribution; and
 - (2) Persons allowed but not required to be members:
 - (A) Each individual who holds a current DCTC taxicab operator's license (Face card);
 - (B) Each individual who holds a current DCTC taxicab vehicle license other than a DCTC transferable taxicab vehicle license;
 - (C) Each person that holds a DCTC transferable taxicab vehicle license which at the time of becoming a member and annually thereafter provides documentation under oath that the license is in active use for a wheelchair accessible vehicle with the best available propulsion under § 609;
 - (D) Each taxicab company with current operating authority, other than a taxicab company required to be a member under § 1613.8(j)(1); and
 - (E) Each taxicab association with current operating authority;
- (k) Each Co-op member shall make a capital contribution as determined by the board of directors, which shall be consistent with the provisions of this section and other applicable laws;
- (l) The Co-op may allow a fair return to members who choose to make additional capital contributions to fund the establishment and/or operations of the Co-op, and to investors;
- (m) The Co-op shall maintain a fair, reasonable, and non-discriminatory system which allows the passenger to rate the operator based on the quality of service received;
- (n) The Co-op shall establish standards for its operations, including standards for the safe and prompt provision of service through the DC TaxiApp;

- (o) The Co-op may suspend an operator from using the DC TaxiApp for not more than two (2) hours total during any seven (7) calendar day period based on material violations of the standards established by the Co-op, provided the Co-op promptly notifies the operator of the basis of the suspension and allows the operator to respond in writing;
- (p) The Co-op may suspend an operator from using the DC TaxiApp for more than two (2) hours total during any seven (7) calendar day period based on violations of the standards established by the Co-op, provided the Co-op maintains a system of discipline which gives operators the following minimum procedural protections:
 - (1) Written notice of a suspension accompanied by relevant documentation, which shall be provided in advance of the suspension except in the event of a clear threat to safety or consumer protection;
 - (2) Representation by an attorney or other individual, at the operator's expense;
 - (3) An opportunity to respond to the notice;
 - (4) One (1) level of review of the Co-op's decision;
 - (5) No suspension shall exceed thirty (30) calendar days; and
 - (6) An operator's suspension shall not be considered for purposes of determining the appropriate length of a subsequent suspension more than three (3) years thereafter.
- (q) The Co-op may file a public complaint with the Office against any person in connection with a violation of this section or § 1612. The Co-op shall file a public complaint with the Office against any person who engages in conduct which constitutes a clear threat to public safety or consumer protection, or which constitutes grounds for immediate suspension of a vehicle operator's license under § 706;
- (r) Each member of the board of directors shall possess the qualifications required for an industry member of the Commission under D.C. Official Code § 50-305;
- (s) The Co-op shall annually publish a report which containing:
 - (1) A summary of the Co-op's major activities for the prior twelve (12) months;

- (2) The names of the Co-op's members and their taxicab company or taxicab association affiliations, if any;
 - (3) The names of the Co-op's principal officers and members of the board of directors;
 - (4) The name and address of each entity in which the Co-op has a legal or equitable interest, or with which it conducts a business activity in a partnership or joint venture;
 - (5) The name and address of each entity with which the Co-op transacts business in excess of ten thousand dollars (\$10,000) per calendar year; and
 - (6) Such other information as the Co-op deems appropriate;
- (t) No person or associated group of persons shall:
- (1) Control more than forty percent (40%) of the membership of the board of directors;
 - (2) Hold legal or equitable title to more than forty percent (40%) of the par value of the Co-op's total debt obligations, if any; or
 - (3) Hold legal or equitable title to more than forty percent (40%) of the par value of any single class of the Co-op's stock, if any, or the par value of all combined classes of the Co-op's stock, if any;
- (u) Each of the following individuals ("filers") shall be required to file a confidential disclosure statement with the Co-op annually, and at the time of the filer's association with the Co-op or at the time of the filer's association with an entity in which the Co-op has a legal or equitable interest:
- (1) Each member of the board of directors and each principal officer of the Co-op;
 - (2) Each member of the board of directors and each principal officer of an entity in which the Co-op has a substantial legal or equitable interest; and
 - (3) Each person with which the Co-op transacts or proposes to transact business in excess of twenty five thousand dollars (\$25,000) in any calendar year;

- (v) Each form which the Co-op intends to be use as a confidential disclosure statement form shall be reviewed by the Office prior to its use. The form shall be substantially similar in substance to the confidential disclosure statement required by the D.C. Board of Ethics and Government Accountability for employees, excluding matters not relevant to the Co-op. The form shall require the filer to disclose under oath each the following matters, and to provide a written explanation and documentation where necessary, as the Co-op deems appropriate:
- (1) The filer, and the filer's spouse, domestic partner, and dependent children, have filed and paid all income and property taxes owed to the Federal government and each jurisdiction where the filer is required to pay such taxes;
 - (2) The filer, and the filer's spouse, domestic partner, and dependent children, have not received anything of value, such as a credit, offset, gift, favor, service, loan, gratuity, discount, meals, hospitality, contribution, employment, or a promise of the receipt of anything of value in the future, exceeding a total of one hundred dollars (\$100) from all sources, based on any understanding that the filer's official actions or judgment or vote while associated with the Co-op would be influenced;
 - (3) The filer, and the filer's spouse or domestic partner, have not been arrested for, charged with, or convicted of any of the following criminal offenses: bribery, tax evasion, insurance fraud, a violation of or a predicate offense under a Racketeer Influenced and Corrupt Organizations Act (Federal or state), any criminal offense which involves dishonesty or violence, or any criminal offense punishable by incarceration of one (1) year or more or a fine of ten thousand dollar (\$10,000) or more;
 - (4) The filer, and the filer's spouse or domestic partner, have not been sued for, had a judgment entered against him or her for, entered into a settlement admitting liability for, or paid a civil fine for any of the following civil violations and causes of action: tax evasion, insurance fraud, a violation of or a predicate offense under a Racketeer Influenced and Corrupt Organizations Act (Federal or state), any civil violation or cause of action which involves dishonesty or violence, or any civil violation which is punishable by a civil fine payable to a government agency of ten thousand dollars (\$10,000) or more;
 - (5) The filer, the filer's spouse or domestic partner, and dependent children, and the persons with whom the filer has a legal relationship such employment, independent contractor, and

partnership, are not involved in a scheme or conspiracy to violate the Co-op's bylaws, or to violate any Federal, District or state law concerning or related to the Co-op or its activities, any entity in which the Co-op has a legal or equitable interest, or any member of the Co-op's board of directors or its principal officers; and

- (6) The filer, or the filer's spouse or domestic partner, has not had a business or professional license suspended or revoked by a government agency.
- (w) Matters subject to disclosure under § 1613.8(v)(1)-(6), whether or not disclosed in a confidential disclosure statement, shall be treated as the Co-op deems appropriate, provided however that no individual shall serve as a member of the board of directors or a principal officer of the Co-op, own shares of the Co-op's stock, own debt issued by the Co-op, if any, or directly or indirectly control any interest in the Co-op other than as a member pursuant to § 1613.8(j) if:
- (1) The individual willfully provides false, misleading, or materially incomplete information in a confidential disclosure statement or to the Office, or in connection with a civil or criminal investigation concerning or related to the Co-op or its activities by any government agency;
 - (2) The individual, the individual's spouse or domestic partner, or the individual's children, have received items of value exceeding a total of one hundred dollars (\$100) from all sources as enumerated in § 1613.8(v)(2);
 - (3) The individual, or the individual's spouse or domestic partner, has been convicted of a crime enumerated in § 1613.8(v)(3);
 - (4) The individual, or the individual's spouse or domestic partner, has had a judgment entered against him or her for, has entered into a settlement admitting liability for, or has paid a civil fine for a civil violation or cause of action enumerated in § 1613.8(v)(4);
 - (5) The individual, the individual's spouse or domestic partner, the filer's dependent children, or a person with whom the filer has a legal relationship, are involved in a scheme or conspiracy as enumerated in § 1613.8(v)(5); or
 - (6) The individual, or the individual's spouse or domestic partner, has had a business or professional license suspended or revoked by a government agency within the prior five (5) years.

- (x) The Co-op shall not associate with, transact business with, or form a legal or equitable relationship with:
 - (1) An individual who is restricted by § 1613.8(w); or
 - (2) An entity, where an individual who is restricted by § 1613.8(w) serves as an owner, manager, partner, member of the board of directors, principal officer, stockholder, or lender.
- (y) The Co-op shall maintain its business records for five (5) years, provided however that each executed confidential disclosure statement shall be maintained throughout its filer's association with the Co-op and for ten (10) years thereafter;
- (z) The Co-op shall allow the Office to inspect and copy its business records, but the Office shall not copy an executed confidential disclosure statement. This provision shall not apply to the Attorney General of the District of Columbia;
- (aa) A designee of the Office shall be permitted to attend, and be provided with the minutes of, each Co-op event, including a meeting of the board of directors, except at such times when an event is closed in order to consider a confidential matter such as a litigation or personnel issue. At such events, the designee may observe, ask questions, and provide information, and shall receive copies of the documents made available to other attendees, but shall have no vote on any Co-op business;
- (bb) The Co-op shall enact no change to its bylaws which conflicts with a material provision of this title or other applicable law, without a prior amendment to this chapter authorizing such change, and shall promptly correct any errors or omissions in its bylaws;
- (cc) The Co-op shall comply with all applicable District and federal laws and regulations, and shall engage only in fair and lawful competition;
- (dd) The District may enforce the requirements of this section and § 1612 through an appropriate action at law or in equity, including an action by the Attorney General of the District of Columbia in *parens patriae*;

1613.9 The draft bylaws filed with the Office pursuant to § 1613.7 may:

- (a) Allow the Co-op to apply for and accept any necessary grants made available by the Office, and shall comply with all terms and conditions thereof; and

- (b) Allow the Co-op to engage in any activity which is authorized by law, not inconsistent with the required terms and conditions for its bylaws set forth in § 1613.8, and in the interest of its members, including:
 - (1) Offering insurance, such as life, health, dental, disability, and vehicle;
 - (2) Providing retirement and savings plans, and other benefits;
 - (3) Offering discounts on goods and services of interest to members; and
 - (4) Operating a subsidiary which engages only in activities related to the authorized activities of the Co-op; and
- (c) Contain such additional terms and conditions as are necessary and appropriate to establish, support, and maintain the Co-op, which are not inconsistent with the required terms and conditions for its bylaws set forth in this subsection or with other applicable laws.

- 1613.10 The bylaw drafting advisory group shall file the draft bylaws with the Office by July 1, 2015.
- 1613.11 The draft bylaws shall include the names of the bylaw drafting advisory group members who agree to the draft, and alternative text and comments, if any, from any member of the bylaw drafting advisory group who does not concur with the text agreed to by the other members.
- 1613.12 The Office shall review the draft bylaws to determine whether they comply with this section and § 1612, and shall issue a written decision within ten (10) days. If the Office does not approve the draft bylaws, it shall state the basis of its decision in writing. Thereafter, the bylaw drafting advisory group shall revise the draft bylaws to address the issues identified in the Office's decision and shall re-file the draft bylaws within ten (10) days.
- 1613.13 During the first twenty four (24) months after the effective date of this section, the Office may make one or more grants to the Co-op in an amount not to exceed twenty five thousand dollars (\$25,000), to defray the documented expenses to establish or operate the Co-op pursuant to the provisions of this section, § 1612, and other applicable laws, upon such terms and conditions as may be contained in the grant. Each grant shall be made pursuant to all applicable laws, regulations, and guidelines, and any administrative issuance of the Office.
- 1613.14 The Office shall develop and test the DC TaxiApp, which is and shall remain the intellectual property of the District Government. The Office shall grant to the Co-op an exclusive right to use the DC TaxiApp for taxicab service in the District.

The District Government shall retain all other rights to the DC TaxiApp, including the right to license the DC TaxiApp for any other purpose, including for use outside the District.

- 1613.15 The Co-op's decision to suspend an operator's use of the DC TaxiApp shall not be admissible to establish that a provision of this title or other applicable law was violated by the operator.

Copies of this proposed rulemaking can be obtained at www.dcregs.dc.gov or by contacting the Secretary to the Commission, District of Columbia Taxicab Commission, 2235 Shannon Place, S.E., Suite 3001, Washington, D.C. 20020. All persons desiring to file comments on the proposed rulemaking action should submit written comments via e-mail to dctc@dc.gov or by mail to the DC Taxicab Commission, 2235 Shannon Place, S.E., Suite 3001, Washington, DC 20020, Attn: Secretary to the Commission, no later than thirty (30) days after the publication of this notice in the *D.C. Register*.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-195
August 17, 2015

SUBJECT: Appointment — Director, Office of Labor Relations and Collective Bargaining

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) (2014 Repl.), it is hereby **ORDERED** that:

1. **LIONEL SIMS** is appointed Director, Office of Labor Relations and Collective Bargaining and shall serve in that capacity at the pleasure of the Mayor.
2. This Order supersedes Mayor's Order 2015-039, dated January 14, 2015.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to July 10, 2015.



MURIEL BOWSER
MAYOR

ATTEST: 
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM


Mayor's Order 2015-196
August 17, 2015

SUBJECT: Appointment — Acting Director, Department of Behavioral 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) (2014 Repl.), and pursuant to section 5114 of the Department of Behavioral Health Establishment Act of 2013, D. C. Official Code § 7-1141.03 (2014 Supp.), it is hereby **ORDERED** that:

1. **DR. TANYA ROYSTER** is appointed Acting Director, Department of Behavioral Health, and shall serve in that capacity at the pleasure of the Mayor.
2. This Order supersedes Mayor's Order 2015-145, dated May 27, 2015.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to August 3, 2015.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-197
August 17, 2015

SUBJECT: Appointment — Acting Director, District of Columbia Department of Human Resources


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) (2014 Repl.), it is hereby **ORDERED** that:

1. **VENTRIS GIBSON** is appointed Acting Director, District of Columbia Department of Human Resources, and shall serve in that capacity at the pleasure of the Mayor.
2. This Order supersedes Mayor's Order 2015-045, dated January 14, 2015.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to August 3, 2015.



MURIEL BOWSER
MAYOR

ATTEST: 
 LAUREN C. VAUGHAN
 SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-198
August 17, 2015

SUBJECT: Appointment — Acting Medical Director, Fire and Emergency Medical Services Department

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) (2014 Repl.), and section 3a of An Act To classify the officers and members of the Fire Department of the District of Columbia, and for other purposes, effective April 15, 2008, D.C. Law 17-147, D.C. Official Code § 5-404.01 (2012 Repl.), it is hereby **ORDERED** that:

1. **DR. JULLETTE SAUSSY** is appointed Acting Medical Director of the Fire and Emergency Medical Services Department and shall serve in that capacity at the pleasure of the Mayor.
2. This Order supersedes Mayor's Order 2014-239, dated October 21, 2014.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to July 20, 2015.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-199
August 17, 2015

SUBJECT: Appointment — Acting Director, Department of Forensic Sciences

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) (2014 Repl.), and pursuant to section 4 of the Department of Forensic Sciences Establishment Act of 2011, effective August 17, 2011, D.C. Law 19-18, D.C. Official Code § 5-1501.03(a) (2012 Repl.), it is hereby **ORDERED** that:

1. **DR. JENIFER SMITH**, is appointed Acting Director, Department of Forensic Sciences and shall serve in that capacity at the pleasure of the Mayor.
2. This Order supersedes Mayor's Order 2015-136, dated May 7, 2015.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to July 20, 2015.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor’s Order 2015-200
August 17, 2015

SUBJECT: Delegation — Rulemaking Authority to the Office of the Chief Medical Examiner Pursuant to the Establishment of the Office of the Chief Medical Examiner Act of 2000


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 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) (2014 Repl.), and pursuant to sections 2906, 2908, 2909, 2912, and 2918 of the Establishment of the Office of the Chief Medical Examiner Act of 2000 (“Act”), effective October 19, 2000, D.C. Law 13-172, D.C. Official Code §§ 5-1405 (2012 Repl.), 5-1407, 5-1408, 5-1411 and 5-1417 (2012 Repl. and 2014 Supp.), it is hereby **ORDERED** that:

1. The Chief Medical Examiner is delegated the authority vested in the Mayor to issue rules to implement sections 2906, 2908, 2909, 2912, and 2918 of the Act.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCES SYSTEM

Mayor's Order 2015-201
August 24, 2015

SUBJECT: Appointment – Metropolitan Washington Airports Authority Board of Directors


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 of 1973, as amended, D.C. Official Code § 1-204.22(2) (2014 Repl.), and pursuant to section 6007(e) of the Metropolitan Washington Airports Act 1986, effective October 30, 1986, D.C. Law 99-591, D.C. Official Code § 9-1006(e)(1)(B), and in accordance with Section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142. D.C. Official Code § 1-523.01 (2014 Repl.), and pursuant to the Metropolitan Washington Airports Authority Board of Directors Thorn Pozen Confirmation Resolution of 2015, effective July 14, 2015, Res. 21-0172, it is hereby **ORDERED** that:

- A. **THORN POZEN** is appointed as a member of the Board of the Metropolitan Washington Airports Authority Board of Directors, replacing Shirley Robinson Hall, for a six year term to end January 5, 2021.
- B. **EFFECTIVE DATE:** This Order shall become effective *nunc pro tunc* to July 14, 2015.



 MURIEL BOWSER
 MAYOR


ATTEST: 

 LAUREN C. VAUGHAN
 SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Memorandum 2015-001
August 21, 2015

TO: All Deputy Mayors and Department, Agency and Office Heads

ORIGINATOR: Office of the Mayor 

SUBJECT: **RULES OF CONDUCT GOVERNING DONATIONS AND HONORARY GIFTS TO THE DISTRICT OF COLUMBIA GOVERNMENT**

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to 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) (2014 Repl.), and section 115 of the District of Columbia Appropriations Act, 2003, approved February 20, 2003, 117 Stat. 123, Pub. L. 108-7, D.C. Official Code §1-329.01 (2014 Repl.), the following rules of conduct governing donations and honorary gifts to the District of Columbia government ("**District government**") are hereby issued. The rules of conduct shall apply to all employees of the District government. Any District government employee who does not comply with a rule set forth in this memorandum may be subject to adverse personnel action and/or penalties imposed by the Board of Ethics and Government Accountability ("**BEGA**").

I. PURPOSE

The District of Columbia wishes to provide a prompt and transparent process that will facilitate the donation of goods and services to the District of Columbia, while guarding against donations made for an unethical purpose.

II. GENERAL

- A. As used in this Memorandum "donations" are funds, services, or property given to the District of Columbia government specifically to assist an agency or office in carrying out an authorized duty of that agency or office. Donations may come from foreign or domestic sources. "Honorary gifts" are items of an honorary, celebratory or commemorative nature given to the District government (and generally presented to the Mayor or a District employee) that are not intended to assist with official government business.
- B. Pursuant to section 115 of the District of Columbia Appropriations Act, 2003, approved February 20, 2003, 117 Stat. 123, Pub. L. 108-7, D.C. Official Code § 1-329.01 (2014 Repl.) (the "**Donations Approval Act**"), Congress has authorized

the District to augment its budget through the acceptance and use of donations. Under the Donations Approval Act, the Mayor must approve the acceptance and use of donations of funds, services, and property.

- C. Throughout this Memorandum, the Mayor delegates her authority to accept donations under the Donations Approval Act to the General Counsel to the Mayor (“**OGC**”) who may further delegate this authority to subordinates under his or her jurisdiction. In addition, the Mayor delegates to the Director of the Office of Partnerships and Grant Services (“**OPGS**”) the authority to approve donations under the Donations Approval Act, and the Director may further delegate that authority to subordinates under his or her jurisdiction.
- D. Each donation to a District Government agency, including independent agencies, must be approved by the Director of OPGS or his or her designee. The only agencies that are exempt from the requirement to receive the approval of the Director of OPGS or his or her designee are the Council of the District of Columbia, the District of Columbia Courts, the District of Columbia Public Library, the District of Columbia Office of Advisory Neighborhood Commissions, and the District of Columbia State Board of Education. Although the District of Columbia State Board of Education is exempt, the District of Columbia Public Schools must receive approval from the Director of OPGS and follow the procedures established by this Memorandum.
- E. If a subordinate agency has statutory authority to accept and use donations under a statute other than the Donations Approval Act, the agency must still follow the rules set forth in this Memorandum to meet the requirements of the Donations Approval Act.
- F. Except during or as a result of an emergency as described in Section II.J of this Memorandum, the process set forth in Section III of this Memorandum is required for the proper solicitation, acceptance, and use of a donation of goods, services, or property to the District of Columbia.
- G. Except during or as a result of an emergency as described in Section II.J. of this Memorandum, the OGC and Director of OPGS are the only officials who, on behalf of the Mayor, may approve the acceptance of donations to the District government, unless that authority has been delegated specifically and directly from the Director of OPGS or the OGC.
- H. Donations may come from individuals, organizations, foundations, corporations, businesses, associations, governments, and other entities and may be in the form of negotiable instruments, such as checks, money orders, and securities, and in-kind items such as real property (land and improvements), facilities, personal property, food, and services. Cash donations are prohibited.

- I. Directors of agencies that seek and receive donations must designate a Donations Point of Contact who will be responsible for attending donation trainings and keeping up with any other information provided by the Director of OPGS. OPGS shall maintain a current list of Donations Points of Contact.
- J. In an emergency affecting the District of Columbia declared by a Mayor's Order or by the President, agency directors and their designees are authorized to accept donations on behalf of the District to respond to, or address the effects of, the emergency. Serve DC is the principal agency in charge of volunteer and donations management in emergencies. All government officials shall make their best efforts to maintain a record of donors and their donations, to retroactively obtain the information and certifications that would have been required under Section III of this Memorandum had an emergency not existed, and to provide this information to OPGS promptly.

III. ACCEPTING AND SOLICITING DONATIONS

- A. Except as otherwise authorized in this Memorandum, before an agency solicits or accepts a donation for the District government, an application must be submitted to OPGS on a form prescribed by the Director of OPGS. The application form shall include:
 1. For requests to solicit donations, a description of the purpose for which the donation is sought as well as a certification from the applicant that the donation sought will be used by an agency to fulfill an authorized function or duty and will be used for the purposes for which it was solicited;
 2. A description of the effect (if any) of the donation on future budgets of the District government;
 3. For approval to accept donations, a certification from the applicant that:
 - a. The donation will be used by an agency of the District government to fulfill an authorized function or duty;
 - b. The donation is directly related to and will be expended solely for programs or purposes described in the form;
 - c. The donation is consistent with applicable laws and policies;
 4. For approval to accept donation, a certification from the donor that:
 - a. The donor does not have any pending litigation, business, or related matters before the District of Columbia government that could present a conflict of interest;

- b. The donor is not seeking special treatment from the District of Columbia government;
 - c. The donor agrees that the donation is bona fide and un-coerced, and that he or she will not receive anything in return.
- B. Except as provided in Section III.K of this Memorandum, the Mayor's Office of Legal Counsel ("MOLC") must review the submitted application and certify that the donation is consistent with this Memorandum (certification). If the MOLC is the recipient of a donation, the Mayor's Office of General Counsel ("OGC") must review the submitted application and provide the certification.
- C. Except as otherwise authorized in this Memorandum, before an agency directly solicits a donation for the District government, an application must be submitted to OPGS on a form, different than that required in III.A., prescribed by the Director of OPGS. For the purposes of this paragraph, an agency is considered to directly solicit a donation when it directly asks a specific individual or entity for a donation. General fundraising or donation campaigns, and general solicitation letters sent to a variety of recipients, are not considered direct solicitations of donations.
- D. Except as provided in Section III.K of this memorandum, the MOLC must review the submitted application and provide a certification. If the MOLC is soliciting a donation, the OGC must review the submitted application and and provide the certification.
- E. After OPGS has received the certification and approved the application to accept a donation, a written donation agreement must be signed by authorized representatives of both the donor and the District government and include:
 1. A description of the donation;
 2. A statement of the planned use of the donation and any conditions placed on its use by the donor;
 3. A statement of the authority for the agency's use of the donation; and
 4. A statement by the donor that the donation is a *bona fide* donation such that the donor does not expect any special treatment from the District government as a result of the donation, that the donation is un-coerced such that the donor is making the donation of his or her own free will, and that the donor is not aware of any material transactions pending before the District government, or any litigation involving the donor.
- F. A donation of funds may be accepted, only if it is in the form prescribed in section II.H and made payable to the order of, or endorsed to, the District of

Columbia Treasurer. A donation of funds may be accepted by the District government recipient who must promptly notify OPGS about the receipt of the donation, and shall forward the donation and donation agreement immediately to the Office of the Chief Financial Officer. All monetary donations must be deposited in an appropriate account and maintained and disbursed under the same standards of accountability and the same safeguards as monies appropriated by Congress.

- G. A non-monetary donation may be received directly by an agency. The agency shall promptly notify OPGS of the receipt of the donation. The agency must account for an asset under the same standards and procedures used to account for other similar government property.
- H. After the application and donation agreement have been approved and the donation has been received, the agency may use the donation for purposes that are consistent with applicable law and regulation and with the applicable donation agreement.
- I. An agency should not directly solicit a donation before the application for solicitation has been approved. If an agency does solicit a donation before the application has been approved, the agency must submit the application as soon as possible. The application must include a statement describing why the agency solicited the donation before the application was approved.
- J. An agency should not accept or use a donation before the application to accept a donation has been approved and the donation agreement has been signed. If an agency accepts or uses a donation before the application has been approved and the agreement has been signed, the agency must submit the application and/or signed agreement as soon as possible. The agency's submission should include a statement describing why the agency did not submit the application and/or agreement before the donation was accepted or used.
- K. The Attorney General ("AG") shall review applications submitted by the Office of the Attorney General ("OAG") to solicit or accept donations to OAG and, if warranted, certify that the donation, or proposed solicitation, is consistent with the requirements of this Memorandum.

IV. MAYOR'S FUND TO ADVANCE WASHINGTON, DC

- A. The Mayor's Fund to Advance Washington, DC is a one-step, automated, online crowdfunding platform designed to accept donations to particular and ongoing causes of the District government or District government agencies. Donations to the Mayor's Fund to Advance Washington, DC must be processed on an electronic form approved by the Director of OPGS.
- B. The value of a single donation made online through the Mayor's Fund to Advance

Washington, DC may not exceed one thousand dollars (\$1,000). The total value of donations made by an individual or organization through the Mayor's Fund to Advance Washington, DC may not exceed two thousand dollars (\$2,000) per quarter. A donation exceeding one thousand dollars (\$1,000) will be subject to the regular donations approval process described in section III and will be individually reviewed and approved by the Director of OPGS.

IV. SOLICITATION OF CEREMONIAL CONTRIBUTIONS

- A. The Mayor may perform a function at a ceremonial event including weddings, funerals or memorial services, and graduation ceremonies, including in the following circumstances:
1. At least one (1) of the celebrants, or a close friend or relation to a celebrant, or the deceased if the event is a funeral or memorial service, provides or provided significant service to the community or to the benefit of the District government, such as through public service, volunteering, or philanthropy.
 2. The Mayor receives no personal compensation for her performance of a function at the ceremonial event.
 3. The celebrants confirm that they expect nothing else from the District government, other than the Mayor's performance of a function at the ceremonial event.
- B. In connection with the Mayor's performance of a function at a ceremonial event, celebrants may make a monetary contribution to a charity or other nonprofit organization serving residents of the District of Columbia in honor of the District of Columbia government. The suggested contribution is two hundred and fifty dollars (\$250).
- C. The Mayor may decline a request to perform a function at a ceremonial event, or may cancel a commitment to perform, given the press of District business, even when a monetary contribution has been made.

IV. REASONS TO DISAPPROVE SOLICITATION OR ACCEPTANCE OF DONATIONS

- A. The MOLC, OGC, Director of OPGS, or, in the case of donations to the OAG, the AG, shall disapprove the solicitation or acceptance of a donation if any of the following circumstances apply:

1. It appears that the donation is being offered with the expectation of obtaining advantage or preference in dealing with the District government or any of its agencies (other than performance of a ceremonial duty);
 2. Acceptance of the donation would create an apparent or actual conflict of interest for the recipient agency. A conflict of interest may be waived for good cause shown if the waiver is deemed appropriate by the MOLC or OGC or, in the case of donations to the OAG, the AG. Good cause may be found to exist whenever the MOLC or OGC or, in the case of donations to OAG, the AG, concludes that: (i) the conflict is so remote or inconsequential that acceptance of the donation would not be deemed likely to affect the integrity of the government; or (ii) the donation would be sufficiently helpful and important to the District that it would outweigh the risk of harm that might be caused by the conflicting interest. In granting such a waiver, the MOLC, OGC, or AG may include one or more provisions in a donation agreement intended to mitigate the effects, perceived or otherwise, of any conflict;
 3. The conditions placed on a donation are inconsistent with the authorized purposes, policies, or plans of the District government;
 4. The intended use of the donation is inconsistent with or otherwise seeks to circumvent laws, regulations, or policies;
 5. The donation is not in compliance with 18 U.S.C. § 209 (supplementation of salary);
 6. The acceptance of the donation will be used by the donor to state or imply the endorsement by the District government of a product, service, or entity; or
 7. The donation reasonably may be viewed as funding for a political activity.
- B. A donation from an organization in which a District government employee is an officer or director (including an *ex officio* director) or is otherwise engaged in a leadership or coordinating role may be accepted only if the donation from that source has been approved by the MOLC after the role of the District government employee has been disclosed. The requirement to receive the approval of the MOLC is in addition to the other requirements and standards established by this Memorandum.
- C. The Director of OPGS may, in his or her discretion, disapprove a donation if:
1. The donated item is not in usable condition;

2. Restoration of the donated item will create unreasonable cost to the District government;
3. A donation of real property will create unreasonable rehabilitation or maintenance costs or may create an unreasonable liability, such as environmental clean-up costs; or
4. The donation creates an appearance of impropriety, even in the absence of an actual conflict.

V. FOREIGN/INTERNATIONAL DONATIONS

- A. No employee, except the Chief of Staff to the Mayor ("**Chief of Staff**"), the Mayor, or an employee authorized in advance by the Chief of Staff or the Mayor, may authorize the solicitation or acceptance of a gift, donation, or award from a foreign government, any unit of a foreign governmental authority, any international or multinational organization whose membership is composed of members of a foreign government, or any agent or representative of a foreign governmental organization, including, but not limited to, an embassy or affiliated organization, or an organization based outside the United States ("**foreign source**").
- B. A gift or award of more than the minimal value established by the General Services Administration pursuant to 5 U.S.C. § 7342 presented to any employee from a foreign source must be presented to the Chief of Staff for review and determination as to its disposition. Such a gift or award is deemed to be a gift to the District of Columbia government.
- C. Any offer to an employee for a donation of travel or travel expenses for travel primarily taking place outside of the United States must be submitted to the Chief of Staff by the Director of the employing agency for review and determination as to whether the gift is appropriate and consistent with the interests of the District government, permitted by the employing agency, and consistent with the District of Columbia Municipal Regulations and appropriate statutes. The requirement to submit international travel requests to the Chief of Staff is in addition to the other requirements and standards established by law, regulation, Mayor's Order, and this Memorandum. If a travel donation receives initial approval from the Chief of Staff, an application to accept a travel donation must be submitted to the Director of OPGS and a certification produced by the MOLC or OGC.
- D. A donation offered by a foreign source shall be coordinated with the Chief of Staff. The requirement to coordinate with the Chief of Staff is in addition to the other requirements and standards established by this Memorandum. Such a donation must receive initial approval from the Chief of Staff before the agency submits an application to accept a donation to the Director of OPGS.

VI. HONORARY GIFTS

- A. Gifts of an honorary, celebratory, or commemorative nature presented to the Mayor, or to the Mayor's staff in lieu of the Mayor, shall be considered donations to the District of Columbia appropriately accepted under the Donations Approval Act. Such honorary gifts shall be promptly given to the Office of the Secretary along with an attached notation of who presented the gift and the date it was presented.
- B. Honorary gifts presented to any other employee from a foreign source shall be governed by the procedure established by Section V. Honorary gifts presented to any other employee from a source other than a foreign source shall be promptly given to the Office of the Secretary with a notation of who presented the gift and the date it was presented.
- C. The Secretary of the District of Columbia shall record a physical description of each honorary gift, the date on which it was received, the donor, and any other information which is deemed to merit inclusion. The Secretary of the District of Columbia shall maintain a list of honorary gifts.

VII. DISPLAY AND DISBURSAL

- A. An honorary gift deemed by the Secretary to be worthy of public display may be displayed in a suitable location in a District-owned or District-leased building or in other appropriate public space. An honorary gift that is not on public display shall be appropriately stored until at least thirty (30) days have elapsed since the day the honorary gift was received.
- B. After thirty (30) days, an honorary gift deemed appropriate by the Secretary for use by a charitable organization operating in the District of Columbia may, in consultation with the Chief Procurement Officer, be granted to such organization to aid in the carrying out of the charitable organization's purposes.
- C. An honorary gift to the District government shall not be granted, given, or sold to an employee of the District government for personal use, or used by a District government employee outside of that employee's official duties and functions.

VIII. ETHICAL CONDUCT

- A. Failure of a District government employee to follow a provision contained in this Memorandum may be considered evidence of a violation of the Code of Conduct (see 1-1162.01 *et seq.*) and may subject the employee to both adverse personnel action, referral to the District's Anti-Deficiency Board, and sanctions from the Board of Ethics and Government Accountability (BEGA).
- B. An employee who, without authorization pursuant to this Memorandum or other lawful authority, solicits funds, goods, or services for the District government

from a non-District government entity that interacts with the District government or is regulated by it, may be subject to adverse personnel action or sanctions imposed by BEGA based on a finding that the employee violated the standard of conduct which prohibits a government employee from seeking, either directly or through the intercession of others, a gift, gratuity, favor, loan, entertainment, or other like thing of value from a person who singularly or in concert with another:

1. Has, or is seeking to obtain, contractual or other business or financial relations with the District government;
 2. Conducts operations or activities regulated by the District government; or
 3. Has an interest that may be favorably affected by the performance or non-performance of the employee's official responsibilities. (*See* 6B DCMR 1803.2.)
- C. The use of a donation by a District government employee in a manner inconsistent with this Memorandum may be a violation of either or both the District and Federal Anti-Deficiency Acts and may subject the employee to adverse personnel action and criminal prosecution.

IX. RECOGNITION OF DONORS

- A. District employees may thank donors, by providing acknowledgements of their donations such as through letters of acceptance and appreciation, press releases, photo opportunities, certificates, and other items that commemorate the donation.
- B. The District may permit the display of donor logos if the display is incidental to the donation or if the display is unlikely to give the impression of commercialization. All permanent displays of logos must receive the advance clearance of the MOLC or the OGC.

X. RESCISSION

This Memorandum rescinds and replaces Mayor's Memorandum 2012-3, dated May 16, 2012.

XI. EFFECTIVE DATE

This Order shall be effective *nunc pro tunc* to July 31, 2015

OFFICE OF ADMINISTRATIVE HEARINGS
DISTRICT OF COLUMBIA ADVISORY COMMITTEE TO THE
OFFICE OF ADMINISTRATIVE HEARINGS

PUBLIC NOTICE OF MEETING

In accordance with D.C. Code § 2-576(1), the Advisory Committee to the Office of Administrative Hearings hereby gives notice that it will meet on Wednesday, September 9, 2015, at 3:30pm. The members may vote to close a portion of the meeting pursuant to D.C. Code § 2-575(b) and (c). The meeting will be held at the following location:

Board of Ethics and Government Accountability
Hearing Room
441 Fourth Street, NW
Suite 540 South
Washington, DC 20001

For further information, please contact Shauntinique Steele at nikki.steele@dc.gov or 202-741-5303.

AGENDA

- I. Call to Order
- II. Welcome from Committee Chair Betsy Cavendish, General Counsel to Mayor Muriel Bowser
- III. Introductions
 1. New Committee Members: Toni Jackson, Office of the Attorney General; Melinda Bolling, Director, Department of Consumer and Regulatory Affairs; Wayne Turnage, Director, Department of Health Care Finance
 2. Other attendees
- IV. Approval of Minutes of June 2, 2015 Meeting
- V. Report from OAH Chief Administrative Law Judge Eugene A. Adams
 1. Progress updates from June 2, 2015 Meeting
 2. Collaboration with the Council for Court Excellence
- VI. Report from New OAH Clerk of Court James Ishida
- VII. Report from OAH Supervisory Attorney-Advisor Rachel Lukens
 1. Hearings under the Sale of Synthetic Drugs Emergency Amendment Act
 2. Other effective and anticipated changes in OAH's jurisdiction

- VIII. Update from OAH Executive Director Kathy Haggerty on eCourt case management system interface project with Department of Public Works and Department of Consumer and Regulatory Affairs
- IX. Set Time and Date of Next Meeting
- X. Old Business
- XI. New Business
- XII. Adjournment

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE

The Acting Director of the Department of Behavioral Health (DBH), pursuant to the authority set forth in sections 5113, 5115, 5117, 5118 and 5119 of the Department of Behavioral Health Establishment Act of 2013, effective December 24, 2013 (D.C. Law 20-0061; D.C. Official Code §§ 7-1141.02, 7-1141.04, 7-1141.06, 7-1141.07 and 7-1141.08)(2013 Supp.), hereby gives notice that effective August 28, 2015, DBH will accept new applications for Mental Health Community Residence Facilities. DBH will accept applications until September 15, 2015. The Department is seeking applicants for up to 60 Supported Rehabilitative Residence beds, 12 Supported Resident beds, and six (6) Intensive Residence beds. Applicants shall apply in accordance with Title 22-B, D.C. Municipal Regulation, Chapter 38. Successful applicants must meet all contract requirements as determined by the Department's Office of Contracting and Procurement prior to receiving a Human Care Agreement and per diem payments in accordance with Title 22-A, D.C. Municipal Regulation, Chapter 57. Award of a Human Care Agreement is subject to availability of funds.

In evaluating applicants, the Department shall consider the following: (a) the ability of the applicant to meet the requirements of Title 22-B, D.C. Municipal Regulation, Chapter 38; (b) the quality of an applicant's facility; (c) the quality of an applicant's programming; (d) an applicant's record of compliance with Chapter 38 in regards to other licensed facilities; and (e) the facility's proximity to metro transit and community-based activities that are conducive to a healthy and independent lifestyle.

All prior moratoriums on granting new MHCRF licenses are hereby rescinded.

If you have any questions or would like to request an application, you may contact Sheila Kelly, Supervisory Health Systems Specialist, District of Columbia Department of Behavioral Health, 64 New York Ave., NE, 3rd Floor, Washington, D.C. 20002 – 4347, (202) 673-3516, Sheila.kelly@dc.gov.

DEPARTMENT OF ENERGY AND ENVIRONMENT

FISCAL YEAR 2015

PUBLIC NOTICE

Proposed Air Quality Source Category Permit to Construct and Operate Stationary Diesel-Fired Emergency Engines Subject to NSPS Subpart III

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §§200 and 210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue a source category permit to construct and operate certain diesel-fired emergency engines subject to the federal New Source Performance Standard (NSPS) for compression ignition internal combustion engines (40 CFR 60, Subpart III) in the District of Columbia. This source category permit will be designated Permit No. 7048-SC.

This source category permit will cover only a subset of stationary diesel-fired emergency engines that trigger NSPS Subpart III applicability based on one of the following triggers:

1. The model year of the engine is 2007 or later for engines that are not fire pump engines;
2. The engine is for a fire pump and its model year is equal to or newer than those specified in the following table, based on the size of the engine:

Fire Pump Engine Applicability Table		
Engine Power		Starting Applicability Model Year*
Mechanical Kilowatts (kW_m)	Horsepower (hp)	
kW _m < 75	hp < 100	2011
75 ≤ kW _m < 130	100 ≤ hp < 175	2010
130 ≤ kW _m < 560	175 ≤ hp < 750	2009
kW _m > 560	hp > 750	2008

* Fire pump engines with a maximum engine power greater than or equal to 37 kW_m (50 hp) and less than 450 kW_m (600 hp) and a rated speed of greater than 2,650 revolutions per minute (rpm) are covered only three years after the model year listed in this table for the applicable power category.

or;

3. The engine was ordered by the owner or operator after July 11, 2005 and one of the following is true:
 - i. The engine was manufactured after April 1, 2006 and is not a fire pump engine; or
 - ii. The engine was manufactured as a certified National Fire Protection Association (NFPA) fire pump engine after July 1, 2006;

The proposed emission limits to be included in the permit are as follows:

- a. Emissions from the engine shall not exceed those specified in 40 CFR 60.4205 for the appropriate engine type. Any engine subject to a Family Emission Limit (FEL) shall comply with any such limits as specified on an EPA Certificate of Conformity. If the engine is certified as a non-emergency engine, the engine shall comply with the standards to which it has been certified. [40 CFR 60.4205 and 20 DCMR 201]
- b. Visible emissions shall not be emitted into the outdoor atmosphere from the engine, 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].
- c. 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]

Emission Estimate:

Emissions will vary widely, depending upon the size and age of the equipment to be covered. As such there is no set maximum emissions level except that no unit will be approved under this permit that has a potential to emit greater than 25 tons per year of oxides of nitrogen, the trigger threshold for further regulatory requirements under 20 DCMR §204 (non-attainment New Source Review). However, based on past permitting activity implemented by AQD, very few applicants apply to install diesel-fired emergency engines in the District of Columbia exceeding 4,000 horsepower (hp) in mechanical output. Based on a limitation in the permit of 500 hours per year of total operations, conservative emission factors for compression ignition engines, and a 4,000 hp engine size, the following represents an estimate of the maximum emissions expected from any emergency engine covered by this source category permit:

Pollutant	Estimated Maximum Annual Emissions (tons/yr)
Total Particulate Matter (PM Total)	0.7
Carbon Monoxide (CO)	5.5
Oxides of Nitrogen (NO _x)*	24.0
Volatile Organic Compounds (VOC)	0.7
Sulfur Dioxide (SO ₂)	0.3

*Note that there is an applicability limit placed on the permit that no unit having the potential to emit more than 25 tons/year of NO_x will be covered by this source category permit.

The draft permit and supporting documentation 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
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after September 28, 2015 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DEPARTMENT OF ENERGY AND ENVIRONMENT

FISCAL YEAR 2015

PUBLIC NOTICE**Proposed Air Quality Source Category Permit to Operate Existing Stationary Diesel-Fired Emergency Engines Exempt from NSPS Subpart IIII and NESHAP Subpart ZZZZ**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §§200 and 210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue a source category permit to operate certain diesel-fired emergency engines that are exempt from the federal New Source Performance Standard (NSPS) for compression ignition internal combustion engines (40 CFR 60, Subpart IIII) as well as the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Stationary Reciprocating Internal Combustion Engines (RICE) in the District of Columbia. This source category permit will be designated Permit No. 7049-SC.

To ensure that no engine covered by NSPS Subpart IIII is covered by this permit, certain exclusions related to the engine model year, order date, and manufacture date have been included in the applicability section of the source category permit.

To be exempt from NESHAP Subpart ZZZZ applicability, an engine must not be located at a major source of hazardous air pollutants (HAPs) and must be an existing residential, commercial, or institutional emergency engine. Additionally, to ensure this regulation is not triggered, the source category permit includes limits on operations during low voltage or frequency situations and a prohibition on operation as part of economic or emergency demand response programs.

The proposed emission limits to be included in the permit are as follows:

- a. Visible emissions shall not be emitted into the outdoor atmosphere from the engine, 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]

Emissions Estimate:

Emissions will vary widely, depending upon the size and age of the equipment to be covered. As such there is no set maximum emissions level except that no unit will be approved under this

permit that has a potential to emit greater than 25 tons per year of oxides of nitrogen, the trigger threshold for further regulatory requirements under 20 DCMR §204 (non-attainment New Source Review). However, based on past permitting activity implemented by AQD, very few applicants apply to operate diesel-fired emergency engines in the District of Columbia exceeding 4,000 horsepower (hp) in mechanical output. Based on a limitation in the permit of 500 hours per year of total operations, conservative emission factors for compression ignition engines, and a 4,000 hp engine size, the following represents an estimate of the maximum emissions expected from any emergency engine covered by this source category permit:

Pollutant	Estimated Maximum Annual Emissions (tons/yr)
Total Particulate Matter (PM Total)	0.7
Carbon Monoxide (CO)	5.5
Oxides of Nitrogen (NO _x)*	24.0
Volatile Organic Compounds (VOC)	0.7
Sulfur Dioxide (SO ₂)	0.3

*Note that there is an applicability limit placed on the permit that no unit having the potential to emit more than 25 tons/year of NO_x will be covered by this source category permit.

The draft permit and supporting documentation 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
Department of Energy and Environment
1200 First Street NE, 5th Floor
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No written comments or hearing requests postmarked after September 28, 2015 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DEPARTMENT OF ENERGY AND ENVIRONMENT

FISCAL YEAR 2015

PUBLIC NOTICE**Proposed Air Quality Source Category Permit to Operate Existing Stationary Natural Gas-Fired Emergency Engines Exempt from NSPS Subpart JJJJ and NESHAP Subpart ZZZZ**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §§200 and 210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue a source category permit to operate certain natural gas-fired emergency engines that are exempt from the federal New Source Performance Standard (NSPS) for spark ignition internal combustion engines (40 CFR 60, Subpart JJJJ) as well as the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Stationary Reciprocating Internal Combustion Engines (RICE) in the District of Columbia. This source category permit will be designated Permit No. 7050-SC.

To ensure that no engine covered by NSPS Subpart JJJJ is covered by this permit, certain exclusions related to the engine size, certification status, and manufacture date have been included in the applicability section of the source category permit.

To be exempt from NESHAP Subpart ZZZZ applicability, an engine must not be located at a major source of hazardous air pollutants (HAPs) and must be an existing residential, commercial, or institutional emergency engine. Additionally, to ensure this regulation is not triggered, the source category permit includes limits on operations during low voltage or frequency situations and a prohibition on operation as part of economic or emergency demand response programs.

The proposed emission limits to be included in the permit are as follows:

- a. Visible emissions shall not be emitted into the outdoor atmosphere from the engine, 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]

Emission Estimate:

Emissions will vary widely, depending upon the size and age of the equipment to be covered. As such there is no set maximum emissions level except that no unit will be approved under this permit that has a potential to emit greater than 25 tons per year of oxides of nitrogen, the trigger

threshold for further regulatory requirements under 20 DCMR §205 (non-attainment New Source Review). However, based on past permitting activity implemented by AQD, very few natural gas-fired emergency engines in the District of Columbia exceed 2,000 horsepower (hp) in mechanical output. Based on a limitation in the permit of 500 hours per year of total operations, conservative emission factors for spark ignition engines, and a 2,000 hp engine size, the following represents an estimate of the maximum emissions expected from any emergency engine covered by this source category permit:

Pollutant	Estimated Maximum Annual Emissions (tons/yr)
Total Particulate Matter (PM Total)	0.27
Carbon Monoxide (CO)	20.46
Oxides of Nitrogen (NO _x)	22.44
Volatile Organic Compounds (VOC)	0.66
Sulfur Dioxide (SO ₂)	0.003

The draft permit and supporting documentation 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
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after September 28, 2015 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DEPARTMENT OF ENERGY AND ENVIRONMENT**NOTICE OF A PUBLIC OUTREACH MEETING****Revisions to Automotive Painting Regulations**

Notice is hereby given that a public outreach meeting will be held on September 29, 2015, at 5:00 p.m. in Room 718 at 1200 First Street, N.E., 5th Floor, in Washington, D.C. The Department of Energy and Environment (the Department) is beginning the process of revising the air quality regulations governing automotive painting in the District of Columbia. The current regulations can be found at 20 DCMR 718. The Department will host a public outreach meeting on September 29, 2015 to allow interested parties to provide input to the revised regulations. Examples of regulation revisions the Department is considering and wishes to receive input on are as follows:

- 1) Adoption of the more stringent volatile organic compound (VOC) paint content standards currently in place in California and some other states;
- 2) Possible VOC emission control strategies such as the use of carbon filters, carbon cartridges, carbon beds, or other control methods;
- 3) Emission stack parameters, such as height restrictions;
- 4) Paint booth design parameters; or
- 5) Any other emission or odor control strategies that might be suggested at the stakeholder meeting.

We are requesting that those planning to attend the meeting notify Mr. William Bolden at 202-535-2250 or william.bolden@dc.gov by September 28, 2015. Alternatively, please feel free to submit written suggestions to Mr. Bolden at 1200 First Street N.E., 5th Floor, Washington, D.C. 20002 by September 28, 2015.

EXCEL ACADEMY PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS**

Excel Academy Public Charter School is soliciting proposals from qualified vendors for the following:

Online Educational Reporting and Assessment System: To obtain copies of full RFPs, please contact Mr. Philip Mitchell. (Email: pmitchell@excelpcs.org) The full RFP will contain deadlines, necessary qualifications, and guidelines for submission. Full RFP's can also be found on our website at www.excelpubliccharterschool.org/RFP

Curriculum Kits for Grades K-5: To obtain copies of full RFPs, please contact Mr. Philip Mitchell. (Email: pmitchell@excelpcs.org) The full RFP will contain deadlines, necessary qualifications, and guidelines for submission. Full RFP's can also be found on our website at www.excelpubliccharterschool.org/RFP

**DEPARTMENT OF HEALTH CARE FINANCE &
DEPARTMENT ON DISABILITY SERVICES**

PUBLIC NOTICE OF PROPOSED AMENDMENTS

**Home and Community-Based Services Waiver for
Persons with Intellectual and Developmental Disabilities**

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in an Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02) (2012 Repl. & 2014 Supp.)), and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), and the Director of the Department on Disability Services (DDS), pursuant to the authority set forth in Title I of the Department on Disability Services Establishment Act of 2006, effective March 14, 2007 (D.C. Law 16-264; D.C. Official Code § 7-761.01 *et seq.* (2012 Repl.)), hereby give notice of their intent to submit amendments to certain rates for services through the District of Columbia Medicaid program's Home and Community-Based Services (HCBS) Waiver for Persons with Intellectual and Developmental Disabilities (IDD) to the Department of Health and Human Services' Centers for Medicare and Medicaid Services (CMS) for review and approval.

The proposed amendments to the HCBS Waiver contain changes to the methods and standards for setting payment rates for some services. DHCF and DDS previously published public notice of a series of proposed changes in rate methodologies and reimbursements for the IDD HCBS waiver, among other things, in the *D.C. Register* at 61 DCR 2330-2333 (Mar. 14, 2014); 61 DCR 11597-11603 (Oct. 31, 2014); and 61 DCR 12351-12357 (Nov. 28, 2014). Following the public comment period, DHCF and DDS submitted proposed waiver amendments to CMS. As part of the CMS review process, DHCF and DDS received a series of questions regarding how rates were developed, resulting in a re-review of the rate methodologies. Based upon that review, we are publishing for public comment the following proposed changes in rate methodologies and reimbursements, to be effective upon review and approval by CMS and publication of implementing regulations. Please note that we are only publishing proposed rates that have changed since the last publication and public comment period.

- 1) CMS requested additional detailed information regarding the rate setting methodology for each waiver service, and specifically questioned why the indirect component of the rates ranged between 15 and 20%. DDS no longer had in the records the back-up detail that supported the various indirect percentages developed in 2010 for each rate developed, and as a result, was required to re-develop the indirect cost calculations for each service.

The indirect calculations updated for 2015 slightly altered the rate methodology resulting in reductions by 1% or less to the rates for hourly Respite, some Supported Employment services and Individualized Day Supports.

- a. For Respite, the proposed rate is \$5.13 per quarter hour.
 - b. For Supported Employment Paraprofessional Services, the proposed rate is \$7.14 per quarter hour.
 - c. For Supported Employment Professional Individual Services, the proposed rate is \$11.86 per quarter hour.
 - d. For Individualized Day Supports at 1:2 ratio, the proposed rate is \$5.31 per quarter hour.
 - e. For Individualized Day Supports at 1:1 ratio, the proposed rate is \$9.40 per quarter hour.
- 2) The updated indirect rate calculation for Supported Living with Transportation periodic alternatively increased the rate by approximately 2% as a result of adjustments that were made to reflect the increases in costs associated with the time spent transporting individual waiver participants to different locations for day and vocational services that the District has experienced now that the service is being utilized. The proposed rate is \$6.75 per quarter hour.
- 3) In response to questions from CMS, there is a proposed change to the rates for Day Habilitation and Employment Readiness in response to identifying an error in the methodology. The methodology assumed 260 program days when in fact the District recognizes eleven (11) holidays and as such the number of program days should have been 249 days per year.
- a. For Day Habilitation, the proposed rate is \$5.43 per quarter hour.
 - b. For Small Group Day Habilitation, the proposed rate is \$8.20 per quarter hour.
 - c. For Day Habilitation 1:1 supports, the proposed rate is \$10.28 per quarter hour.
 - d. For Employment Readiness, the proposed rate is \$4.68 per quarter hour.
- 4) There is a proposed rate modifier for nutritionally adequate meal for participants in Day Habilitation, Small Group Day Habilitation, and Individualized Day Supports, who live independently or in the family home and who select to receive a meal.
- a. The proposed rate modifier per meal is \$7.30.
 - b. The proposed rate modifier for meal delivery to a Day Habilitation or Small Group Day Habilitation setting by a third party vendor is \$5.00 per meal.

- 5) The Companion Individual rate is proposed to match the current rate for Personal Care Services and the proposed rate is \$4.72 per quarter hour. Additionally, there is a proposed group rate for Companion Services of \$2.91 per quarter hour.
- 6) There is a proposed change to the rate for Creative Arts Group Therapies (group not to exceed four (4) participants) because of a rounding error. The proposed rate is \$24.99 per person for a 45-minute unit.
- 7) There is a new rate for Group Supported Employment Paraprofessional Individual Services. The proposed rate is \$2.85 per quarter hour.

Copies of the proposed rate books for the amendments to the HCBS waiver are available on the DDS website at <http://dds.dc.gov/page/waiver-amendment-information> or upon request from Laura L. Nuss, Director, D.C. Department on Disability Services, 1125 Fifteenth Street, N.W., 4th Floor, Washington, D.C. 20005.

There are two opportunities to provide comments on the proposed HCBS waiver rate amendments:

Written comments on the proposed waiver rate amendments shall be submitted to Laura L. Nuss, Director, D.C. Department on Disability Services, 1125 Fifteenth Street, N.W., 4th Floor, Washington, D.C. 20005, or via e-mail at dds.publiccomments@dc.gov, during the thirty (30) day public comment period, starting from the date this notice is published.

DHCF and DDS will hold a public forum during which written and oral comments on the proposed amendments and transition plan will be accepted. The public forum will be held at the D.C. Department on Disability Services, 1125 Fifteenth Street, N.W., Washington, D.C. 20005 on Thursday, September 17, 2015, at 12:00 noon. Directly following this public forum, DDS will provide an update on its progress in implementing the District of Columbia Transition Plan for the HCBS IDD waiver. The Transition Plan is available on-line at: <http://dds.dc.gov/publication/hcbs-idd-waiver-transition-plan-4-30-2015> or upon request from Laura L. Nuss, Director, D.C. Department on Disability Services, 1125 Fifteenth Street, N.W., 4th Floor, Washington, D.C. 20005.

Copies of this notice also will be published on the DDS website at <http://dds.dc.gov>.

For further information, contact Erin Leveton, Program Manager, DDS State Office of Disability Administration, at (202) 730-1754, or erin.leveton@dc.gov.

IDEAL ACADEMY PUBLIC CHARTER SCHOOL**PUBLIC NOTIFICATION****National School Lunch Program Participant**

Ideal Academy Public Charter School strives to provide healthy and nutritious meals. To achieve this goal, we have partnered with the USDA and are participants in the National School Breakfast and Lunch programs during the 2015-2016 school year. We will abide by all rules and regulations outlined by the USDA. In addition to the meals we serve with the National School Breakfast and Lunch programs we will also participate in the Fresh Fruits and Vegetables program.

The U.S. Department of Agriculture prohibits discrimination against its customers, employees, and applicants for employment on the basis of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, DC 20250-9410, by fax (202)690-7442 or email at program.intake@usda.gov. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish). USDA is an equal opportunity provider and employer.

Also, the District of Columbia Human Rights Act, approved December 13, 1977 (DC Law 2-38; DC Official Code §2-1402.11(2006), as amended) States the following:

Pertinent section of DC Code §2-1402.11:

It shall be an unlawful discriminatory practice to do any of the following acts, wholly or partially for a discriminatory reason based upon the actual or perceived; race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, genetic information, disability, matriculation, or political affiliation of any individual. To file a complaint alleging discrimination on one of these bases, please contact the District of Columbia's Office of Human Rights at (202) 727-3545.

MUNDO VERDE PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Classroom Furniture and Afterschool Programming**

Mundo Verde PCS seeks bids for classroom furniture and Afterschool Programming. The RFP with bidding requirements and supporting documentation can be obtained by contacting Elle Carne at ecarne@mundoverdepcs.org. **All bids not addressing all areas as outlined in the RFP will not be considered.**

The deadline for application submission is 4:00pm September 8, 2015.

**PAUL PUBLIC CHARTER SCHOOL
REQUEST FOR PROPOSALS (RFP)**

Classroom Furniture, Library Furniture, and Computer Furniture

Paul Public Charter School seeks bids for Classroom furniture, library furniture, and computer furniture.

For a copy of the full RFP and associated exhibits, interested firms should contact:
James McDowell at jmcdowell@paulcharter.org or [202-378-2269](tel:202-378-2269).

Bids must be received by **12:00 PM, Monday, August 31st** to the following location:

Paul Public Charter School
ATTN: James McDowell
5800 8th St NW
Washington, DC 20011

PERRY STREET PREPARATORY PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS**

The Perry Street Preparatory Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 solicits proposals for the following services:

- Cleaning/facilities/janitorial services
- Security
- IT services

Please go to www.pspdc.org/bids to view a full RFP offering, with more detail on scope of work and bidder requirements.

Proposals shall be received no later than 5:00 P.M., Friday, September 11, 2015.

Prospective Firms shall submit one electronic submission via e-mail to the following address:

Bid Administrator
psp_bids@pspdc.org

Please include the bid category for which you are submitting as the subject line in your e-mail (e.g. Food Service). Respondents should specify in their proposal whether the services they are proposing are only for a single year or will include a renewal option.

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

Revised NOTICE OF FUNDING AVAILABILITY (NOFA)

DC Main Streets
(Tenleytown and Van Ness Target Areas)

The Department of Small and Local Business Development is soliciting applications from qualified non-profit organizations that are incorporated in the District of Columbia to **operate two DC Main Streets programs for the Van Ness and Tenleytown commercial corridors in Ward 3**. This revised NOFA includes details of the second scheduled Pre-Submission Meeting, which was not included in the original NOFA as published in the July 10, 2015 edition of the DC Register.

The two designated DC Main Streets programs (organizations) will receive \$200,000 each in grant funding and technical assistance to support commercial revitalization initiatives. The Van Ness and Tenleytown Main Streets organizations will develop programs and services to: (1) assist business districts with the retention, expansion and attraction of neighborhood-serving retail stores; and (2) unify and strengthen the commercial corridor. The DC Main Streets grant award is a recurring grant, which can be renewed annually as long as the grantee continues to meet the standards for accreditation by the National Main Street Center.

The grant recipient will be selected through a competitive application process and announced November 16, 2015. Interested applicants must complete an application and submit it electronically via email on or before **Friday, October 2, 2015 at 2:00 p.m.** Applicants submitting incomplete applications will be notified by Monday, October 5, 2015 and will have two business days to upload missing information. Corrected applications are due on October 7, 2015 at 2 p.m. DSLBD will not accept applications submitted via hand delivery, mail or courier service. **Late submissions and incomplete applications will not be reviewed.**

The Request for Application (RFA) will be posted at www.dslbd.dc.gov (click on the Our Programs tab and then Solicitations and Opportunities on the left navigation column) on or before July 24, 2015.

Instructions and guidance regarding application preparation can be found in the RFA. DSLBD will host an Information Session on August 6, 2015 at 3:00 p.m. at DSLBD's office (441 4th Street, NW, #805 South Washington DC 20001). A photo ID is required to enter the building. A second **Pre-Submission Meeting** will be held on September 10, 2015 at 2:00 p.m. in the TEN Med. Conference Room at the Tenley-Friendship Neighborhood Library (4450 Wisconsin Ave NW, Washington DC 20016).

DSLBD reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA. For more information, contact Cristina Amoruso, DC Main Streets Coordinator, Office of Commercial Revitalization, Department of Small and Local Business Development at (202) 727-3900 or DSLBD.grants@dc.gov.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DC TAXICAB COMMISSION**

NOTICE OF GENERAL COMMISSION MEETING

The District of Columbia Taxicab Commission will hold its regularly scheduled General Commission Meeting on Wednesday, September 9, 2015 at 10:00 am. The meeting will be held at our new office location: 2235 Shannon Place, SE, Washington, DC 20020, inside the Hearing Room, Suite 2023. Visitors to the building must show identification and pass through the metal detector. Allow ample time to find street parking or to use the pay-to-park lot adjacent to the building.

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.

Members of the public are invited to participate in the Public Comment Period. You may present a statement to the Commission on any issue of concern; the Commission generally does not answer questions. Statements are limited to five (5) minutes for registered speakers. Time and agenda permitting, nonregistered speakers may be allowed 2 minutes to address the Commission. To register, please call 202-645-6002 no later than 3:30 p.m. on September 8, 2015. Registered speakers will be called first, in the order of registration. **Registered speakers must provide ten (10) printed copies of their typewritten statements to the Secretary to the Commission no later than the time they are called to the podium.**

DRAFT AGENDA

- I. Call to Order
- II. Commission Communication
- III. Commission Action Items
- IV. Government Communications and Presentations
- V. General Counsel's Report
- VI. Staff Reports
- VII. Public Comment Period
- VIII. Adjournment

THE GOODWILL EXCEL CENTER, PUBLIC CHARTER SCHOOL
REQUEST FOR PROPOSALS

Construction Project Management

The Goodwill Excel Center, Public Charter School (GEC) is seeking Construction Project Management Services for tenant improvements to space GEC will be leasing at 1776 G Street NW for an adult public charter high school. Essential functions and requirements are outlined in the Scope of Work section of the Request for Proposal. The deadline for responding to the RFP is September 4, 2015 at 5pm. Contact – Josh Wallish, General Counsel, 2200 South Dakota Ave NE, Washington, DC 20018, (202) 719-1235, josh.wallish@dcgoodwill.org

Architectural and Engineering Services

The Goodwill Excel Center, Public Charter School (GEC) is seeking Architectural and Engineering Services for tenant improvements to space GEC will be leasing at 1776 G Street NW for an adult public charter high school. Essential functions and requirements are outlined in the Scope of Work section of the Request for Proposal. The deadline for responding to the RFP is September 4, 2015 at 5pm. Contact – Josh Wallish, General Counsel, 2200 South Dakota Ave NE, Washington, DC 20018, (202) 719-1235, josh.wallish@dcgoodwill.org

Child Care Services

The Goodwill Excel Center, Public Charter School (GEC) is seeking an on-site Child Care Services provider for a child care center that will be available to students of its adult public charter high school at 1776 G Street NW. Essential functions and requirements are outlined in the Scope of Work section of the Request for Proposal. The deadline for responding to the RFP is September 4, 2015 at 5pm. Contact – Josh Wallish, General Counsel, 2200 South Dakota Ave NE, Washington, DC 20018, (202) 719-1235, josh.wallish@dcgoodwill.org

**THURGOOD MARSHALL ACADEMY PUBLIC CHARTER HIGH SCHOOL
NOTICE OF INTENT TO ENTER INTO A SOLE SOURCE ARRANGEMENT**

Read180 Literacy Intervention Curricular Materials

Thurgood Marshall Academy—a nonprofit, college-preparatory, public charter high school—intends to enter into a sole source arrangement with Houghton Mifflin Harcourt for its Read180 software and related instructional materials.

- Thurgood Marshall Academy’s students have a need for a computer-based reading intervention strategy—many students enter the school reading well below grade level, and school curricular planners have identified Read180 as the reading intervention strategy most likely to support development of effective literacy skills.
- The school expects to spend roughly \$27,000 for an introductory set of perpetual licenses as well as related instructional materials and technical assistance services.
- A sole-source arrangement is justified because, like a physical textbook, Read180 is unique, and because Houghton Mifflin Harcourt is the sole supplier of this product.

Contact: For further information regarding this Notice contact **David Schlossman, 202-276-4722, dschlossman@tmapchs.org** no later than **5:00 pm Washington, DC, time on Friday, September 4, 2015**. Further information about Thurgood Marshall Academy—including our nondiscrimination policy—may be found at www.thurgoodmarshallacademy.org. Responses to this notice will be subject to the school’s General Conditions Statement found on the website.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) will be holding a meeting on Thursday, September 3, 2015 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dewater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dewater.com.

DRAFT AGENDA

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| 1. Call to Order | Board Chairman |
| 2. Roll Call | Board Secretary |
| 3. Approval of July 2, 2015 Meeting Minutes | Board Chairman |
| 4. Committee Reports | Committee Chairperson |
| 5. General Manager's Report | General Manager |
| 6. Action Items
Joint-Use
Non Joint-Use | Board Chairman |
| 7. Other Business | Board Chairman |
| 8. Adjournment | Board Chairman |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Environmental Quality and Sewerage Services Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Environmental Quality and Sewerage Services Committee will be holding a meeting on Thursday, September 17, 2015 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dewater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dewater.com.

DRAFT AGENDA

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| 1. Call to Order | Committee Chairperson |
| 2. AWTP Status Updates
1. BPAWTP Performance | Assistant General Manager,
Plant Operations |
| 3. Status Updates | Chief Engineer |
| 4. Project Status Updates | Director, Engineering &
Technical Services |
| 5. Action Items
- Joint Use
- Non-Joint Use | Chief Engineer |
| 6. Emerging Items/Other Business | |
| 7. Executive Session | |
| 8. Adjournment | Committee Chairperson |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING****Finance and Budget Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Finance and Budget Committee will be holding a meeting on Thursday, September 10, 2015 at 11:00 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dewater.com.

For additional information please contact: Linda R. Manley, Board Secretary at (202) 787-2332 or لمانley@dewater.com.

DRAFT AGENDA

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| 1. | Call to Order | Chairman |
| 2. | July/ August 2015 Financial Reports | Director of Finance & Budget |
| 3. | Agenda for October Committee Meeting | Chairman |
| 4. | Adjournment | Chairman |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING****Governance Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Governance Committee will be holding a meeting on Wednesday, September 9, 2015 at 9:00 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dcwater.com.

DRAFT AGENDA

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| 1. Call to Order | Chairperson |
| 2. Government Affairs: Update | Government Relations Manager |
| 3. Update on the Compliance Monitoring Program | TBD |
| 4. Update on the Workforce Development Program | Contract Compliance Officer |
| 5. Emerging Issues | Chairperson |
| 6. Agenda for Upcoming Committee Meeting (TBD) | Chairperson |
| 7. Executive Session | |
| 8. Adjournment | Chairperson |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Human Resources and Labor Relations Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Human Resources and Labor Relations Committee will be holding a meeting on Wednesday, September 9, 2015 at 11:00 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or لمانley@dcwater.com.

DRAFT AGENDA

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| 1. | Call to Order | Committee Chairperson |
| 2. | Other Business | |
| 3. | Executive Session | Committee Chairperson |
| 4. | Adjournment | Committee Chairperson |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Retail Water and Sewer Rates Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Retail Water and Sewer Rates Committee will be holding a meeting on Tuesday, September 22, 2015 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to the DC Water’s website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or lmanley@dcwater.com.

DRAFT AGENDA

- | | | |
|----|---|-------------------------|
| 1. | Call to Order | Committee Chairman |
| 2. | Monthly Updates | Chief Financial Officer |
| 3. | Committee Work plan | Chief Financial Officer |
| 4. | Other Business | Chief Financial Officer |
| 5. | Agenda for October 27, 2015 Committee Meeting | Committee Chairman |
| 6. | Adjournment | Chief Financial Officer |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING****Water Quality and Water Services Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Water Quality and Water Services Committee will be holding a meeting on Thursday, September 17, 2015 at 11:00 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dewater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dewater.com.

DRAFT AGENDA

- | | |
|--|--|
| 1. Call to Order | Committee Chairperson |
| 2. Water Quality Monitoring | Assistant General Manager, Consumer Ser. |
| 3. Action Items | Assistant General Manager, Consumer Ser. |
| 4. Emerging Issues/Other Business | Assistant General Manager, Consumer Ser |
| 5. Executive Session | |
| 6. Adjournment | Committee Chairperson |

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18970 of Application of Nam Dinh Pham, pursuant to 11 DCMR § 3104.1 for a special exception under § 223, not meeting the rear yard setback requirements under § 404.1, to allow the construction of an addition to an existing single-family dwelling in the WH/R-1-A District at premises 2903 44th Street N.W. (Square 1620, Lot 85).

HEARING DATES: April 7, 2015, May 12, 2015, and June 23, 2015

DECISION DATE: June 23, 2015

DECISION AND ORDER

This application was submitted on January 29, 2015 by Nam Dinh Pham, owner of the property that is the subject of the application. The application requests special exception approval under § 223 of the Zoning Regulations to allow construction of an addition to the existing home on the subject property, including closing in a deck and raising the existing roof on a portion of the structure that was already located within the rear yard setback area. This portion of the structure was approved by way of BZA variance relief in 1974.¹ Following a public hearing, the Board voted to approve the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Public Hearing. By memoranda dated February 6, 2015, the Office of Zoning sent notice of the application to the Office of Planning (“OP”); the District Department of Transportation; the Councilmember for Ward 3; Advisory Neighborhood Commission (“ANC”) 3D, the ANC for the area within which the subject property is located; and the Single-Member District ANC 3D-01. Pursuant to 11 DCMR § 3112.14, on February 10, 2015, the Office of Zoning mailed notice of the hearings to the Applicants, ANC 3D, and the owners of all property within 200 feet of the subject properties. Notice was published in the *D.C. Register* on February 20, 2015 (62 DCR 2321).

Referral by the Zoning Administrator. The application was referred to the Board by the Zoning Administrator (“ZA”) of the District of Columbia Department of Consumer and Regulatory Affairs (“DCRA”) by a memorandum dated December 31, 2014. (Exhibit 8.)

Party Status. The Applicant and ANC 3D were automatically parties in this proceeding. There were no requests for party status.

Applicant’s Case. The Applicant provided evidence and testimony to show that the application satisfied all requirements for approval of the requested zoning relief.

¹ The reason that the 1974 case was a variance request, rather than special exception, is because § 223 was not yet adopted in 1974.

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OP Report. By memoranda dated March 31, 2015, and through testimony at the public hearing, OP recommended approval of the application.

DDOT Report. By memoranda dated March 27, 2015, DDOT indicated it had no objection to the approval of the application, noting that the proposal will have no adverse impacts on travel conditions of the District's transportation network.

ANC Report. By letter dated June 16, 2015, ANC 3D indicated that, at a regular public meeting on June 3, 2015, with a quorum present, the ANC voted 9-0 to oppose the application. The reasons provided for such opposition were assertions that granting relief would (i) violate certain provisions of the Comprehensive Plan, including a provision regarding the conservation of family neighborhoods; (ii) cause significant light and air to be lost as a result of closing off the existing deck and raising the existing roof two feet; and (iii) substantially negatively impact the privacy of the neighboring property, even though an open deck was being enclosed and there would be no windows on the side facing the purportedly affected neighbor. The ANC also expressed concern as to the accuracy of the zoning relief being requested and the authority under which the one-story addition over the garage was permitted.

Persons in Opposition. The Board received two letters in opposition from Christopher Cahill, owner resident of the property located adjacent to the subject property, at 4343 Garfield Street, N.W. (Exhibits 31 and 42.) Mr. Cahill also testified at the public hearing.

Persons in Support. The Board received two letters in support from other neighbors that live near the subject property. (Exhibits 40 and 41.)

FINDINGS OF FACT

1. The property is located 2903 44th Street, N.W (Square 1620, Lot 85), at the northeast corner of Garfield and 44th Streets, N.W.
2. The property is improved with a one-family detached dwelling, originally constructed in or around 1927.
3. The property is located in the R-1-A Zone District and is also located within the Wesley Heights (WH) Overlay District.
4. According to the ZA's Memorandum, the property has a current lot occupancy of 19.7%, and the proposed lot occupancy would be 22%. The current rear yard setback is zero feet.
5. The adjacent property to the west is 4343 Garfield Street. That property is improved with a one-family detached dwelling.

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6. The Applicant proposed to construct a 19' x 8' addition and renovation of an existing room located above an attached garage, including closing an open deck above the garage and raising the existing roof on the existing room approximately two feet in accordance with the plans provided to the Board.
7. The proposed addition is to be constructed on a portion of the existing structure which already encroaches into the required rear yard setback. The subject structure, in that area, abuts the western property line.
8. When constructed, neither the addition nor the existing garage structure will contain any west-facing windows. One current west-facing window will be eliminated. The existing open deck which overlooks the garage driveway will be closed off, and new windows will only face south, directly to Garfield Street, N.W.
9. The proposed work will not be visible from 44th Street, N.W.
10. The proposed addition is being made to a portion of the existing building which is already set back approximately 44 feet from the property line adjacent to Garfield Street.
11. The house on the property located at 4343 Garfield Street, N.W., is located farther south than the house on the subject property, being set back approximately 10 feet from the Garfield Street property line.

CONCLUSIONS OF LAW AND OPINION

The Applicant requests special exception relief under § 223 of the Zoning Regulations to construct an addition to the existing structure along the western property line, above an existing garage. The existing structure in this area already is encroaching 100% into the existing required rear yard, and the addition will expand this existing legally nonconforming situation. The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2008) to grant special exceptions, as provided in the Zoning Regulations, where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific conditions. (*See* 11 DCMR § 3104.1.)

The Board's discretion in reviewing an application for a special exception under § 223 is limited to a determination of whether an applicant has complied with the requirements of §§ 223 and 3104.1 of the Zoning Regulations. If an applicant meets its burden, the Board ordinarily must grant the application. *See, e.g. Stewart v. District of Columbia Board of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973); *Washington Ethical Society v. District of Columbia Bd. of Zoning Adjustment*, 421 A.2d 14, 18-19 (D.C. 1980); *First Baptist Church of Washington v. District of*

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Columbia Bd. of Zoning Adjustment, 432 A.2d 695, 698 (D.C. 1981); *Gladden v. District of Columbia Bd. of Zoning Adjustment*, 659 A.2d 249, 255 (D.C. 1995).

Because the proposed addition is located within the required rear yard setback, the proposed work, as noted in the ZA's memorandum, requires special exception relief from § 404.1 of the Zoning Regulations.

Pursuant to § 223, an addition to a one-family dwelling may be permitted as a special exception, despite not meeting certain zoning requirements, subject to the enumerated conditions. These conditions include that the addition must not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property. Specifically, the light and air available to neighboring properties must not be unduly affected (§ 223(a)), the privacy of use and enjoyment of neighboring properties must not be unduly compromised (§ 223.2(b)), and the addition, together with the original building, must not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage (§ 223.2(c)).

Based on the findings of fact, the Board concludes that the request for special exception relief, as represented by the submitted plans, satisfies the requirements of § 223. The Board finds that the proposed addition will not unduly affect the light and air available to adjacent properties. As shown in the maps and diagrams and photos submitted by the Applicant, the proposed addition will not have a material impact on the light and air to any abutting or adjacent property, and will not compromise the privacy or enjoyment of any abutting or adjacent property. The proposed addition, including the existing garage structure, will have no west-facing windows, an existing west-facing window will be removed, and an existing open deck will be enclosed, with the only windows facing out to Garfield Street and not to the abutting property to the west. The Board gave careful consideration to the testimony of neighbor to the west, at 4343 Garfield Street, but for the reasons stated above finds his concern over light, privacy, air, and view to be unsupported by the evidence.

The Board finds also that the proposed addition, along with the original structure, will not visually intrude on the character, scale, or pattern of houses along the street frontage. The subject structure is set back a considerable distance from the adjacent street frontage and the adjacent house at 4343 Garfield Street is located much closer to the street frontage. The addition is also modest in scale. Accordingly, the Board concludes that the proposed addition satisfies the requirements of § 223.

For these same reasons, the Board finds that the proposed addition will not adversely affect the use of neighboring properties as required by § 3104.1. Further, the Board finds that the addition will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

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 (2012 Repl.)) to give

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“great weight” to the recommendation of the Office of Planning. In this case, the Board concurs with OP’s recommendation that the application should be approved.

The Board is also required to give “great weight” to the issues and concerns raised by the affected ANC. (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) (2012 Repl.)).) In this case, ANC 3D voted to recommend denial of the Application. For the reasons stated above, the Board respectfully disagrees with the ANC that granting the relief would impair the privacy of the neighbor to the west or negatively affect the light and air of abutting or adjacent properties. For this same reason and because the addition will not visually intrude on the character, scale, or pattern of houses along the street frontage, the Board finds that granting the relief would not be inconsistent with any of the Comprehensive Plan provisions referenced. The remaining issues cited by the ANC concerning the adequacy of the relief requested and the authority under which one-story addition over the garage was constructed are not legally relevant to the Board’s consideration of this special exception.

Based on the findings of fact and conclusion of law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the requests for a special exception under § 223 to provide relief from the rear yard setback requirement of § 404.1, to allow the proposed addition to the existing garage structure portion of the existing house on the subject property. Accordingly, it is **ORDERED** that the application is **GRANTED, SUBJECT TO THE REVISED ARCHITECTURAL PLANS AND ELEVATIONS (EXHIBIT 34), AND THE FOLLOWING CONDITION:**

1. The Applicant shall remove the “Azek Trim and Rails” decorative screen walls/parapet, shown on Sheets 5 and 6 (Right Elevation and Rear Elevation, respectively) of Exhibit 34.

VOTE: **3-1-1** (Lloyd J. Jordan, Marnique Y. Heath, and Michael G. Turnbull to Approve; Jeffrey Hinkle to oppose; one Board 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: August 17, 2015

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.

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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.

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 CONDITION 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. 19033 of Martin Block, as amended¹, pursuant to 11 DCMR § 3104.1 for a special exception under § 223, not meeting the rear yard requirements under § 404.1, the side yard requirements under § 405.1, and the nonconforming structure requirements under § 2001.3, to construct a one-story rear addition to an existing one-family dwelling in the R-1-B District at premises 3348 Military Road N.W. (Square 1991, Lot 35).

HEARING DATE: July 7, 2015

DECISION DATE: July 7, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5 (original) and 25 (revised).)

The Board of Zoning Adjustment ("Board" or "BZA") 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") 3G and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3G, which is automatically a party to this application. The ANC did not submit a report regarding the application. The Applicant's agent² testified at the July 7th hearing that the Applicant had contacted the ANC.

The Office of Planning ("OP") submitted a timely report recommending approval of the application (Exhibit 24) and testified in support of the application at the hearing. The District Department of Transportation ("DDOT") submitted a report of no objection. (Exhibit 22.)

Nineteen letters in support were submitted by neighbors. (Exhibit 11.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception for a special exception under § 223, not meeting the rear yard requirements under § 404.1, the side yard requirements under § 405.1, and the nonconforming structure

¹ The Applicant amended the application to add special exception relief from the side yard requirements under § 405.1 and the nonconforming structure requirements under § 2001.3 to the relief already requested under §§ 223 and 404.1. (See, Exhibit 25, Revised Self-Certification.)

² Pursuant to 11 DCMR § 3106.1, the Board required a Letter of Authorization from the Applicant for the agent. (Exhibit 27.)

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requirements under § 2001.3, to construct a one-story rear addition to an existing one-family dwelling in the R-1-B District. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1, 223, 404.1, 405.1, and 2001.3 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. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED SUBJECT TO THE APPROVED PLANS AT EXHIBIT 9**.

VOTE: **4-0-1** (Lloyd J. Jordan, Marnique Y. Heath, Jeffrey L. Hinkle, and Marcie I. Cohen to Approve; one Board 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: August 18, 2015

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 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.

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PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 08-14C
Z.C. Case No. 08-14C
Kelsey Gardens Property Company, LLC
(Minor Modification to the Approved Planned Unit Development @
Square 421, Lots 67 and 68)
July 28, 2014

Pursuant to notice, public meetings of the Zoning Commission for the District of Columbia (“Commission”) were held on June 30, 2014, July 17 and 28, 2014. At the meetings, the Commission considered and approved an application of Kelsey Gardens Property Company, LLC (“Applicant”) for minor modifications to an approved planned unit development (“PUD”) for property consisting of Lots 67 and 68 in Square 421 (“Property”). Because the modifications were deemed minor, a public hearing was not conducted.

The Commission determined that this modification request was properly before it under the provisions of §§ 2409.9 and 3030 of the Zoning Regulations.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. By Z.C. Order No. 08-14, effective February 12, 2010, the Commission approved a consolidated PUD and related amendment to the Zoning Map for the construction of a mixed-use development (“Project”) consisting of market-rate and affordable housing, neighborhood-serving retail, and townhouses.
2. Pursuant to Z.C. Order No. 08-14A, effective December 24, 2010, the Commission approved modifications to Conditions 10 and 12 of Z.C. Order No. 08-14, which required the Applicant to make certain monetary contributions to local community groups prior to issuance of the first certificate of occupancy.
3. Pursuant to Z.C. Order No. 08-14B, effective December 28, 2012, the Commission approved modifications to Conditions 1 and 5 of Z.C. Order No. 08-14, which, respectively, a) directed that the PUD shall be developed according to the site plans submitted as Exhibits 52, 59A, and 69A in the record of Z.C. Case No. 08-14, as modified by Exhibits 2(A) and 14 in the record of Z.C. Case No. 08-14B; and b) modified the amount of retail floor space to 13,363 square feet pursuant to Exhibit 2 in the record of Z.C. Case No. 08-14B.
4. In this case, the Applicant on May 6, 2014 submitted a request for modification of the parapet wall surrounding the rooftop swimming pool by adding openings that would improve air circulation and enhance views.
5. The Applicant also requested that the non-profit community organization, Friends of Kennedy Playground, Inc., be substituted for the closed Shaw Middle School as the recipient of \$22,500 previously designated for uniforms, equipment, and travel needs of

Z.C. ORDER NO. 08-14C
Z.C. CASE NO. 08-14C
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- the marching band. The Applicant indicated that the requested changes do not change any of the zoning parameters for the project (i.e., use, height, density, parking, etc.).
6. The Applicant served the minor modification request on Advisory Neighborhood Commission (“ANC”) 2C as well as the Office of Planning (“OP”). OP found that the proposed modifications would be minor and not inconsistent with the PUD as originally approved.
 7. On May 20, 2014, Applicant submitted a letter to the Commission asking that consideration of these modifications be delayed until the Commission’s second meeting in June 2014.
 8. On June 17, 2014, OP submitted a report to the Commission in which it offered no objection to either the request for the parapet wall openings or the reassignment of monetary contributions for community programs to the Friends of Kennedy Playground.
 9. On June 30, 2014, the Commission considered both requests and requested that the Applicant submit additional information pertaining to the distribution of the \$22,500 to the various programs sponsored by the Friends of Kennedy Playground. The Applicant submitted the requested information in a letter dated July 8, 2014. The Applicant also submitted a letter from ANC 6E, dated June 27, 2014, in which the ANC stated that it had no objections to either the parapet wall openings or the redistribution of the payments to the Friends of Kennedy Playground.
 10. The Commission considered the application again at its public meeting on July 17, 2014. The Commission approved the rooftop modifications but deferred action with regard to the contributions to the Friends of Kennedy Playground expressing concern about the benefit of one of the programs, specifically a \$9,000 contribution for three successive annual holiday parties. The Applicant submitted a response, dated July 28, 2014, providing additional information about the targeted Friends of Kennedy Playground programs. The Applicant also offered, in the alternative, that the funds could be donated to Bread for the City, a previously approved recipient of contributions pursuant to Z.C. Order No. 08-14. The Commission considered this response at a public meeting held on July 28, 2014, and approved the modification to donate \$13,500 to the Friends of the Kennedy Playground and the \$9,000 proposed to support the holiday parties to instead be donated to Bread for the City.

CONCLUSIONS OF LAW

Upon consideration of the record in this application, the Commission finds that the proposed minor modifications are consistent with the intent of the previously approved Z.C. Order Nos. 08-14, 08-14A, and 08-14B, and is not inconsistent with the Comprehensive Plan.

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The Commission concludes that approving the minor modifications are appropriate and not inconsistent with the intent of 11 DCMR §§ 2409.9 and 3030.

The Commission further concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations and Zoning Act.

The modifications do not impact the essential impact of the approved PUD, including use, height, density, parking, or lot occupancy. The modifications are minor such that consideration as a Consent Calendar item without public hearing is appropriate.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for modifications of an approved PUD as follows:

The Applicant shall be permitted to install openings in the parapet wall of the rooftop swimming pool for the purposes of improving air circulation around the swimming pool and for improving views. The openings shall be installed pursuant to the plans submitted as Exhibit 2 in the record of Z.C. Case No. 08-14C.

Further, Condition No. 5B(v), as modified in Z.C. Order No. 08-14A, shall be further modified as follows:

\$13,500 to the Friends of Kennedy Playground, Inc. for the programs set forth in Exhibit 7 of the record in Z.C. Case No. 08-14C except that \$9,000 of those funds earmarked for the December holiday parties shall instead be contributed to Bread for the City to support their food and clothing bank operations.

All other provisions and conditions of Z.C. Order Nos. 08-14, 08-14A, and 08-14B shall remain in effect.

On July 28 2014, upon the motion of Commissioner Turnbull, as seconded by Vice Chairperson Cohen, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on August 28, 2015.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING
Z.C. Case No. 11-03C**

**(Wharf District Master Developer, LLC – Second-Stage PUD @ Square 473, Lots
854 and 856 – Southwest Waterfront: Parcel 1, Market Square, and Market Shed)
August 19, 2015**

THIS CASE IS OF INTEREST TO ANC 6D

On August 17, 2015, the Office of Zoning received an application from the Wharf District Master Developer, LLC (the “Applicant”) for approval of a second-stage planned unit development (“PUD”) for the above-referenced property.

The property that is the subject of this application consists of Lots 854 and 856 in Square 473 in southwest Washington, D.C. (Ward 6), also known as the Southwest Waterfront. The property was zone W-1 and R-3. The approved PUD-related map amendment rezoned the property, for the purposes of this project, to C-3-C.

This proposal, which is the third second-stage PUD for the larger Southwest Waterfront Development project known as “The Wharf,” includes the development of Parcel 1, Market Square, and Market Shed. Parcel 1 will be improved with a mixed use building containing office and retail uses, and Market Square will be improved with a one-story building (Market Shed) containing retail uses.

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.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING**

Z.C. Case No. 15-20

**(Sursom Corda Cooperative Association, Inc. – First-Stage PUD & Related Map
Amendment @ Square 620, Lots 248-250 and 893-895, and including Portions of
First Terrace, L Place, and first Place to be closed)**

August 19, 2015

THIS CASE IS OF INTEREST TO ANC 6E

On August 17, 2015, the Office of Zoning received an application from Sursom Corda Cooperative Association, Inc. (the “Applicant”) for approval of a first-stage planned unit development (“PUD”) and related map amendment for the above-referenced property.

The property that is the subject of this application consists of Lots 248-250 and 893-895 in Square 620 (as well as portions of First Terrace, L Place, and First Place to be closed) in northwest Washington, D.C. (Ward 6). The property is bounded by M Street (north), L Street (south), First Street (west), and Sibley residential community and Mount Airy Baptist Church (east). The property is zone R-4. The Applicant is requesting a PUD-related map amendment to rezone the property, for the purposes of this project, to C-3-C.

The Applicant proposes to redevelop the existing Sursom Corda residential community into a mixed-use project with approximately 1,142 residential units and 49,420 square feet of commercial space. The project, which will be constructed in two or three phases, will include 199 affordable housing units. The maximum height of the buildings will be 110 feet; the density will be 4.63 floor area ratio (“FAR”), and the lot occupancy will be 100%.

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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