

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council schedules a public hearing on “The State of Emergency Medical Services in the District of Columbia”
- D.C. Council schedules a public roundtable on “The Draft 2015 District of Columbia Wildlife Plan”
- Department of Behavioral Health updates substance use disorder treatment and recovery service certification requirements
- Department of Energy and Environment announces funding availability for the Grant for Wildlife Rehabilitation Services
- Department of Health announces funding availability for Teen Pregnancy Prevention
- Office of the Deputy Mayor for Planning and Economic Development solicits developers to redevelop Parcel 42 in the Shaw neighborhood of Northwest, Washington, D.C.
- Zoning Commission creates the Walter Reed (WR) Zone

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

The District of Columbia Office of Documents and Administrative Issuances publishes the *District of Columbia Register* (ISSN 0419-439X) every Friday under the authority of the *District of Columbia Documents Act*, D.C. Law 2-153, effective March 6, 1979, D.C. Official Code § 611 *et seq.* (2012 Repl.). The policies which govern the publication of the *Register* are set forth in the Rules of the Office of Documents and Administrative Issuances (1 DCMR §§300, *et seq.*). The Rules of the Office of Documents and Administrative Issuances are available online at dcregs.dc.gov. Rulemaking documents are also subject to the requirements of the *D.C. Administrative Procedure Act*, D.C. Official Code §§2-501 *et seq.* (2012 Repl.).

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The deadline for filing documents for publication for District of Columbia Agencies, Boards, Commissions, and Public Charter schools is THURSDAY, NOON of the previous week before publication. The deadline for filing documents for publication for the Council of the District of Columbia is WEDNESDAY, NOON of the week of publication. If an official District of Columbia government holiday falls on Thursday, the deadline for filing documents is Wednesday. Email the Office of Documents and Administrative Issuances at dcdocuments@dc.gov to request the *District of Columbia Register* publication schedule.

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

DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

RM 520 – 441 4th ST, ONE JUDICIARY SQ. - WASHINGTON, D.C. 20001 - (202) 727-5090

MURIEL E. BOWSER
MAYOR

VICTOR L. REID, ESQ.
ADMINISTRATOR

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**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**

AND

**COUNCILMEMBER DAVID GROSSO, CHAIRPERSON
COMMITTEE ON EDUCATION**

ANNOUNCE A PUBLIC HEARING ON

**BILL 21-0243, THE “CARDIOPULMONARY RESUSCITATION AND AUTOMATED
EXTERNAL DEFIBRILLATOR REQUIREMENTS AMENDMENT ACT OF 2015”**

**Thursday, October 1, 2015, 2:00 p.m.
Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

On Thursday, October 1, 2015, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on the Judiciary, and Councilmember David Grosso, Chairperson of the Committee on Education, will hold a public hearing on Bill 21-0243, the “Cardiopulmonary Resuscitation and Automated External Defibrillator Requirements Amendment Act of 2015”. The hearing will be held in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 2:00 p.m. The hearing will be immediately followed by a related hearing on the State of Emergency Medical Services in the District of Columbia and Bill 21-0290, the “Office of Unified Communications Training, CPR, and Modernization Amendment Act of 2015”.

The stated purpose of Bill 21-0243 is to amend the Public Access to Automated External Defibrillator Act of 2000 to require each school to have a certain number of automated external defibrillators that can be used on both children and adults in the school; to require specific employees of each school to complete a training program on cardiopulmonary resuscitation and the operation and use of an automated external defibrillator; to require the Mayor to establish guidelines for these training programs; and to require the Mayor to approve all training programs offered pursuant to the act.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the hearing should contact Kate Mitchell, Judiciary 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 28, 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 fifteen 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 October 15, 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 ON

THE STATE OF EMERGENCY MEDICAL SERVICES IN THE DISTRICT OF COLUMBIA

AND

**BILL 21-0290, THE “OFFICE OF UNIFIED COMMUNICATIONS TRAINING, CPR,
AND MODERNIZATION AMENDMENT ACT OF 2015”**

**Thursday, October 1, 2015, 3:30 p.m.
Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

On Thursday, October 1, 2015, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on the Judiciary, will hold a public hearing on the State of Emergency Medical Services in the District of Columbia and Bill 21-0290, the “Office of Unified Communications Training, CPR, and Modernization Amendment Act of 2015”. The hearing will be held in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 3:30 p.m., or immediately following the joint Judiciary and Education Committees hearing on Bill 21-0243, the “Cardiopulmonary Resuscitation and Automated External Defibrillator Requirements Amendment Act of 2015”.

The hearing will include a robust discussion on the state of emergency medical services in the District of Columbia. The Committee will also examine implemented and unimplemented recommendations outlined in the District of Columbia Auditor’s June 2015 report entitled “Review of District of Columbia’s Compliance with the Recommendations of the Task Force on Emergency Medical Services (*The Rosenbaum Task Force*)”.

The stated purpose of Bill 21-0290 is to require Metropolitan Police Department (MPD) officers and Fire and Emergency Medical Services Department (FEMS) firefighters and emergency medical service providers to complete joint training classes with Office of Unified

Communications (OUC) public safety telecommunicators; to require OUC to provide continuing education classes, training, and certification on an annual basis in accordance with national recommendations; to require OUC to implement a smartphone application that can alert and summon residents trained in cardiopulmonary resuscitation (CPR) to begin resuscitation efforts while medical services providers are en route to an emergency event; and to require OUC and FEMS to conduct a District-wide CPR training program for District students, employees, and residents.

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 28, 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 fifteen 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 October 15, 2015.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT
MARY M. CHEH, CHAIR

NOTICE OF PUBLIC ROUNDTABLE ON
The Draft 2015 District of Columbia Wildlife Plan

Friday, September 18, 2015
at 10:00 a.m.
in Room 412 of the
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

On Friday, September 18, 2015, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public roundtable on DOEE's Draft 2015 District of Columbia Wildlife Plan. The roundtable will begin at 10:00 a.m. in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

The 2015 Wildlife Plan is a citywide, comprehensive plan and roadmap for managing and conserving the District's wildlife and their habitats for the next 10 years. It identifies species of the greatest conservation need and critical habitats, assesses threats to both, and identifies actions to mitigate those threats. A link to the draft plan can be found online here: <http://green.dc.gov/publication/2015-wildlife-action-plan>.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official record. Anyone wishing to testify should contact Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, at (202) 724-8062 or via e-mail at abenjamin@dccouncil.us. Persons representing organizations will have five minutes to present their testimony. Individuals will have three minutes to present their testimony. Witnesses should bring 5 copies of their written testimony and should submit a copy of their testimony electronically to abenjamin@dccouncil.us.

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. They may also be e-mailed to abenjamin@dccouncil.us or faxed to (202) 724-8118. The record will close at the end of the business day on September 21, 2015.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

**Posting Date: September 4, 2015
**Petition Date: October 19, 2015
**Hearing Date: November 2, 2015

License No.: ABRA-090459
Licensee: Alemeshet B. Bayou
Trade Name: Abayou Grocery & Deli
License Class: Retailer’s Class “B” Grocery - 25% percent
Address: 3443 14th Street, N.W.
Contact: Alemeshet Bayou: 301-326-8271/Jeff Jackson: 202-251-1568

WARD 1 ANC 1A SMD 1A04

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

NATURE OF SUBSTANTIAL CHANGE

Class “B” Grocery 25 percent, transfer to a new location.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE

Sunday through Saturday 9am-10pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

**Posting Date: August 21, 2015
**Petition Date: October 5, 2015
**Hearing Date: October 19, 2015

License No.: ABRA-090459
Licensee: Alemeshet B. Bayou
Trade Name: Abayou Grocery & Deli
License Class: Retailer’s Class “B” Grocery - 25% percent
Address: 3443 14th Street, N.W.
Contact: Alemeshet Bayou: 301-326-8271/Jeff Jackson: 202-251-1568

WARD 1 ANC 1A SMD 1A04

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

NATURE OF SUBSTANTIAL CHANGE

Class “B” Grocery 25 percent, transfer to a new location.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE

Sunday through Saturday 9am-10pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: September 4, 2015
 Petition Date: October 19, 2015
 Hearing Date: November 2, 2015
 Protest Hearing Date: December 9, 2015

License No.: ABRA-099122
 Licensee: Nallapperum R. Indren
 Trade Name: Banana Leaf DC
 License Class: Retailer’s Class “C” Restaurant
 Address: 5014 Connecticut Ave., N.W.
 Contact: Raj Perera: (202)-506-7554

WARD 3 ANC 3F SMD 3F06

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 license on the hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for December 9, 2015 at 4:30 pm.

NATURE OF OPERATION

Simple restaurant serving Sri Lankan food.
 Total Occupancy Load of 65.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday 12 pm - 10 pm, Monday through Thursday 11:30 am – 10 pm,
 Friday 11:30 am – 11 pm & Saturday 12 pm – 11 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: September 4, 2015
 Petition Date: October 19, 2015
 Hearing Date: November 2, 2015
 Protest Hearing Date: December 9, 2015

License No.: ABRA-099597
 Licensee: Blazin Wing, LLC
 Trade Name: Buffalo Wild Wings
 License Class: Retailer’s Class “C” Restaurant
 Address: 1220 Half Street, S.E.
 Contact: Kayla Brown: 952-593-9943

WARD 6

ANC 6D

SMD 6D02

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 license on the hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for December 9, 2015 at 1:30 pm.

NATURE OF OPERATION

Full-service restaurant, offering a full-service bar and specializing in chicken wings, while offering a variety of signature sauces. Establishment includes state-of-the-art televisions, allowing guests to catch their favorite game, as well as coin-operated amusement devices. Seating for 233 inside, Sidewalk Café with 28 seats and a Total Occupancy Load of 260.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE

SALES/SERVICE/CONSUMPTION FOR PREMISES AND SIDEWALK CAFE

Sunday 11am - 12 am, Monday through Thursday 11am – 1 am,
 Friday & Saturday 11 am – 2 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

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: September 4, 2015
Petition Date: October 19, 2015
Hearing Date: November 2, 2015

License No.: ABRA-084123
Licensee: 12 & G Spirits, LLC
Trade Name: Imperial Wine & Spirits
License Class: Retailer’s Class “A” Liquor Store
Address: 620 12th Street, N.W.
Contact: Bernard Dietz: 202-548-8000

WARD 2 ANC 2C SMD 2C01

Notice is hereby given that this applicant has applied for a Substantial Change to its license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the petition date.

NATURE OF SUBSTANTIAL CHANGE

Class A Retailer with a Tasting Endorsement. Transfer to a New Location.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Saturday 9 am – 10 pm

HOURS OF TASTING

Sunday through Saturday 9 am – 12 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: September 4, 2015
Petition Date: October 19, 2015
Hearing Date: November 2, 2015
Protest Hearing Date: December 9, 2015

License No.: ABRA-100214
Licensee: Millie's Spring Valley, LLC
Trade Name: Millie's
License Class: Retailer's Class "C" Restaurant
Address: 4866 Massachusetts Avenue, N.W.
Contact: Andrew Kline: 202-686-7600

WARD 3

ANC 3D

SMD 3D03

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 license on the hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for December 9, 2015 at 1:30 pm.

NATURE OF OPERATION

A restaurant serving seafood and Mexican food with a Summer Garden. No entertainment. No nude performances. Total number of seats: 99. Total Occupancy Load: 250. Total number of Summer Garden seats: 120.

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

Sunday through Thursday 8 am - 12 am
Friday and Saturday 8 am - 1 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

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: **Saint Yves
License Class: Retailer’s Class “C” Tavern
Address: 1220 Connecticut Ave., N.W.
Contact: **Chris Miller: 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

****CORRECTION**

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 **OPERATION

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 handmade 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.

****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 **8 am – **12am, Friday & Saturday **8 am – **1 am

**OFFICE OF THE DEPUTY MAYOR FOR
PLANNING AND ECONOMIC DEVELOPMENT**

**NOTICE OF PUBLIC MEETING REGARDING
SURPLUS RESOLUTION PURSUANT TO D.C. OFFICIAL CODE §10-801**

The District will conduct a public meeting to receive public comments on the proposed surplus of District property. **Please note that written comments will be accepted until Friday, September 18, 2015.** The date, time and location shall be as follows:

Property: “Grimke School and Adjacent Parcels”
1923 Vermont Avenue NW and 912 U Street NW
Lots 827 and 833 in Square 0361

Date: Friday, September 18, 2015

Time: 6:30-8:30 p.m.

Location: Thurgood Marshall Center,
1816 12th Street NW
Washington, D.C. 20001

Contact: Marc Bleyer, Marc.Bleyer@dc.gov
(202) 727-8929

**OFFICE OF THE DEPUTY MAYOR FOR
PLANNING AND ECONOMIC DEVELOPMENT**

**NOTICE OF PUBLIC MEETING REGARDING
SURPLUS RESOLUTION PURSUANT TO D.C. OFFICIAL CODE §10-801**

The District will conduct a public meeting to receive public comments on the proposed surplus of District property. **Please note that written comments will be accepted until Monday, October 19, 2015.** The date, time and location shall be as follows:

- Property:** St. Elizabeths East
1100 Alabama Ave., SE, Washington D.C.
Lot Nos. 809, 811, 812, 813 and 823 in Lot 2, Square S-5868
- Date:** Saturday, September 19th, 2015
- Time:** 10:00 a.m.
- Location:** R.I.S.E. Demonstration Center
2730 Martin Luther King Jr., Ave., SE
Washington, D.C. 20032
- Contact:** Catherine Buell, Catherine.Buell@dc.gov
202-727-6365

**BOARD OF ZONING ADJUSTMENT
REVISED NOTICE OF PUBLIC HEARING
TUESDAY, SEPTEMBER 22, 2015
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001**

Revised to add Case 19091

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 ONE

19066
ANC-1B **Application of Gabriel and Stephanie Klein**, pursuant to 11 DCMR § 3103.2, for variances from the lot occupancy requirements under § 403, and the rear yard requirements under § 404, to allow the construction of a rear addition and conversion of an existing flat to a three-unit apartment house in the R-4 District at premises 1100 Euclid Street N.W. (Square 2865, Lot 115).

WARD FOUR

19067
ANC-4C **Appeal of ANC 4C**, pursuant to 11 DCMR §§ 3100 and 3101, from a May 18, 2015 decision by the Zoning Administrator, Department of Consumer and Regulatory Affairs, to issue Building Permit No. B1505734, to allow the construction of a rear two-story addition and conversion of a one-family dwelling into a three-unit apartment house in the R-4 District at premises 1117 Allison Street N.W. (Square 2918, Lot 59).

WARD ONE

19068
ANC-1B **Application of The Old Penecost Church Temple of Truth**, pursuant to 11 DCMR § 3103.2, for variances from the lot area requirements under § 401.3, and the off-street parking requirements under § 2101.1, to allow the construction of four new flats on four new record lots in the R-4 District at premises 727 Hobart Place N.W. (Square 2888, Lot 202).

WARD ONE

19071
ANC-1A **Application of Morton Street Mews LLC**, pursuant to 11 DCMR § 3104.1, for a special exception under § 337 for the conversion of a non-residential building constructed before 1958 into an eight-unit apartment house not meeting the requirements of § 330.7 in the R-4 District at premises 777 Morton Street N.W. (Square 2894, Lot 98).

BZA PUBLIC HEARING NOTICE

SEPTEMBER 22, 2015

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THIS APPLICATION WAS POSTPONED FROM THE PUBLIC HEARING OF APRIL 21, 2015 AND JUNE 23, 2015 AT THE APPLICANT'S REQUEST:**WARD ONE**

18979 **Application of Tiblez Adal**, pursuant to 11 DCMR § 3103.2, for a variance
ANC-1A from the nonconforming structure requirements under § 2001.3, to allow a
 substantially-completed two-story carriage house to be adaptively restored as an
 artist studio in the R-4 District at premises 400 K Street N.E. (Square 806, Lot
 44).

**THIS APPLICATION WAS REMOVED FROM THE EXPEDITED REVIEW
CALENDAR OF JULY 28, 2015:****WARD ONE**

19044 **Application of Gerald West**, pursuant to 11 DCMR § 3104.1 for a special
ANC-2B exception under § 223, not meeting the lot occupancy requirements under §
 403.2, the side yard requirements under § 405.8, and the open court requirements
 under § 406.1, to construct a two-story rear addition, one-story side addition, and
 a basement entry in the DC/R-4 District at premises 1508 Caroline Street N.W.
 (Square 190, Lot 59).

WARD TWO

19091 **Application of the Embassy of the Kyrgyz Republic**, pursuant to 11
ANC-2D DCMR § 1002 of the Foreign Missions Act, to allow the construction of a rear
 deck at an existing embassy in the D/R-3 District at premises 2360 Massachusetts
 Avenue N.W. (Square 2507, Lot 50).

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**

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SEPTEMBER 22, 2015

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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, ONE BOARD SEAT VACANT, AND A MEMBER OF THE ZONING COMMISSION, CLIFFORD W. MOY, SECRETARY TO THE BZA, SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING.

**BOARD OF ZONING ADJUSTMENT
REVISED PUBLIC HEARING NOTICE**

TUESDAY, OCTOBER 20, 2015

441 4TH STREET, N.W.

**JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001**

Cases added: 19130, 19052A, and 19004

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 ONE

19130 **Application of the Embassy of the Russian Federation**, pursuant to 11
ANC-1C DCMR § 1002 of the Foreign Missions Act, to allow the construction of a
security fence at an existing embassy in the R-5-D District at premises
2001 Connecticut Avenue N.W. (Square 2536, Lot 308).

WARD ONE

19081 **Appeal of ANC 1C, et al.**, pursuant to 11 DCMR §§ 3100 and 3101, from a
ANC-1C May 13, 2015 decision by the Zoning Administrator, Department of Consumer
and Regulatory Affairs, to issue Building Permit No. B1412288, to allow the
conversion of a one-family dwelling into a four-unit apartment house in the R-5-
B District at premises 1828 Ontario Place N.W. (Square 2583, Lot 438).

WARD FOUR

19082 **Application of Chichest LLC**, pursuant to 11 DCMR § 3104.1, for a special
ANC-4B exception under § 353 for the construction of a new 16-unit apartment house on
vacant lots in the R-5-A District at premises 37-39 Missouri Avenue N.W.
(Square 3393, Lots 39 and 40).

WARD SIX

19084 **Application of Tito Construction Company LLC**, pursuant to 11 DCMR
ANC-6A § 3103.2, for a variance from the off-street parking requirements under § 2101, to
allow the construction of a new one-family dwelling in the R-4 District at
premises 1028 D Street N.E. (Square 962, Lot 801).

WARD SIX

19086 **Application of Gail and Lindsay Slater**, pursuant to 11 DCMR § 3104.1,
ANC-6C for a special exception under § 223, not meeting the lot occupancy requirements

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under § 403.1, and the nonconforming structure requirements under § 2001.3, to construct a three-story addition to an existing one-family dwelling in the CAP/R-4 District at premises 215 A Street N.E. (Square 759, Lot 27).

WARD EIGHT

19083
ANC-8A **Application of Simone Management, LLC**, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for variances from the off-street parking requirements under § 2101.1, and the parking access requirements under § 2117.5, and a special exception from the new residential developments requirements under § 353.1, to construct a new four-unit apartment house in the R-5-A District at premises 2205 16th Street S.E. (Square 5795, Lot 27).

WARD SIX

19085
ANC-6A **Application of Hiroshi and Anna Jacobs**, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot area and width requirements under § 401, the lot occupancy requirements under § 403, the rear yard requirements under § 404, the court requirements under § 406, and the nonconforming structure requirements under § 2001.3, to construct a third-story addition to an existing two-story, one-family dwelling, and a new shed in the R-4 District at premises 1336 Emerald Street N.E. (Square 1029, Lot 132).

WARD SIX

19087
ANC-6C **Application of Andrew Weinschenk and Rachel Cononi**, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot occupancy requirements under § 403, and the nonconforming structure requirements under § 2001.3, to construct a second-story rear addition to an existing two-story, one-family dwelling in the R-4 District at premises 602 A Street N.E. (Square 867, Lot 124).

WARD THREE

19052A
ANC-3C **Application of Josh Green**, pursuant to 11 DCMR § 3104.1 for a special exception under § 223, not meeting the rear yard requirements under § 404, to construct a deck with staircase to an existing one-family dwelling in the R-3 District at premises 2905 28th Street N.W. (Square 2106, Lot 89).

WARD FIVE

THIS CASE WAS POSTPONED BY THE APPLICANT'S REQUEST FROM THE PUBLIC HEARINGS OF JUNE 9, 2015 AND SEPTEMBER 15, 2015 TO OCTOBER 20, 2015:

19004
ANC-5D **Application of 1933 Montana Ave LLC**, pursuant to 11 DCMR § 3104.1, for special exceptions from the number of parking spaces requirements under § 2108.2, the accessory parking space location requirements under § 2116.7, and the parking space accessibility requirements under § 2117.4, to allow a new

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medical office use in the R-4 District at the southeast corner of 16th Street N.E. and Oates Street N.E. (Square 4073, Lots 52 and 803).

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

Z.C. NOTICE OF PUBLIC HEARING
Z.C. CASE NO. 15-14
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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:

- | | | |
|----|----------------------------------|-------------------------|
| 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
Z.C. CASE NO. 15-14
PAGE 3

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.

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF FINAL RULEMAKING

The Acting Director of the Department of Behavioral Health (“the Department”), pursuant to the authority set forth in Sections 5113, 5115, 5117 and 5118 of the Department of Behavioral Health Establishment Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code §§ 7-1141.02, 7-1141-04, 7-1141.06 and 7-1141.07 (2012 Repl.)), hereby gives notice of the intent to adopt a new Chapter 63, “Certification Standards for Substance Use Disorder Treatment and Recovery Providers”, to Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations (“DCMR”).

The purpose of this new rule is to: 1) update the substance use disorder treatment and recovery service requirements to reflect improvements in the American Society of Addiction Medicine (“ASAM”) practice guidelines, including the addition of clinical care coordination services and the requirement that treatment services be performed by qualified practitioners; 2) establish new levels of care that improve person-centered, individualized treatment; 3) align the certification requirements with other certified programs within the authority of the Department of Behavioral Health; and 4) incorporate the requirements of the Adult Substance Abuse Rehabilitation Services (“ASARS”) State Plan Amendment (“SPA”) which, when approved, will allow Medicaid reimbursement for services falling within the ASARS requirements. Substance use disorder providers currently certified pursuant to Chapter 23 of Title 29 (Public Welfare) will be required to be certified pursuant to this new rule, in accordance with the schedule detailed in the rule, and Chapter 23 will be repealed effective May 31, 2016. Providers not previously certified pursuant to Chapter 23 will be required to become certified pursuant to this chapter in order to provide substance use disorder treatment or recovery services.

The first Notice of Proposed Rulemaking was published on February 6, 2015 in the *D.C. Register* at 62 DCR 001611. Comments were received from three organizations, resulting in some amendments to the proposed rules. The Notice of Second Proposed Rulemaking was published on June 26, 2015 in the *D.C. Register* at 62 DCR 008905.

Multiple comments were received and the Department made the changes discussed below to clarify the intent, meaning, and application of the Notice of Second Proposed Rulemaking. None of the changes made in this Notice of Final Rulemaking substantially changes the intent, meaning, or application of the Notice of Second Proposed Rulemaking. In addition, multiple changes lessen the burdens of the proposed rule and extend the benefits of the rule to other types of licensed providers, including Psychologists and Licensed Graduate Professional Counselors. The major comments received and the Department’s responses are enumerated below:

Multiple commenters requested that the level of care requirements be restricted to only those providers with a contract with the Department. One concern was the impact of the new rule on existing agreements between certified providers and third-party entities such as federal agencies and payors. The Department did not accept this recommendation because the Department has adopted the ASAM criteria as the standard of care for all substance abuse services in the District of Columbia. However, the Department did insert a provision allowing any provider to request

an exemption from a certification requirement on a case by case basis if it conflicts with a third-party agreement and the exemption will not otherwise impact safety or care.

Multiple commenters requested clarification that the service hour requirements in each level of care categories were not mandatory but flexible according to an individual's assessed need. The Department modified the language for Level of Care 1 and 2 to accurately reflect the Department's intent that each provider shall have the capacity to provide the requisite hours within each level of care according to an individual's assessed need. For the Level of Care 3, the service hours remain mandatory due to the nature of that particular service.

Several commenters requested clarification on whether the proposed rules would require individual physicians providing non-methadone medication assisted treatment at a facility to certify as a Medication Assisted Treatment (MAT) provider. The Department clarified that it was not the intent of the rules to require certification for these individual physicians and that MAT certification is for methadone providers.

Several commenters raised a concern that the service limitations or pre-authorization requirements in the rules may violate the Affordable Care Act parity requirements. The Department acknowledged the proposed federal regulations that would, if finalized, apply parity protections to Medicaid Managed Care Organization (MCO) beneficiaries receiving substance abuse carve out services through a fee for service system. The Department added language clarifying that the service limitations and pre-authorization requirements only apply to services provided under the Department's Human Care Agreement and further provided that no limitations or pre-authorization requirements may be applied to an MCO beneficiary if it violates a parity requirement.

Several commenters requested that the Department "deem" a provider certified under Chapter 63 if the provider is accredited by a national accreditation body. The Department inserted language allowing a provider to submit evidence of national accreditation and the Department to consider national accreditation as evidence of compliance with comparable certification requirements.

Several commenters requested that the Department remove the requirement that a Certified Addiction Counselor conduct a face to face assessment as part of the comprehensive assessment service and remove the three (3)-hour duration requirement for that service. The Department believes that the Certified Addiction Counselor plays an important role in assessments and treatment planning. The Department removed the face to face requirement but continues to require that the CAC participate in the assessment process. Further, the Department agreed that the three (3)-hour requirement was too rigid and reduced the minimum length of time to one (1) hour.

Several commenters questioned the requirements for annual audits and listing the Department as an insured. The Department modified this language to require providers who do not contract with the Department to submit a current (within the past year) financial statement only. In addition, the Department eliminated the requirement of a ninety (90)-day line of credit and adding the Department as an additional insured. Contracted providers will remain subject to the District's standard contract provisions which require naming the District as an additional insured.

Several commenters requested that the Department clarify that providers denied certification are entitled to an administrative due process hearing under the D.C. Administrative Procedure Act. The Department accepted that recommendation.

The Department accepted one commenter's recommendation to add Psychologists to the list of practitioners eligible to provide Medication Management services and to add Licensed Graduate Professional Counselors as a Qualifying Practitioner for most services. However, due to the District's Medicaid State Plan Amendment, these additions are not applicable to services provided under the Department's Human Care Agreement.

Finally, one commenter requested that the Department add Licensed Practical Nurses to the list of Qualified Practitioners eligible to diagnose a substance abuse disorder. The Department did not accept this recommendation as LPNs are not authorized under District law to diagnose a substance abuse disorder.

The Acting Director adopted these rules as final on August 14, 2015, and they will be effective on the date of publication in the *D.C. Register*.

Subtitle A, MENTAL HEALTH, of Title 22 DCMR, HEALTH, is amended by adding a new Chapter 63 to read as follows:

**CHAPTER 63 CERTIFICATION STANDARDS FOR SUBSTANCE USE
DISORDER TREATMENT AND RECOVERY PROVIDERS**

6300 GENERAL PROVISIONS

- 6300.1 The Department of Behavioral Health ("Department") is the Single State Agency ("SSA") responsible for the development and promulgation of rules, regulations, and certification standards for prevention and treatment services related to the abuse of alcohol, tobacco, and other drugs ("ATOD") in the District of Columbia ("District"). The Department is responsible for the inspection, monitoring, and certification of all District of Columbia substance use disorder ("SUD") treatment and recovery providers.
- 6300.2 The purpose of these rules is to establish certification requirements for operating a SUD treatment or recovery program in the District of Columbia. These rules also establish additional certification criteria and requirements for SUD programs providing services under the Medicaid Adult Substance Abuse Rehabilitative Services ("ASARS") program and a Human Care Agreement with the Department.
- 6300.3 Providers seeking certification shall specify the age ranges of the clients they will be serving. Providers with a Human Care Agreement serving youth shall be known as Adolescent Substance Abuse Treatment Expansion Program (ASTEP) providers.

- 6300.4 The SUD treatment framework in this chapter is based on levels of care established by the American Society for Addiction Medicine (“ASAM”).
- 6300.5 No person or entity shall own or operate a program that offers or proposes to offer non-hospital SUD treatment services without being certified by the Department pursuant to this chapter. This chapter does not apply to Health Maintenance Organizations, physicians, and other licensed behavioral health and medical professionals in individual or group practice.
- 6300.6 Providers who are certified as an SUD treatment or recovery program pursuant to Title 29, Chapter 23 of the District of Columbia Municipal Regulations prior to the effective date of this rule, may retain their certification until May 31, 2016, until the expiration of their current certification under Chapter 23, or until certification pursuant to this chapter is issued, whichever date comes first.
- 6300.7 Any provider certified pursuant to 29 DCMR Chapter 23 wishing to continue to provide services as an SUD treatment or recovery program must have submitted a completed certification application for all certified services to the Department in accordance with the schedule below and prior to the expiration of their current certification. If a provider has more than one program (level of care) or more than one facility, each with its own certification, the provider must submit its application for all of its facilities or programs at the time the provider’s first certification falls due.
- 6300.8 Certification applications for new programs must be submitted at the time the provider’s first certification is due as follows:
- (a) Level I, Level II, and Medication Assisted Therapy (“MAT”) providers: all applications are due by October 1, 2015;
 - (b) Level III and Level R providers not already submitted per (a): all applications are due by December 1, 2015.
- 6300.9 The Department shall issue one (1) certification for each provider that is valid only for the programs, premises, and level(s) of care stated on the certificate. The certificate is the property of the Department and must be returned upon request by the Department.
- 6300.10 The Department’s staff, upon presentation of proper identification, has the authority to enter the premises of an SUD treatment or recovery program during operating hours for the purpose of conducting announced or unannounced inspections and investigations.
- 6300.11 A certified provider may not deny admission for services to an otherwise qualified individual because that person is receiving Medication-Assisted Treatment (MAT) services, even if the MAT services are provided by a different

provider.

6300.12 Providers in Levels 1 - 3, except MMIIWM, may also receive a special designation as a program serving parents with children, subject to Section 6324 of this chapter.

6300.13 Each certified program shall comply with all the provisions of this chapter consistent with the scope of the authorized LOC and program services.

6301 ELIGIBILITY FOR SUBSTANCE USE DISORDER SERVICES

6301.1 Substance Use Disorder (“SUD”) is a chronic relapsing disease characterized by a cluster of cognitive, behavioral, and psychological symptoms indicating that the beneficiary continues using the substance despite significant substance-related problems. A diagnosis of an SUD requires a beneficiary to have had persistent, substance related problem(s) within a twelve (12)-month period in accordance with the requirements of the most recent version of the American Psychiatric Association’s Diagnostic and Statistical Manual (“DSM”) in use by the Department.

6301.2 To be eligible for SUD treatment, a client must have received a diagnosis of an SUD in accordance with Subsection 6301.1 of this chapter from a qualified practitioner. Eligibility for Medicaid-funded or Department-funded SUD services shall be determined in accordance with Subsection 6301.4.

6301.3 Qualified Practitioners eligible to diagnose a substance use disorder pursuant to this Chapter are Qualified Physicians, Psychologists, Licensed Independent Clinical Social Workers (“LICSWs”), Licensed Professional Counselors (“LPCs”), Licensed Marriage and Family Therapists (“LMFTs”), and Advanced Practice Registered Nurses (“APRNs”).

6301.4 A client shall meet the following eligibility requirements in order to receive Medicaid-funded services:

- (a) Be *bona fide* residents of the District, as required in 29 DCMR Subsection 2405.1(a); and
- (b) Be referred for SUD services at the level of care determined by a Level I-AR provider or other intake center authorized by the Department, unless the clients are only receiving Recovery Support Services.
- (c) Be enrolled in Medicaid, or be eligible for enrollment and have an application pending; or

- (d) For new enrollees and those enrollees whose Medicaid certification has lapsed:
- (1) There is an eligibility grace period of ninety (90) days from the date of first service for new enrollees, or from the date of eligibility expiration for enrollees who have a lapse in coverage, until the date the District's Economic Security Administration makes an eligibility or recertification determination.
 - (2) In the event the consumer appeals a denial of eligibility or recertification by the Economic Security Administration, the Director may extend the ninety (90)-day eligibility grace period until the appeal has been exhausted. The ninety (90)-day eligibility grace period may also be extended in the discretion of the Director for other good cause shown.
 - (3) Upon expiration of the eligibility grace period, SUD services provided to the consumer are no longer reimbursable by Medicaid. Nothing in this section alters the Department's timely-filing requirements for claim submissions.

6301.5

Clients eligible for locally-funded SUD treatment are those individuals who are not eligible for Medicaid or Medicare or are not enrolled in any other third-party insurance program except the D.C. HealthCare Alliance, or who are enrolled but the insurance program does not cover SUD treatment and who meet the following requirements:

- (a) For individuals nineteen (19) years of age and older, live in households with a countable income of less than two hundred percent (200%) of the federal poverty level, and for individuals under nineteen (19) years of age, live in households with a countable income of less than three hundred percent (300%) of the federal poverty level.
- (b) A client that does not meet the income limits of Subsection 6301.6(a) above may receive treatment services in accordance with the following requirements:
 - (1) The client must, within ninety (90) days of enrollment for services, apply to the Department of Human Services Economic Security Administration for certification, which will verify income.
 - (2) An individual with income over the limits in paragraph (a) above may receive treatment services with payment on a sliding scale.
 - (3) The provider shall ensure it develops a sliding scale fee policy, reviewed by the Department, and shall be able to provide

documentation to the Department of its collection of fees.

6302 SERVICES FOR PEOPLE WITH CO-OCCURRING MENTAL ILLNESSES

6302.1 All providers shall provide SUD services to eligible individuals with a co-occurring mental illness. A provider shall not decline to provide SUD services because of the person's co-occurring mental illness.

6302.2 All providers shall, at a minimum, screen individuals during the Intake or Comprehensive Assessment to determine if the person may suffer from a mental illness in addition to an SUD.

6302.3 If a person screens positive for a co-occurring mental illness, the provider shall do the following in addition to providing SUD services:

- (a) Offer the opportunity for the person to receive mental illness treatment in addition to SUD treatment. If the person declines, the provider shall make the appropriate referrals for the person to receive mental health treatment at another qualified provider;
- (b) If the provider does not offer treatment for mental illness ensure the person is referred to an appropriate mental health provider; or
- (c) If an individual that screens positive for a co-occurring mental illness receives mental health treatment at another provider, the Clinical Care Coordinator is responsible for ensuring the treatment plan and subsequent care and treatment of the person is coordinated with the mental health provider.

6303 PROVIDER CERTIFICATION PROCESS

6303.1 Each applicant seeking certification as a provider shall submit a certification application to the Department in a form prescribed by the Department. A Department-certified provider seeking renewal of certification shall submit a certification application at least ninety (90) days prior to the termination of its current certification.

6303.2 An applicant may apply for certification at one or more of the Levels of Care (LOCs):

- (a) Level 1 – AR: Assessment and Referral;
- (b) Level 1: Outpatient;
- (c) Level 2.1: Intensive Outpatient Program;

- (d) Level 2.5: Day Treatment;
- (e) Level 3.1: Clinically Managed Low-Intensity Residential;
- (f) Level 3.3: Clinically Managed Population-Specific High-Intensity Residential;
- (g) Level 3.5: Clinically Managed High-Intensity Residential (Adult) or Clinically Managed Medium-Intensity Residential (Youth);
- (h) Level 3.7-WM: Short-term Medically Monitored Intensive Withdrawal Management “(SMMIWM)”;
- (i) Level-R: Recovery Support Services.

6303.3 Providers may also be certified to provide one or more of the following specialty services based on their Level of Care (“LOC”) certifications from the Department:

- (a) Medication Management;
- (b) Medication Assisted Treatment; and
- (c) Adolescent – Community Reinforcement Approach (“ACRA”).

6303.4 All certified providers, except those only certified as Level 1-AR or Level-R, shall provide all of the following core services according to the requirements of this chapter and the individual needs of the client as outlined in the treatment plan:

- (a) Assessment/Diagnostic and Treatment Planning Services;
- (b) Clinical Care Coordination;
- (c) Case Management;
- (d) Crisis Intervention;
- (e) Substance Use Disorder (SUD) Counseling, including the following:
 - (1) Individual Counseling;
 - (2) Group Counseling;
 - (3) Group Counseling – Psychoeducation; and
 - (4) Family Counseling; and

- (f) Drug Screening, as follows;
 - (1) Toxicology Sample Collection; and
 - (2) Breathalyzer Testing;

- 6303.5 If a certification is about to expire, the Department may, for good cause, consider a written request for an extension of time to complete the application.
- 6303.6 If the provider has submitted a timely and complete recertification application, the current certification shall continue until the Department takes action to renew or deny renewal of certification. A recertification application is considered timely if it is submitted at least ninety (90) days prior to the certification expiration date or the Department has otherwise granted an extension for the submission of a complete application.
- 6303.7 Upon receipt of a certification application, the Department shall review the certification application to determine whether it is complete. If a certification application is incomplete, the Department shall return the incomplete application to the applicant. An incomplete certification application shall not be regarded as a certification application, and return of the incomplete certification application and the Department's failure to take further action to issue certification to the applicant shall not constitute either the denial of an application for certification or the renewal of certification.
- 6303.8 Following the Department's acceptance of the certification application, the Department shall determine whether the applicant's services and activities meet the certification standards described in this chapter. The Department shall schedule and conduct an on-site survey of the applicant's services to determine whether the applicant satisfies the certification standards. The Department shall have access to all records necessary to verify compliance with certification standards and may conduct interviews with staff, others in the community, and clients (with client permission).
- 6303.9 The Department may issue certification to an applicant complying with the certification standard and to each certified provider seeking renewal of certification that complies with the certification standards.
- 6303.10 Nothing in these rules shall be interpreted to mean that certification is a right or an entitlement. The Director may restrict new provider certifications based upon the needs of the District residents and the existing capacity of the SUD provider system. The restriction may apply to overall certification or specific levels of care.
- 6303.11 An applicant or certified provider that fails to comply with this chapter, fails to

comply with a Human Care Agreement, or violates Federal or District law, may receive a Statement of Deficiencies (“SOD”) from the Department. Evidence of violations gathered from an on-site survey, complaint, or other information may lead to the issuance of an SOD. An on-site survey is not required prior to the issuance of an SOD. The SOD shall describe the areas of non-compliance, suggest actions needed to bring operations into compliance with the certification standards, and set forth a timeframe for the provider’s submission of a written Corrective Action Plan (“CAP”). The issuance of an SOD is a separate process from the issuance of a Notice of Infraction.

- 6303.12 An applicant or Department-certified provider's CAP shall describe the actions to be taken and specify a timeframe for correcting the areas of non-compliance. The CAP shall be submitted to the Department within ten (10) working days after receipt of the SOD from the Department.
- 6303.13 The Department shall notify the applicant or certified provider whether the provider's CAP is accepted within five (5) working days after receipt.
- 6303.14 The Department shall issue its certification after the Department verifies that the applicant or certified provider has complied with its CAP and meets all the certification standards.
- 6303.15 The Director may deny certification if the applicant fails to comply with any certification standard. A provider that applies for certification during an open application period as published in the District of Columbia Register may appeal the denial of certification under this subsection by utilizing the procedures contained in Subsections 6305.4 through 6305.8. The Department shall not accept any applications for which a notice of moratorium is published in the *District of Columbia Register*. The Director may revoke certification from a provider through the decertification process in accordance with § 6305 of this chapter.
- 6303.16 Certification as an SUD treatment provider or recovery support services provider shall be for one (1) calendar year for new applicants and two (2) calendar years for existing providers seeking renewal. Certification shall start from the date of issuance of certification by the Department, subject to the provider's continuous compliance with these certification standards. Certification shall remain in effect until it expires, is renewed, or is revoked pursuant to this chapter. The certification shall specify the effective date of the certification, the program(s), level of care(s), and services that the provider is certified to provide.
- 6303.17 Certification is not transferable to any other organization.
- 6303.18 Written notice of any change in the ownership of a program owned by an individual, partnership, or association, or in the legal or beneficial ownership of ten percent (10%) or more of the stock of a corporation that owns or operates a

program, shall be given to the Department at least thirty (30) calendar days prior to the change in ownership.

6303.19 The provider shall notify the Department immediately of changes in its operation that affect the provider's continued compliance with these certification standards, including changes in ownership or control, changes in the Qualified Practitioners employed by the provider, changes in services, and changes in its affiliation and referral arrangements.

6303.20 The provider shall notify the Department in writing thirty (30) calendar days prior to implementing any of the following operational changes, including all aspects of the operations materially affected by the changes:

- (a) A proposed change in the program's geographic location;
- (b) The proposed addition or deletion of major service components;
- (c) A change in the required staff qualifications for employment;
- (d) A proposed change in organizational structure;
- (e) A proposed change in the population served; and
- (f) A proposed change in program capacity and, for residential programs, a proposed change in bed capacity.

6303.21 Certification shall be automatically terminated and invalid if the provider fails to apply for renewal of certification prior to the expiration date of the certification, voluntarily relinquishes certification, or goes out of business.

6303.22 Providers shall forward to the Department within thirty (30) calendar days all inspection reports conducted by an oversight body and all corresponding corrective actions taken regarding cited deficiencies.

6303.23 Providers shall immediately report to the Department any alleged criminal activity involving provider staff.

6303.24 The Department may consider a provider's certification by one or more national accrediting bodies as evidence of compliance with one or more certification standards in this chapter.

6304 CERTIFICATION: EXEMPTIONS FROM STANDARDS

6304.1 Upon good cause shown, including but not limited to a conflict between a certification standard and an SUD provider's third-party contract or agreement, the Department may exempt a provider from a certification standard if the

exemption does not jeopardize the health and safety of clients, violates a client's rights, or otherwise conflict with the purpose and intent of these rules.

- 6304.2 If the Department approves an exemption, such exemption shall end on the expiration date of the program certification, or at an earlier date if specified by the Department, unless the provider requests renewal of the exemption prior to expiration of its certificate or the earlier date set by the Department.
- 6304.3 The Department may revoke an exemption that it determines is no longer appropriate.
- 6304.4 All requests for an exemption from certification standards must be submitted in writing to the Department.

6305 DECERTIFICATION PROCESS

- 6305.1 Decertification is the revocation of the certification issued by the Director to an organization or entity as an SUD treatment or recovery provider. A decertified SUD provider shall not provide any SUD treatment and shall not be reimbursed for any services as an SUD provider.
- 6305.2 Grounds for revocation include a provider's failure to comply with the certification requirements contained in this chapter, the provider's breach of its Human Care Agreement (if applicable), violations of Federal or District law, or any other action that constitutes a threat to the health or safety of clients. Nothing in this chapter requires the Director to issue an SOD prior to revoking certification.
- 6305.3 If the Director finds that there are grounds for revocation, the Director will issue a written notice of revocation setting forth the factual basis for the revocation, the effective date, and right to request an administrative review.
- 6305.4 The provider may request an administrative review from the Director within fifteen (15) business days of the date on the notice of revocation.
- 6305.5 Each request for an administrative review shall contain a concise statement of the reason(s) why the provider asserts that it should not have had its certification revoked and include any relevant supporting documentation.
- 6305.6 Each administrative review shall be conducted by the Director and shall be completed within fifteen (15) business days of the receipt of the provider's request.
- 6305.7 The Director shall issue a written decision and provide a copy to the provider. If the Director approves the revocation of the provider's certification, the provider may request a hearing under the D.C. Administrative Procedure Act, within

fifteen (15) business days of the receipt of the Director's written decision. The administrative hearing shall be limited to the issues raised in the administrative review request. The revocation shall be stayed pending resolution of the hearing.

- 6305.8 Once certification is revoked, the SUD provider shall not be allowed to reapply for certification for a period of two (2) years following the date of the order of revocation. If a provider reapplies for certification, the provider must reapply in accordance with the established certification standards for the type of services provided and show evidence that the grounds for the revocation have been corrected.

6306 CLOSURES AND CONTINUITY OF CLIENT CARE

- 6306.1 A provider shall provide written notification to the Department at least ninety (90) calendar days prior to its impending closure, or immediately upon knowledge of an impending closure less than ninety (90) calendar days in the future. This notification shall include plans for continuity of care and preservation of client records.

- 6306.2 The Department shall review the continuity of care plan and make recommendations to the provider as needed. The provider shall incorporate all Department recommendations.

- 6306.3 Closure of a program does not absolve a provider from its legal responsibilities regarding the preservation and the storage of client records.

- 6306.4 A provider shall be responsible for the execution of its continuity of care plan in coordination with the Department.

6307 GENERAL MANAGEMENT AND ADMINISTRATION STANDARDS

- 6307.1 Each provider shall be established as a recognized legal entity in the United States and qualified to conduct business in the District. Evidence of qualification to conduct business includes a certificate of good standing or clean hands, or an equivalent document, issued by the District of Columbia Department of Consumer and Regulatory Affairs. Each provider shall maintain the clinical operations, policies, and procedures described in this section. These operations, policies and procedures shall be reviewed and approved by the Department during the certification survey process.

- 6307.2 All certified providers shall report to the Department in a form and manner prescribed by the Department's policy on adverse events including abuse or neglect of client or any other event that may compromise the health, safety, and welfare of clients.

- 6307.3 Each provider shall:

- (a) Have a governing body, which shall have overall responsibility for the functioning of the provider;
- (b) Comply with all applicable Federal and District laws and regulations;
- (c) Hire personnel with the necessary qualifications in order to provide SUD treatment and recovery services and to meet the needs of its enrolled clients; and
- (d) For SUD treatment, employ Qualified Practitioners to ensure provision of services as appropriate and in accordance with this chapter.

6307.4 Each treatment and recovery provider shall have a full time program director with authorized and responsible for the administrative direction and day-to-day operation of the program(s).

6307.5 Each treatment provider shall have a clinical director responsible for the clinical direction and day-to-day delivery of clinical services provided to clients of the program(s). The clinical director must be a licensed clinician.

6307.6 The program director and clinical director shall devote adequate time and authority to perform necessary duties to ensure that service delivery is in compliance with applicable standards set forth in this chapter and in applicable policies issued by the Department.

6307.7 Each provider shall establish and adhere to policies and procedures for selecting and hiring staff (Staff Selection Policy), including but not limited to requiring:

- (a) Evidence of licensure, certification, or registration, as applicable and as required by the job being performed;
- (b) Evidence of completion of an appropriate degree, training program, or credentials, such as academic transcripts or a copy of degree;
- (c) Evidence of all required criminal background checks, and for all unlicensed staff members, application of the criminal background check requirements contained in D.C. Official Code §§ 44-551 *et seq.*, Unlicensed Personnel Criminal Background Check;

- (d) Evidence, provided at least quarterly, that no individual is excluded from participation in a Federal health care program as listed on the Department of Health and Human Services List of Excluded Individuals/Entities (<http://oig.hhs.gov/fraud/exclusion.asp>) or the General Services Administration Excluded Parties List System, or any similar succeeding governmental list;
- (e) Evidence of completion of communicable disease testing required by the Department; and
- (f) Evidence of a mechanism for ongoing monitoring of excluded party listing status, and staff licensure/certification.

6307.8 Each provider shall establish and adhere to written job descriptions for all positions, including, at a minimum, the role, responsibilities, reporting relationships, and minimum qualifications for each position. The minimum qualifications established for each position shall be appropriate for the scope of responsibility and clinical practice (if any) described for each position.

6307.9 Each provider shall establish and adhere to policies and procedures requiring a periodic evaluation of clinical and administrative staff performance (Performance Review Policy) that requires an assessment of clinical competence (if appropriate), general organizational work requirements, and key functions as described in the job description. The periodic evaluation shall also include an annual individual development plan for each staff member.

6307.10 Each provider shall establish and adhere to a supervision policy to ensure that services are provided according to this chapter and Department policies on supervision and service standards.

6307.11 Each provider shall establish and adhere to a training policy in accordance with § 6318 of this chapter.

6307.12 Personnel policies and procedures shall apply to all staff and volunteers working in a program and shall include:

- (a) Compliance with federal and District equal opportunity laws, including the Americans with Disabilities Act and the D.C. Human Rights Act;
- (b) A current organizational flowchart reflecting each program position and, where applicable, the relationship to the larger program or provider of which the program is a part;

- (c) Written plans for developing, posting, and maintaining files pertaining to work and leave schedules, time logs, and on-call schedules for each functional unit, to ensure adequate coverage during all hours of operation;
- (d) A written policy requiring that a designated individual be assigned responsibility for management and oversight of the volunteer program, if volunteers are utilized;
- (e) A written policy regarding volunteer recruitment, screening, training, supervision, and dismissal for cause, if volunteers are utilized; and
- (f) Provisions through which the program shall make available to staff a copy of the personnel policies and procedures.

6307.13 A program shall develop and implement procedures that prohibit the possession, use, or distribution of controlled substances or alcohol, or any combination of them, by staff during their duty hours, unless medically prescribed and used accordingly. Staff possession, use, or distribution of controlled substances or alcohol, or any combination of them, during off duty hours that affects job performance shall also be prohibited. These policies and procedures shall ensure that the provider:

- (a) Provides information about the adverse effects of the non-medical use and abuse of controlled substances and alcohol to all staff;
- (b) Initiates disciplinary action for the possession, use, or distribution of controlled substances or alcohol, which occurs during duty hours or which affects job performance; and
- (c) Provides information and assistance to any impaired staff member to facilitate his or her recovery.

6307.14 Individual personnel records shall be maintained for each person employed by a provider and shall include, at a minimum, the following:

- (a) A current job description for each person, that is revised as needed;
- (b) Evidence of a pre-employment physical examination, which shall include a negative result on a tuberculosis test or medical clearance related to a positive result;
- (c) Evidence of the education, training, and experience of the individual, and a copy of the current appropriate license, registration, or certification credentials (if any);
- (d) Documentation that written personnel policies were distributed to the

employee;

- (e) Notices of official tour of duty: day, evening, night, or rotating shifts; payroll information; and disciplinary records;
- (f) Documentation that the employee has received all immunizations as recommended by the Center for Disease Control (CDC) for healthcare workers except that individuals who are in a position that involves exposure to blood shall also demonstrate evidence of full immunization against hepatitis B or documentation of refusal; and
- (g) Criminal background check as required under § 6307.8 of this chapter.

6307.15 All personnel records shall be maintained during the course of an individual's employment with the program and for three (3) years following the individual's separation from the program.

6308 EMPLOYEE CONDUCT

6308.1 All staff shall adhere to ethical standards of behavior in their relationships with clients as follows:

- (a) Staff shall maintain an ethical and professional relationship with clients at all times;
- (b) Licensed or certified staff must adhere to their professional codes of conduct, as required by District licensing laws;
- (c) Staff shall not enter into dual or conflicting relationships with individuals that might affect professional judgment, therapeutic relationships, or increase the risk of exploitation; and
- (d) The provider shall establish written policies and procedures regarding staff relationships with both current and former clients that are consistent with this section.

6308.2 No staff, including licensed professionals and volunteers, shall engage in sexual activities or sexual contact with clients.

6308.3 No clinical staff including licensed professionals and volunteers shall engage in sexual activities or sexual contact with former clients in accordance with their licensing regulations.

6308.4 No staff, including licensed professionals and support personnel, shall engage in sexual activities or sexual contact with clients' relatives or other individuals with whom clients maintain a close personal relationship.

- 6308.5 No staff, including licensed professionals and support personnel, shall provide services to individuals with whom they have had a prior sexual or other significant relationship.
- 6308.6 Staff shall only engage in appropriate physical contact with clients and are responsible for setting clear, appropriate, and culturally sensitive boundaries that govern such physical contact.
- 6308.7 No staff, including licensed professionals and support personnel, shall sexually harass clients. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.
- 6308.8 No provider or employee of a provider shall be a representative payee for any person receiving services from a treatment or recovery program.

6309 QUALITY IMPROVEMENT

- 6309.1 Each provider shall establish and adhere to policies and procedures governing quality improvement (Quality Improvement Policy).
- 6309.2 The Quality Improvement Policy shall require the provider to adopt a written quality improvement (QI) plan describing the objectives and scope of its QI program and requiring provider staff, client, and family involvement in the QI program.
- 6309.3 The Department shall review and approve each provider's QI program at a minimum as part of the certification and recertification process. The QI program shall submit data to the Department, upon request.
- 6309.4 The QI program shall be operational and shall measure and ensure at least the following:
- (a) Easy and timely access and availability of services;
 - (b) Treatment and prevention of acute and chronic conditions;
 - (c) Close monitoring of high volume services, clients with high risk conditions, and services for children and youth;
 - (d) Coordination of care across behavioral health treatment and primary care treatment settings;
 - (e) Compliance with all certification standards;
 - (f) Adequacy, appropriateness, and quality of care for clients;

- (g) Efficient utilization of resources;
- (h) Client and family satisfaction with services;
- (i) Quarterly random samplings of client outcomes, including but not limited to biological markers such as drug/alcohol screening results, in a format approved by the Department; and
- (j) Any other indicators that are part of the Department QI program for the larger system.

6309.5 When a significant problem or quality of service issue is identified, the program shall notify the Department, act to correct the problem or improve the effectiveness of service delivery, or both, and shall assess corrective or supportive actions through continued monitoring.

6310 FISCAL MANAGEMENT STANDARDS

6310.1 The provider shall have adequate financial resources to deliver all required services and shall provide documented evidence at the time of certification and recertification that it has adequate resources to operate a SUD program. Documented evidence shall include a current financial statement reviewed and approved by the governing body.

6310.2 A provider shall have fiscal management policies and procedures and keep financial records in accordance with generally accepted accounting principles (GAAP).

6310.3 A provider shall include adequate internal controls for safeguarding or avoiding misuse of client or organizational funds.

6310.4 A provider shall have a uniform budget of expected revenue and expenses as required by the Department. The budget shall:

- (a) Categorize revenue by source;
- (b) Categorize expenses by type of service;
- (c) Estimate costs by unit of service; and
- (d) Be reviewed and approved by the provider's governing authority prior to the beginning of the current fiscal year.

6310.5 A program shall have the capacity to determine direct and indirect costs for each type of service provided.

- 6310.6 If a program charges for services, the written schedule of rates and charges shall be conspicuously posted and available to staff, clients, and the general public.
- 6310.7 The current schedule of rates and charges shall be approved by the provider's governing authority.
- 6310.8 A provider shall maintain a reporting mechanism that provides information to its governing body on the fiscal performance of the provider at least quarterly.
- 6310.9 Fiscal reports shall provide information on the relationship of the budget to actual spending, including revenues and expenses by category and an explanation of the reasons for any substantial variance.
- 6310.10 The provider's governing body shall review each fiscal report and document recommendations and actions in its official minutes.
- 6310.11 Every three (3) years, each provider with a Human Care Agreement shall have an audit by an independent certified public accountant or certified public accounting firm, and the resulting audit report shall be consistent with formats recommended by the American Institute of Certified Public Accountants (AICPA). A copy of the audit report and management letter shall be submitted to the Department within one-hundred-twenty (120) calendar days after the close of the program's fiscal year.
- 6310.12 Providers shall correct or resolve adverse audit findings.
- 6310.13 A provider shall have policies and procedures regarding:
- (a) Purchase authority, product selection and evaluation, property control and supply, storage, and distribution;
 - (b) Billing;
 - (c) Controlling accounts receivable;
 - (d) Handling cash;
 - (e) Management of client fund accounts;
 - (f) Arranging credit; and
 - (g) Applying discounts and write-offs.
- 6310.14 All business records pertaining to costs, payments received and made, and services provided to clients shall be maintained for a period of six (6) years or

until all audits and ongoing litigations are complete, whichever is longer.

- 6310.15 All providers must maintain proof of liability insurance coverage, which must include malpractice insurance of at least three million dollars (\$3,000,000) aggregate and one million dollars (\$1,000,000) per incident and comprehensive general coverage of at least three million dollars (\$3,000,000) per incident that covers general liability, vehicular liability, and property damage. The insurance shall include coverage of all personnel, consultants, or volunteers working for the program.
- 6310.16 If a program handles client funds, financial record keeping shall provide for separate accounting of those client funds.
- 6310.17 A provider shall ensure that clients employed by the organization are paid in accordance with all applicable laws governing labor and employment.
- 6310.18 All money earned by a client shall accrue to the sole benefit of that individual and be provided to the client or the client's legal representative upon discharge or sooner.

6311 ADMINISTRATIVE PRACTICE ETHICS

- 6311.1 All programs shall operate in an ethical manner, including but not limited to complying with the provisions of this section.
- 6311.2 A program shall not use any advertising that contains false, misleading, or deceptive statements or claims or that contains false or misleading information about fees.
- 6311.3 A program shall not offer or imply to offer services not authorized on the certification issued by the Department.
- 6311.4 A program shall not offer or pay any remuneration, directly or indirectly, to encourage a licensed practitioner to refer a client to them.
- 6311.5 All employees shall be kept informed of policy changes that affect performance of duties.
- 6311.6 Allegations of ethical violations must be treated as major unusual incidents.
- 6311.7 Any research must be conducted in accordance with federal law.

6312 PROGRAM POLICIES AND PROCEDURES

- 6312.1 Each provider must document the following:

- (a) Organization and program mission statement, philosophy, purpose, and values;
- (b) Organizational structure;
- (c) Leadership structure;
- (d) Program relationships;
- (e) Staffing;
- (f) Relationships with parent organizations, affiliated organizations, and organizational partners;
- (g) Treatment philosophy and approach;
- (h) Services provided;
- (i) Characteristics and needs of the population served;
- (j) Performance metrics, including intended outcomes and process methods;
- (k) Contract services, if any;
- (l) Affiliation agreements, if any;
- (m) The scope of volunteer activities and rules governing the use of volunteers, if any;
- (n) Location of service sites and specific designation of the geographic area to be served; and
- (o) Hours and days of operation of each site.

6312.2 Each program shall establish written policies and procedures to ensure each of the following:

- (a) Service provision based on the individual needs of the client;
- (b) Consideration of special needs of the individual and the program's population of focus;
- (c) Placement of clients in the least restrictive setting necessary to address the severity of the individual's presenting illness and circumstances; and
- (d) Facilitation of access to other more appropriate services for individuals

who do not meet the criteria for admission into a program offered by the provider.

6312.3 Each program shall develop and document policies and procedures subject to review by the Department related to each of the following:

- (a) Program admission and exclusion criteria;
- (b) Termination of treatment and discharge or transition criteria;
- (c) Outreach;
- (d) Infection control procedures and use of universal precautions, addressing at least those infections that may be spread through contact with bodily fluids and routine tuberculosis screening for staff;
- (e) Volunteer utilization, recruitment, and oversight;
- (f) Crisis intervention and medical emergency procedures;
- (g) Safety precautions and procedures for participant volunteers, employees, and others;
- (h) Record management procedures in accordance with "Confidentiality of Alcohol and Drug Abuse Patient Records" 42 C.F.R., Part 2, this chapter, and any other District laws and regulations regarding the confidentiality of client records;
- (i) The on-site limitations on use of tobacco, alcohol, and other substances;
- (j) Clients' rules of conduct and commitment to treatment regimen, including restrictions on carrying weapons and specifics of appropriate behavior while in or around the program;
- (k) Clients' rights;
- (l) Addressing and investigating major unusual incidents;
- (m) Addressing client grievances;
- (n) Addressing issues of client non-compliance with established treatment regimen and/or violation of program policies and requirements; and
- (o) The purchasing, receipt, storage, distribution, return, and destruction of medication, including accountability for and security of medications located at any of its service site(s) (a Medication Policy).

6312.4 Gender-specific programs shall ensure that staff of that specific gender is in attendance at all times when clients are present.

6313 EMERGENCY PREPAREDNESS PLAN

6313.1 Each provider shall establish and adhere to a written disaster evacuation and continuity of operations plan in accordance with the Department policy on Disaster Evacuation/Continuity of Operations Plans.

6313.2 A provider shall immediately notify the Department and implement its continuity of operations plan if an imminent health hazard exists because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, gross unsanitary conditions, or other circumstances that may endanger the health, safety, or welfare of its clients.

6314 FACILITIES MANAGEMENT

6314.1 A provider shall establish and maintain a safe environment for its operation, including adhering to the following provisions:

- (a) Each provider's service site(s) shall be located and designed to provide adequate and appropriate facilities for private, confidential individual and group counseling sessions;
- (b) Each provider's service site(s) shall have appropriate space for group activities and educational programs;
- (c) In-office waiting time shall be less than one (1) hour from the scheduled appointment time. Each program shall also demonstrate that it can document the time period for in-office waiting;
- (d) Each provider shall comply with applicable provisions of the Americans with Disabilities Act in all business locations;
- (e) Each service site shall be located within reasonable walking distance of public transportation;
- (f) Providers shall maintain fire safety equipment and establish practices to protect all occupants. This shall include clearly visible fire extinguishers, with a charge, that are inspected annually by a qualified service company or trained staff member; and
- (g) Each provider shall annually obtain a written certificate of compliance from the District of Columbia Department of Fire and Emergency Medical Services indicating that all applicable fire and safety code requirements

have been satisfied for each facility.

- 6314.2 Each window that opens shall have a screen.
- 6314.3 Each rug or carpet in a facility shall be securely fastened to the floor or shall have a non-skid pad.
- 6314.4 Each hallway, porch, stairway, stairwell, and basement shall be kept free from any obstruction at all times.
- 6314.5 Each ramp or stairway used by a client shall be equipped with a firmly secured handrail or banister.
- 6314.6 Each provider shall maintain a clean environment free of infestation and in good physical condition, and each facility shall be appropriately equipped and furnished for the services delivered.
- 6314.7 Each provider shall properly maintain the outside and yard areas of the premises in a clean and safe condition.
- 6314.8 Each exterior stairway, landing, and sidewalk used by clients shall be kept free of snow and ice.
- 6314.9 Each facility shall be located in an area reasonably free from noxious odors, hazardous smoke and fumes, and where interior sounds may be maintained at reasonably comfortable levels.
- 6314.10 A provider shall take necessary measures to ensure pest control, including:
- (a) Refuse shall be stored in covered containers that do not create a nuisance or health hazard; and
 - (b) Recycling, composting, and garbage disposal shall not create a nuisance, permit transmission of disease, or create a breeding place for insects or rodents.
- 6314.11 A provider shall ensure that medical waste is stored, collected, transported, and disposed of in accordance with applicable District and Federal laws and guidelines from the CDC.
- 6314.12 Each provider shall ensure that its facilities have comfortable lighting, proper ventilation, and moisture and temperature control. Rooms shall be dry and the temperature shall be maintained within a normal comfort range, including bedrooms and activity rooms below ground level.
- 6314.13 Each facility shall have potable water available for each client.

- 6314.14 No smoking shall be allowed inside a program's facility.
- 6314.15 Providers' physical design and structure shall be sufficient to accommodate staff, participants, and functions of the program(s), and shall make available the following:
- (a) A reception area;
 - (b) Private areas for individual treatment services;
 - (c) A private area(s) for group counseling and other group activities;
 - (d) An area(s) for dining, if applicable; and
 - (e) Separate bathrooms and/or toilet facilities in accordance with District law where the:
 - (1) Required path of travel to the bathroom shall not be through another bedroom;
 - (2) Windows and doors provide privacy; and
 - (3) Showers and toilets not intended for individual use provide privacy.
- 6314.16 If activity space is used for purposes not related to the program's mission, the program shall ensure that:
- (a) The quality of services are not reduced;
 - (b) Activity space in use by other programs shall not be counted as part of the required activity space; and
 - (c) Client confidentiality is protected, as required by 42 C.F.R. part 2 and other applicable Federal and District laws and regulations.
- 6314.17 The use of appliances such as televisions, radios, CD players, recorders and other electronic devices shall not interfere with the therapeutic program.
- 6314.18 Each facility shall maintain an adequately supplied first-aid kit which:

- (a) Shall be maintained in a place known and readily accessible to clients and employees; and
- (b) Shall be adequate for the number of persons in the facility.

6314.19 Each provider shall post emergency numbers near its telephones for fire, police, and poison control, along with contact information and directions to the nearest hospital.

6314.20 A provider shall have an interim plan addressing safety and continued service delivery during construction.

6314.21 Residential treatment and recovery programs shall comply with all applicable construction codes and housing codes and zoning requirements applicable to the facility, including all Certificate of Occupancy, Basic Business License (BBL) and Construction Permit requirements.

6314.22 Each newly established Residential treatment and recovery program shall provide proof of a satisfactory pre-certification inspection by DCRA for initial certification, dated not more than forty-five (45) days prior to the date of submission to DBH, for District of Columbia Property Maintenance Code (12-G DCMR) and Housing Code (14 DCMR) compliance, including documentation of the inspection date and findings and proof of abatement certified by DCRA of all deficiencies identified during the inspection. This requirement can be met by submission of a Certificate of Occupancy or a BBL dated within the past six (6) months, provided that that applicant can demonstrate that DCRA performed an onsite inspection of the premises.

6314.23 For existing residential treatment and recovery programs that are applying for re-certification, the applicants shall also provide proof of current BBLs.

6314.24 For both initial certification and re-certification, if the facility has had work done requiring a DCRA building permit or other related permits such as plumbing or electrical within the twelve (12) months prior to application for initial certification or re-certification, the applicant shall also submit copies of the DCRA permits and post-work inspection approvals.

6315 MEDICATION STORAGE AND ADMINISTRATION STANDARDS

6315.1 Controlled substances shall be maintained in accordance with applicable District and Federal laws and regulations.

6315.2 An SUD treatment program shall implement written policies and procedures to govern the acquisition, safe storage, prescribing, dispensing, labeling, administration, and the self-administration of medication, including medications clients may bring into the program.

- 6315.3 A program shall have a record of the prescribing physician's order or approval prior to the administration or self-administration of medication.
- 6315.4 Any prescribed medication brought into a facility by a client shall not be administered or self-administered until the medication is identified and the attending practitioner's written order or approval is documented in the client record.
- 6315.5 Verbal orders may only be given by the attending practitioner to another practitioner, physician assistant, nurse, or pharmacist. Verbal orders shall be noted in the client's record as such and countersigned and dated by the prescribing practitioner within twenty-four (24) hours.
- 6315.6 All medication, both prescription and over-the-counter, brought into a facility must be packaged and labeled in accordance with District and Federal laws and regulations.
- 6315.7 Medication, both prescription and over-the-counter, brought into a facility by a client that is not approved by the attending practitioner shall be packaged, sealed, stored, and returned to the client upon discharge.
- 6315.8 The administration of medications, excluding self-administration, shall be permitted only by licensed individuals pursuant to applicable District laws and regulations.
- 6315.9 Medications shall be administered only in accordance with the prescribing practitioner's order.
- 6315.10 Only a licensed nurse, practitioner, or physician assistant shall administer controlled substances or injectable drugs, excluding insulin.
- 6315.11 Program staff responsible for supervision of the self-administration of medication shall document consultations with a practitioner, pharmacist, registered nurse, or referral to appropriate reference material regarding the action and possible side effects or adverse reactions of each medication under their supervision.
- 6315.12 As applicable, a program shall provide training to the staff designated to supervise the self-administration of medication. The training shall include but not be limited to the expected action of and adverse reaction to the self-administered medication.
- 6315.13 Only trained staff shall be responsible for observing the self-administration of medication.
- 6315.14 A program shall ensure that medication is available to clients as prescribed.

- 6315.15 A program shall maintain records that track and account for all medication, ensuring the following:
- (a) That each client receiving medication shall have a medication administration record, which includes the individual's name, the name of medication, the type of medication (classification), the amount of medication, the dose and frequency of administration/self-administration, and the name of staff who administered or observed the self-administration of the medication;
 - (b) That documentation shall include omission and refusal of medication administration;
 - (c) That the medication administration record shall note the amount of medication originally present and the amount remaining;
 - (d) That documentation of medication administration shall include over-the-counter drugs administered or self-administered; and
 - (e) That SUD treatment programs administering controlled substances, including but not limited to methadone, shall follow the requirements of applicable Federal and District laws and regulations.
- 6315.16 An attending practitioner shall be notified immediately of any medication error or adverse reaction. The staff responsible for the medication error shall complete an incident report, and the practitioner's recommendations and subsequent actions taken by the program shall be documented in the client record.
- 6315.17 A program shall have written policies and procedures on how medications are obtained and stored.
- 6315.18 A program shall ensure that all medications, including those that are self-administered, are secured in locked storage areas.
- 6315.19 The locked medication area shall provide for separation of internal and external medications.
- 6315.20 A program shall maintain a list of personnel who have access to the locked medication area and, where applicable, are qualified to administer medication.
- 6315.21 A program shall comply with all District and Federal laws concerning the acquisition and storage of pharmaceuticals.
- 6315.22 Each client's medication shall be properly labeled as required by District and Federal laws and regulations, shall be stored in its original container, and shall not be transferred to another container or taken by persons other than the person for

whom it was originally prescribed.

- 6315.23 Medications requiring refrigeration shall be maintained in a separate and secure refrigerator, labeled "FOR MEDICATION ONLY" and shall be maintained at a temperature between thirty-six degrees Fahrenheit (36°F) and forty-six degrees Fahrenheit (46°F). All refrigerators shall have thermometers, which are easily readable, in proper working condition, and accurate within a range of plus or minus two (2) degrees.
- 6315.24 A program shall conspicuously post in the drug storage area the following information:
- (a) Telephone numbers for the regional Poison Control Center; and
 - (b) Metric-apothecaries weight and conversion measure charts.
- 6315.25 A program shall conduct monthly inspections of all drug storage areas to ensure that medications are stored in compliance with District and Federal regulations. The program shall maintain records of these inspections for verification.
- 6315.26 Where applicable, the program shall implement written policies and procedures for the control of stock pharmaceuticals.
- 6315.27 The receipt and disposition of stock pharmaceuticals must be accurately documented as follows:
- (a) Invoices from companies or pharmacies shall be maintained to document the receipt of stock pharmaceuticals;
 - (b) A log shall be maintained for each stock pharmaceutical that documents receipt and disposition; and
 - (c) At least quarterly, each stock pharmaceutical shall be reconciled as to the amount received and the amount dispensed.
- 6315.28 A program shall implement written procedures and policies for the disposal of medication.
- 6315.29 Any medication left by the client at discharge shall be destroyed within thirty (30) calendar days after the client has been discharged, with the exception of Methadone and other controlled substances which must be returned to the point of issue or destroyed in accordance with federal regulations.
- 6315.30 The disposal of all medications shall be witnessed and documented by two (2) staff members.

6316 VEHICLE ENVIRONMENTAL AND SAFETY STANDARDS

- 6316.1 A provider shall implement measures to ensure the safe operation of its transportation service, if applicable. These measures shall include, but are not limited to:
- (a) Automobile insurance with adequate liability coverage;
 - (b) Regular inspection and maintenance of vehicles, as required by law;
 - (c) Adequate first aid supplies and fire suppression equipment secured in the vehicles;
 - (d) Training of vehicle operators in emergency procedures and in the handling of accidents and road emergencies; and
 - (e) Verification to ensure that vehicles are operated by properly licensed drivers with driving records that are absent of serious moving violations, including but not limited to "Driving under the Influence" (DUI).

6317 FOOD AND NUTRITION STANDARDS

- 6317.1 The provisions of this section apply to any provider that prepares or serves food.
- 6317.2 All programs that prepare food shall have a current Certified Food Protection Manager (CFPM) certification from the Department of Health, and the CFPM must be present whenever food is prepared and served.
- 6317.3 The provider shall require each CFPM to monitor any staff members who are not certified as CFPMs in the storage, handling, and serving of food and in the cleaning and care of equipment used in food preparation in order to maintain sanitary conditions at all times.
- 6317.4 The kitchen, dining, and food storage areas shall be kept clean, orderly, and protected from contamination.
- 6317.5 A program providing meals shall maintain a fully equipped and supplied code-compliant kitchen area unless meals are catered by an organization licensed by the District to serve food.
- 6317.6 A program may share kitchen space with other programs if the accommodations are adequate to perform required meal preparation for all programs using the kitchen.
- 6317.7 Each food and drink item procured, stored, prepared, or served by the facility shall be clean, free from spoilage, prepared in a manner that is safe for human

consumption, and protected from contamination.

- 6317.8 Dishes, cooking utensils, and eating utensils shall be cleaned after each meal and stored to maintain their sanitary condition.
- 6317.9 Hot and cold water, soap, and disposable towels shall be provided for hand washing in or adjacent to food preparation areas.
- 6317.10 Each facility shall maintain adequate dishes, utensils, and cookware in good condition and in sufficient quantity for the facility.

6318 PERSONNEL TRAINING STANDARDS

- 6318.1 SUD provider staff shall have annual training that meets the Occupational Safety & Health Administration (OSHA) regulations that govern behavioral health facilities and any other applicable infection control guidelines, including information on the use of universal precautions and on reducing exposure to hepatitis, tuberculosis, and HIV/AIDS.
- 6318.2 A treatment program shall have at least two (2) staff persons, trained and certified by a nationally recognized authority that meets OSHA guidelines for basic first aid and cardiopulmonary resuscitation (CPR), present at all times during the hours of operation of the program. An SUD recovery program shall have at least one (1) staff person trained and certified by a recognized authority that meets OSHA guidelines in basic first aid and cardiopulmonary resuscitation (CPR) present at all times during the hours of operation of the program.
- 6318.3 A program shall maintain and implement a written plan for staff development (staff development plan) approved by the Department, revised annually, which includes:
- (a) Staff orientation, in-service training, and continuing education to include current methods of substance use disorder training;
 - (b) Methods to assess the plan's effectiveness;
 - (c) Training in concepts of quality improvement and outcomes;
 - (d) Training in trauma-related issues; and
 - (e) Other training requirements mandated by the Department.
- 6318.4 Within thirty (30) calendar days of employment, a program shall provide and document orientation for all staff and volunteers who have direct contact with clients. Orientation shall include but not be limited to:

- (a) The program's approach to addressing treatment or recovery services (as appropriate to its certification), including philosophy, goals and methods;
- (b) The staff member's specific job description and role in relationship to other staff;
- (c) The emergency preparedness plan and all safety-related policies and procedures;
- (d) The employee's rights and responsibilities;
- (e) The personnel policies and procedures;
- (f) The proper documentation of services in individual client records, as applicable;
- (g) Policies and procedures governing infection control, protection against exposure to communicable diseases, and the use of universal precautions;
- (h) Laws and policies governing confidentiality of client information and release of information, including 42 C.F.R. part 2;
- (i) Laws and policies governing reporting abuse and neglect; and
- (j) Client rights.

6318.5 Each program shall ensure that all staff members complete basic training about HIV/AIDS and Hepatitis C within ninety (90) calendar days of employment unless the staff member has received such training as a requirement of their license.

6318.6 All training activities shall be documented and the documentation maintained on-site, including: the training topic, name of instructor, date of activity, duration, skills targeted, objective of skill, sign-in sheet, certification continuing education units (if any), and location.

6319 CLIENT RIGHTS AND PRIVILEGES, INCLUDING GRIEVANCES

6319.1 A program shall protect the following rights and privileges of each client:

- (a) Right to be admitted and receive services in accordance with the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Code §§ 2501 *et seq.*);
- (b) Right to make choices regarding provider, treatment, medication, and advance directives, when necessary;

- (c) Right to receive prompt evaluation, care, and treatment, in accordance with the highest quality standards;
- (d) Right to receive services and live in healthy, safe, and clean place;
- (e) Right to be evaluated and cared for in the least restrictive and most integrated environment appropriate to an individual's needs;
- (f) Right to participate in the treatment planning process, including decisions concerning treatment, care, and other services, and to receive a copy of the treatment plan;
- (g) Right to have records kept confidential;
- (h) Right to privacy;
- (i) Right to be treated with respect and dignity in a humane treatment environment;
- (j) Right to be safe from harm and from verbal, physical, or psychological abuse;
- (k) Right to be free of discrimination;
- (l) Right to be paid commensurate wages for work performed in compliance with applicable local or federal requirements;
- (m) Right to own personal belongings;
- (n) Right to refuse treatment and/or medication;
- (o) Right to give, not give, or revoke already-given consent to treatment, supports and/or release of information;
- (p) Right to give, not give, or revoke informed, voluntary, written consent to participate in experimentation of the client or a person legally authorized to act on behalf of the client; the right to protection associated with such participation; and the right and opportunity to revoke such consent;
- (q) Right to be informed, in advance, of charges for services;
- (r) Right to be afforded the same legal rights and responsibilities as any other citizen, unless otherwise stated by law;
- (s) Right to request and receive documentation on the performance track

record of a program with regard to treatment outcomes and success rates;

- (t) Right to provide feedback on services and supports, including evaluation of providers;
- (u) Right to assert grievances with respect to infringement of these rights, including the right to have such grievances considered in a fair, timely, and impartial manner;
- (v) Right to receive written and oral information on client rights, privileges, program rules, and grievance procedures in a language understandable to the client;
- (w) Right to access services that are culturally appropriate, including the use of adaptive equipment, sign language, interpreter, or translation servers, as appropriate; and
- (x) Right to vote.

6319.2 As soon as clinically feasible, the limitation of a client's rights shall be terminated and all rights restored.

6319.3 A program shall post conspicuously a statement of client rights, program rules, and grievance procedures. The grievance procedures must inform clients that they may report any violations of their rights to the Department and shall include the telephone numbers of the Department and any other relevant agencies for the purpose of filing complaints.

6319.4 At the time of admission to a program, staff shall explain program rules, client rights, and grievance procedures. Program staff shall document this explanation by including a form, signed by the client and witnessed by the staff person, within the client's record.

6319.5 A program shall develop and implement written grievance procedures to ensure a prompt, impartial review of any alleged or apparent incident of violation of rights or confidentiality. The procedures shall be consistent with the principles of due process and Department requirements and shall include but not be limited to:

- (a) Reporting the allegation or incident to the Department within twenty-four (24) hours of it coming to the attention of program staff;
- (b) The completion of the investigation of any allegation or incident within thirty (30) calendar days;
- (c) Providing a copy of the investigation report to the Department within twenty-four (24) hours of completing the investigation of any complaint;

and

- (d) Cooperating with the Department in completion of any inquiries related to clients' rights conducted by Department staff.

6319.6 Medicaid beneficiaries are entitled to Notice and Appeal rights pursuant to Section 2508 of Title 29 DCMR in cases of intended adverse action such as an action to deny, discontinue, terminate, or change the manner or form of Medicaid-funded SUD services.

6320 CLIENT RECORDS MANAGEMENT AND CONFIDENTIALITY

6320.1 A program shall create and maintain an organized record for each person receiving service at the agency or its extended service sites.

6320.2 All records must be secured in a manner that provides protection from unauthorized disclosure, access, use, or damage in accordance with both District and Federal law.

6320.3 All client records shall be kept confidential and shall be handled in compliance with "Confidentiality of Alcohol and Drug Abuse Patient Records" 42 C.F.R. part 2, and both Federal and District laws and regulations regarding the confidentiality of client records.

6320.4 Each provider shall have a designated privacy officer responsible for ensuring compliance with privacy requirements.

6320.5 A program shall ensure that all staff and clients, as part of their orientation, are made aware of the privacy requirements.

6320.6 A decision to disclose protected health information (PHI), under any provisions of District or Federal rules that permit such disclosure, shall be made only by the Privacy Officer or his/her designee with appropriately administered consent procedures.

6320.7 A program shall implement policies and procedures for the release of identifying information consistent with Federal and District laws and regulations regarding the confidentiality of client records including "Confidentiality of Alcohol and Drug Abuse Patient Records" 42 C.F.R. part 2, the District of Columbia Mental Health Information Act, and the Health Insurance Portability and Accountability Act (HIPAA). A provider with a contract with the Department shall ensure its policies and procedures comply with the Department's Privacy Policy.

6320.8 The program shall encourage all enrolled clients to authorize the release of information to other certified providers, primary health care providers and other health care organizations engaged in treating the client in order to facilitate treatment and coordination of care.

- 6320.9 The program director shall designate a staff member to be responsible for the maintenance and administration of records.
- 6320.10 A program shall arrange and store records according to a uniform system approved by the Department.
- 6320.11 A program shall maintain records such that they are readily accessible for use and review by authorized staff and other authorized parties.
- 6320.12 A program shall organize the content of records so that information can be located easily and so that Department surveys and audits can be conducted with reasonable efficiency.

6321 STORAGE AND RETENTION OF CLIENT RECORDS

- 6321.1 A program shall retain client records (either original or accurate reproductions) until all litigation, adverse audit findings, or both, are resolved. If no such conditions exist, a program shall retain client records for at least six (6) years after discharge.
- 6321.2 Records of minors shall be kept for at least six (6) years after such minor has reached the age of eighteen (18) years.
- 6321.3 The provider shall establish a Document Retention Schedule with all medical records retained in accordance with District and Federal law.
- 6321.4 The client or legal guardian shall be given a written statement concerning client's rights and responsibilities ("Client's Rights Statement") in the program. The client or guardian shall sign the statement attesting to his or her understanding of these rights and responsibilities as explained by the staff person who shall witness the client's signature. This document shall be placed in the client's record.
- 6321.5 If the records of a program are maintained on computer systems, the database shall:
- (a) Have a backup system to safeguard the records in the event of operator or equipment failure, natural disasters, power outages, and other emergency situations;

- (b) Identify the name of the person making each entry into the record;
- (c) Be secure from inadvertent or unauthorized access to records in accordance with 42 C.F.R. part 2 "Confidentiality of Alcohol and Drug Abuse Patient Records," and District laws and regulations regarding the confidentiality of client records;
- (d) Limit access to providers who are involved in the care of the client and who have permission from the client to access the record; and
- (e) Create an electronic trail when data is released.

6321.6

A program shall maintain records that safeguard confidentiality in the following manner:

- (a) Records shall be stored with access controlled and limited to authorized staff and authorized agents of the Department;
- (b) Written records that are not in use shall be maintained in either a secured room, locked file cabinet, safe, or other similar container;
- (c) The program shall implement policies and procedures that govern client access to their own records;
- (d) The policies and procedures of a program shall only restrict a client's access to their record or information in the record after an administrative review with clinical justification has been made and documented;
- (e) The policies and procedures of a program shall specify that a staff member must be present whenever a client accesses his or her records. If the client disagrees with statements in the record, the client's objections shall be written in the record;
- (f) All staff entries into the record shall be clear, complete, accurate, and recorded in a timely fashion;
- (g) All entries shall be dated and authenticated by the recorder with full signature and title;
- (h) All non-electronic entries shall be typewritten or legibly written in indelible ink that will not deteriorate from photocopying;
- (i) Any documentation error shall be marked through with a single line and initialed and dated by the recorder; and
- (j) Limited use of symbols and abbreviations shall be pre-approved by the

program and accompanied by an explanatory legend.

6321.7 Any records that are retained off-site must be kept in accordance with this chapter. If an outside vendor is used, the provider must submit the vendor's name, address, and telephone number to the Department.

6322 CLIENT RECORD CONTENTS

6322.1 At a minimum, all client records shall include:

- (a) Documentation of the referral and initial screening interview and its findings;
- (b) The individual's consent to treatment;
- (c) The Client's Rights Statement;
- (d) Documentation that the client received:
 - (1) An orientation to the program's services, rules, confidentiality, and client's rights;
 - (2) Notice of privacy practices;
- (e) Confidentiality forms and releases signed to permit the facility to obtain and/or release information;
- (f) Diagnostic interview and assessment record, including any Department-approved screening and assessment tools;
- (g) Evaluation of medical needs and, as applicable, medication intake sheets and special diets which shall include:
 - (1) Documentation of physician's orders for medication and treatment, change of orders, and/or special treatment evaluation; and
 - (2) For drugs prescribed following admissions, any prescribed drug product by name, dosage, and strength, as well as date(s) medication was administered, discontinued, or changed;
- (h) Assessments and individual treatment plans pursuant to the level of care and the client's needs, including recovery plans, if applicable;

- (i) Encounter notes, which provide sufficient written documentation to support each therapy, service, activity, or session for which billing is made that, at a minimum, consists of:
 - (1) The specific service type rendered;
 - (2) Dated and authenticated entries with their authors identified, that include the duration, and actual time (beginning and ending as well as a.m. or p.m.), during which the services were rendered;
 - (3) Name, title, and credentials (if applicable) of the person providing the services;
 - (4) The setting in which the services were rendered;
 - (5) Confirmation that the services delivered are contained in the client's treatment or recovery plan and are identified in the encounter note; and
 - (6) A description of each encounter or intervention provided to the client, which is sufficient to document that the service was provided in accordance with this chapter;
 - (7) The client's response to the intervention; and
 - (8) Provider's observations.
- (j) Documentation of all services provided to the client as well as activities directly related to the individual treatment or recovery plan that are not included in encounter notes;
- (k) Documentation of missed appointments and efforts to contact and re-engage the client;
- (l) Emergency contact information of individuals to contact in case of a client emergency with appropriate consent to share information;
- (m) Documentation of all referrals to other agencies and the outcome of such referrals;
- (n) Documentation establishing all attempts to acquire necessary and relevant information from other sources;
- (o) Pertinent information reported by the client, family members, or significant others regarding a change in the individual's condition and/or an unusual or unexpected occurrence in the client's life;

- (p) Drug test results and incidents of drug use;
- (q) Discharge summary and aftercare plan;
- (r) Outcomes of care and follow-up data concerning outcomes of care;
- (s) Documentation of correspondence with other medical, community providers, social service, and criminal justice entities as it pertains to a client's treatment and/or recovery; and
- (t) Documentation of a client's representative payee or legal guardian, as applicable.

6323 RESIDENTIAL TREATMENT AND RECOVERY PROGRAMS

6323.1 The provisions of this section apply only to residential treatment programs and residential recovery support service (environmental stability) programs, as defined by this chapter.

6323.2 Each residential provider shall carry the following types of insurance in at least the following amounts for each residential program:

- (a) Hazards (fire and extended coverage) or resident personal effects coverage in the amount of at least five hundred dollars (\$500) per resident to protect resident belongings, with aggregate coverage of at least \$500 multiplied by the number of residents; and
- (b) A commercial policy for general liability and professional liability for at least:
 - (1) Three hundred thousand dollars (\$300,000) per occurrence with a six hundred thousand dollar (\$600,000) aggregate for one (1) to eight (8) beds; or
 - (2) Five hundred thousand dollars (\$500,000) per occurrence with a one million dollar (\$1,000,000) aggregate for nine (9) or more beds; and
- (c) One hundred thousand dollars (\$100,000) per occurrence of sexual abuse or molestation of clients by staff or other persons.

6323.3 Residential facilities' physical design and structure shall be sufficient to accommodate staff, clients, and functions of the program and shall make available an area(s) for indoor social and recreational activities.

- 6323.4 A program that provides overnight accommodations shall not operate more beds than the number for which it is authorized by the Department.
- 6323.5 Other than routine household duties, no client shall be required to perform unpaid work.
- 6323.6 Upon admission to a residential program, each client shall be provided a copy of the program's house rules.
- 6323.7 Each residential program shall have house rules consistent with this chapter and that include, at a minimum, rules concerning:
- (a) The use of tobacco;
 - (b) The use of the telephone;
 - (c) Viewing or listening to television, radio, CDs, DVDs, or other media;
 - (d) Movement of clients in and out of the facility; and
 - (e) The prohibition of sexual relations between staff and clients.
- 6323.8 Each residential program shall be equipped, furnished, and maintained to provide a functional, safe, and comfortable home-like setting.
- 6323.9 The dining area shall have a sufficient number of tables and chairs to seat all individuals residing in the facility at the same time. Dining chairs shall be sturdy, non-folding, without rollers unless retractable, and designed to minimize tilting.
- 6323.10 Each residential program shall permit each client to bring reasonable personal possessions, including clothing and personal articles, to the facility unless the provider can demonstrate that it is not practical, feasible, or safe.
- 6323.11 Each residential facility shall provide clients with access to reasonable individual storage space for private use.
- 6323.12 Upon each client's discharge from a residential program, the provider shall return to the client, or the client's representative, any personal articles of the client held by the provider for safekeeping. The provider shall also ensure that the client is permitted to take all of his or her personal possessions from the facility. The provider may require the client or client's representative to sign a statement acknowledging receipt of the property. A copy of that receipt shall be placed in the client's record.
- 6323.13 Each residential program shall maintain a separate and accurate record of all funds that the client or the client's representative or representative payee deposits

with the provider for safekeeping. This record shall include the signature of the client for each withdrawal and the signature of facility staff for each deposit and disbursement made on behalf of a client.

- 6323.14 Each residential facility shall be equipped with a functioning landline or mobile telephone for use by clients. The telephone numbers shall be provided to residents and to the Department.
- 6323.15 Staff bedrooms shall be separate from resident bedrooms and all common living areas.
- 6323.16 Each facility housing a residential program shall have a functioning doorbell or knocker.
- 6323.17 Each bedroom shall comply with the space and occupancy requirements for habitable rooms in 14 DCMR § 402.
- 6323.18 The provider shall ensure each client has the following items:
- (a) A bed, which shall not be a cot;
 - (b) A mattress that was new when purchased by the provider, has a manufacturer's tag or label attached to it, and is in good, intact condition with unbroken springs and clean surface fabric;
 - (c) A bedside table or cabinet and an individual reading lamp with at least a seventy-five (75) watt rate of capacity;
 - (d) Storage space in a stationary cabinet, chest, or closet that provides at least one (1) cubic foot of space for each client for valuables and personal items;
 - (e) Sufficient suitable storage space, including a dresser and closet space, for personal clothing, shoes, accessories, and other personal items; and
 - (f) A waste receptacle and clothes hamper with lid.
- 6323.19 Each bed shall be placed at least three (3) feet from any other bed and from any uncovered radiator.
- 6323.20 Each bedroom shall have direct access to a major corridor and at least one (1) window to the outside, unless the Department of Consumer and Regulatory Affairs, or a successor agency responsible for enforcement of the D.C. Housing Code, has determined that it otherwise meets the lighting and ventilation requirements of the D.C. Housing Code for habitable rooms.

- 6323.21 Each facility housing a residential program shall provide one or more bathrooms for clients that are equipped with the following fixtures, properly installed and maintained in good working condition:
- (a) Toilet (water closet);
 - (b) Sink (lavatory); and
 - (c) Shower or bathtub with shower, including a handheld shower;
 - (d) Grab bars in showers and bathtubs.
- 6323.22 Each residential facility shall provide at least one (1) bathroom for each six (6) occupants in compliance with 14 DCMR § 602.
- 6323.23 Each bathroom shall be adequately equipped with the following:
- (a) Toilet paper holder and toilet paper;
 - (b) Paper towel holder and paper towels or clean hand towels;
 - (c) Soap;
 - (d) Mirror;
 - (e) Adequate lighting;
 - (f) Waste receptacle;
 - (g) Floor mat;
 - (h) Non-skid tub mat or decals; and
 - (i) Shower curtain or shower door.
- 6323.24 Each residential provider shall ensure that properly anchored grab bars or handrails are provided near the toilet or other areas of the bathroom, if needed by any resident in the facility.
- 6323.25 Adequate provision shall be made to ensure each client's privacy and safety in the bathroom.
- 6323.26 Each residential program shall promote each client's participation and skill development in menu planning, shopping, food storage, and kitchen maintenance, if appropriate.

- 6323.27 Each residential program shall provide appropriate equipment (including a washing machine and dryer) and supplies to ensure sufficient clean linen and the proper sanitary washing and handling of linen and clients' personal clothing.
- 6323.28 Each program shall ensure that every client has at least three (3) washcloths, two (2) towels, two (2) sheet sets that include pillow cases, a bedspread, a pillow, a blanket, and a mattress cover in good and clean condition.
- 6323.29 Each blanket, bedspread, and mattress cover shall be cleaned regularly, whenever soiled, and before being transferred from one resident to another.
- 6323.30 Providers shall ensure that clients are allowed access to all scheduled or emergency medical and dental appointments.
- 6323.31 Providers serving parents and children must take precautions to ensure child safety, including but not limited to protection for windows, outlets, and stairways.
- 6323.32 Each facility housing a program that provides services for parents with children shall have extra supplies for babies to include diapers and powdered milk.
- 6323.33 The following provisions apply only to residential treatment programs, as defined by this chapter. These provisions do not apply to residential recovery support services programs (*i.e.*, environmental stability services):
- (a) A program that provides overnight accommodations shall ensure that evening and overnight shifts have at least two (2) staff members on duty;
 - (b) Children and youth under eighteen (18) may not reside at an adult residential treatment facility or visit overnight at a facility not certified to serve parents and children. This information must be included in the house rules;
 - (c) Each provider shall maintain a current inventory of each client's personal property and shall provide a copy of the inventory, signed by the client and staff, to the client;
 - (d) Each provider shall take appropriate measures to safeguard and account for personal property brought into the facility by a resident;
 - (e) Each provider shall provide the client, or the client's representative, with a receipt for any personal articles to be held by the provider for safekeeping that includes and the date it was deposited with the provider and maintain a record of all articles held for safekeeping;
 - (f) Each residential treatment program shall have a licensed dietitian or nutritionist available, a copy of whose current license shall be maintained

on file, to provide the following services:

- (1) Review and approval of menus;
 - (2) Education for individuals with nutrition deficiencies or special needs;
 - (3) Coordination with medical personnel, as appropriate; and
 - (4) A nutritional assessment for each client within three (3) calendar days of admission unless the client has a current assessment or doctor's order for dietary guidelines;
- (g) The provider shall provide at least three (3) meals per day and between meal snacks that:
- (1) Provide a nourishing, well-balanced diet in accordance with dietary guidelines established by the United States Department of Agriculture;
 - (2) Are suited to the special needs of each client; and
 - (3) Are adjusted for seasonal changes, particularly to allow for the use of fresh fruits and vegetables.
- (h) The provider shall ensure that menus are written on a weekly basis, that the menus provide for a variety of foods at each meal, and that menus are varied from week to week and adjusted for seasonal changes. Menus shall be posted for the clients' review;
- (i) The provider shall ensure that a copy of each weekly menu is retained for a period of six (6) months. The menus retained shall include special diets and reflect meals as planned and as actually served, including handwritten notations of any substitutions. The provider shall also retain receipts and invoices for food purchases for six (6) months. The records required to be retained by this subsection are subject to review by the Department;
- (j) Each meal shall be scheduled so that the maximum interval between each meal is no more than six (6) hours, with no more than fourteen (14) hours between a substantial evening meal and breakfast the following day;
- (k) If a client refuses food or misses a scheduled meal, appropriate food substitutions of comparable nutritional value shall be offered;
- (l) If a client will be away from the program during mealtime for necessary

medical care, work, or other scheduled appointments, program shall provide an appropriate meal and in-between-meal snack for the client to carry with him or her and shall ensure that the meal is nutritious as required by these rules and suited to the special needs of the client;

- (m) Each piece of bed linen, towel, and washcloth shall be changed and cleaned as often as necessary to maintain cleanliness, provided that all towels and bed linen shall be changed at least once each week;
- (n) No person who is not a client, staff member, or child of a client (only in the case of programs for parents and children) may reside at a facility that houses a residential treatment program;
- (o) A residential treatment program providing meals shall implement a written Nutritional Standards Policy that outlines their procedures to meet the dietary needs of its clients, ensuring access to nourishing, well-balanced, and healthy meals. The policy shall identify the methods and parties responsible for food procurement, storage, inventory, and preparation;
- (p) The Nutritional Standards Policy shall include procedures for individuals unable to have a regular diet as follows:
 - (1) Providing clinical diets for medical reasons, when necessary;
 - (2) Recording clinical diets in the client's record;
 - (3) Providing special diets for clients' religious needs; and
 - (4) Maintaining menus of special diets or a written plan stating how special diets will be developed or obtained when needed.
- (q) A residential treatment program shall make reasonable efforts to prepare meals that consider the cultural background and personal preferences of the clients;
- (r) Meals shall be served in a pleasant, relaxed dining area that accommodates families and children; and
- (s) Under the supervision of a Qualified Practitioner, all Level 3 programs except MMIIWM programs shall:
 - (1) Provide training in activities of daily living;
 - (2) Provide therapeutic recreational activities designed to help the client learn ways to use leisure time constructively, develop new personal interests and skills, and increase social adjustment; and

- (3) Ensure that staff providing activities listed in subparagraphs (1) and (2) above have a high school degree or a GED and at least twenty (20) hours of in-service training per year regarding issues of substance abuse.

6324 PROGRAMS SERVING PARENTS AND CHILDREN

- 6324.1 In addition to core requirements and other standards described in this chapter, a program providing SUD treatment services to parents and their children shall comply with the provisions of this section.
- 6324.2 The provider shall specify in its certification application the age range of the children that will be accepted in the program of parents with children, and ensure that it satisfies all applicable laws and regulations governing care for children including those listed in this section.
- 6324.3 The Department will include in the program certification a designation as a program serving parents with children, and specify the age range of children that may be accepted when the parents are admitted into the program and ensure that children shall be supervised at all times.
- 6324.4 Programs shall ensure that parents designate an alternate caretaker who is not in the program to care for the children in case of emergency.
- 6324.5 Programs serving parents and young children (ages zero [0] to five [5]) shall also serve pregnant women.
- 6324.6 Programs shall ensure all parents and children are connected to a primary care provider and any other needed specialized medical provider and shall facilitate medical appointments and treatment for parents and children in the program.
- 6324.7 Programs shall ensure that childcare/daycare is available for children, provided while the parent participates in treatment services either directly or through contractual or other affiliation.
- 6324.8 A program that directly operates a child development facility shall be licensed in accordance with the District laws and regulations.
- 6324.9 Programs that serve parents with children shall ensure that school-age children are in regular attendance at a public, independent, private, or parochial school, or in private instruction in accordance with the District law and regulation, and support the parent's engagement with the child's school.
- 6324.10 Programs that serve parents with children shall ensure that children have access to tutoring programs.

- 6324.11 Before a parent and child can be admitted to a program serving parents and children, the program shall ensure that it has a copy of the child's immunization records, which must be up to date.
- 6324.12 Programs that serve parents with children shall record information about the children residing in or attending the program who are not formally admitted for treatment, including but not limited to the following, as applicable:
- (a) Individualized education plans (IEPs);
 - (b) Report cards;
 - (c) Health records; and
 - (d) Information linking the child to the course of treatment for the parent, as clinically indicated.
- 6324.13 Programs shall develop policies and procedures for determining the need to formally admit or refer a child as a discrete client.
- 6324.14 A program that is also certified to treat children and youth shall establish a separate record for each child when a clinical determination is made to formally admit the child as a discrete client.
- 6324.15 An individualized treatment plan shall be developed for any child who is formally admitted to the program as a discrete client.
- 6324.16 The program shall obtain informed consent prior to rendering services.
- 6324.17 Service delivery and program administration staff shall demonstrate experience and training in addressing the needs of parents and children.
- 6324.18 All services delivery staff shall receive periodic training regarding therapeutic issues relevant to parents and children. At least two (2) times per year, the program shall provide or arrange training on each of the following topics:
- (a) Child development; and
 - (b) The appropriate care and stimulation of infants, including drug-affected newborn infants.
- 6324.19 Service delivery staff shall maintain current training in first aid and cardiopulmonary resuscitation for infants and children.
- 6324.20 Programs shall ensure that an annual medical evaluation is performed for each

parent and child.

6324.21 Programs shall ensure that recommendations by a physician, or licensed APRN, are followed.

6325 PROVIDER REQUIREMENTS FOR MEDICATION ASSISTED TREATMENT

6325.1 In accordance with 42 C.F.R. part 8, Certification of Opioid Treatment Programs, Medication Assisted Treatment (MAT) providers must also be certified by the U.S. Substance Abuse and Mental Health Services Administration (SAMHSA) and accredited by a national accreditation body that has been approved by SAMHSA.

6325.2 SUD treatment programs providing MAT with opioid replacement therapy shall comply with Federal requirements for opioid treatment, as specified in 42 C.F.R. part 8, and shall comply with District and Federal regulations for maintaining controlled substances as specified in Chapter 10, Title 22 DCMR and 21 C.F.R. part 1300, respectively.

6325.3 Each MAT program, whether providing inpatient or outpatient services, shall submit applications to the Department and to the U.S. Food and Drug Administration (FDA), respectively, and shall require the approval of both agencies prior to its initial operation.

6325.4 MAT programs shall submit to the Department photocopies of all applications, reports, and notifications required by Federal laws and regulations.

6325.5 MAT programs shall ensure the following:

- (a) That access to electronic alarm areas where drug stock is maintained shall be limited to a minimum number of authorized, licensed personnel;
- (b) That each employee shall have his or her own individual code to access alarmed stock areas, which shall be erased upon termination;
- (c) That all stored drugs (liquid, powder, solid, and reconstituted), including controlled substances, shall be clearly labeled with the following information:
 - (1) Name of substance;
 - (2) Strength of substance;
 - (3) Date of reconstitution or preparation;

- (4) Manufacturer and lot number;
 - (5) Manufacturer's expiration date, if applicable; and
 - (6) If applicable, reconstituted/prepared drug's expiration date according to the manufacturer's expiration date or one (1) year from the date of reconstitution or preparation, whichever is shorter;
- (d) Take-home medications shall be labeled and packaged in accordance with Federal and District laws and regulations and shall include the following information:
- (1) Treatment program's name, address, and telephone number;
 - (2) Physician's name;
 - (3) Client's name;
 - (4) Directions for ingestion;
 - (5) Name of medication;
 - (6) Dosage in milligrams;
 - (7) Date issued; and
 - (8) Cautionary labels, as appropriate.

6325.6 Containers of drugs shall be kept covered and stored in the appropriate locked safe, with access limited by an electronic alarm system that conforms to the U.S. Drug Enforcement Administration (DEA) and District requirements.

6325.7 The Department shall be notified of any theft, suspected theft, or any significant loss of controlled substances, including spillage. Photocopies of DEA forms 106 and 41 shall be submitted to the Department.

6326 LEVELS OF CARE: GENERAL REQUIREMENTS

6326.1 All individuals entering SUD treatment must be assessed and assigned to a particular level of care (LOC) in accordance with the Department-approved assessment tool(s) and the ASAM criteria. Any limitation on services or authorization requirements identified throughout this chapter shall only apply to SUD services provided under the Department's Human Care Agreement. No limitation on service or pre-authorization requirement shall be applied to a Medicaid managed care beneficiary receiving SUD services under the ASARS program if the limitation or pre-authorization violates federal or District parity

requirements.

6326.2 Each provider is responsible for ensuring that the client receives treatment in accordance with ASAM LOC requirements and this chapter.

6326.3 All treatment shall be:

- (a) Person-centered;
- (b) Provided only if determined to be medically necessary in accordance with the treatment plan; and
- (c) Provided as part of organized or structured treatment services.

6326.4 Prior to transitioning to a new LOC, at a minimum, an Ongoing Assessment must be performed to ensure that the client is appropriate for the new LOC.

6326.5 The Clinical Care Coordinator is responsible for ensuring appropriate referral, authorization, and transition to new LOCs.

6327 LEVEL OF CARE 1 – AR: ASSESSMENT AND REFERRAL

6327.1 Level of Care 1–AR involves the assessment and referral of a client to a specific LOC for SUD treatment.

6327.2 Level 1-AR providers shall have the ability to provide the following services:

- (a) Initial Assessment;
- (b) Case Management;
- (c) Crisis Intervention;
- (d) Brief Assessment; and
- (e) Drug Screening.

6327.3 Level 1-AR providers shall ensure appropriate medical staff is on duty to assess clients for acute withdrawal symptoms in addition to medical screenings.

6328 LEVEL OF CARE 1: OUTPATIENT

6328.1 Level 1 Outpatient providers shall be able to provide one (1) to eight (8) hours of treatment services per week, in accordance with this section. Level 1 Outpatient is the appropriate LOC for individuals who are assessed as meeting the ASAM criteria for Level 1 and:

- (a) Recognize their SUD and are committed to recovery;
- (b) Are transitioning from a higher LOC;
- (c) Are in the early stages of change and not yet ready to commit to full recovery;
- (d) Have a co-occurring condition that is stable; or
- (e) Have achieved stability in recovery and can benefit from ongoing monitoring and disease management.

6328.2 Level I Outpatient providers may also be certified in the specialty service of Adolescent-Community Reinforcement Approach (ACRA) in accordance with § 6344 of this chapter for services to youth and young adults with co-occurring substance use and mental health disorders ages twelve (12) to twenty-one (21) for youth providers and twenty-two (22) to twenty-four (24) for adult providers.

6328.3 Level 1 Outpatient treatment duration varies but generally lasts up to one hundred eighty (180) days for an initial authorization. Level 1 treatment can continue long-term in accordance with the treatment plan, for individuals needing long-term disease management.

6328.4 Level 1 Outpatient services are determined by a Comprehensive Assessment, performed in accordance with § 6336 of this chapter.

6328.5 Unless clinically inappropriate or a client does not consent, all providers shall adhere to the service requirements for this level of care.

6328.7 Level 1 Outpatient shall include the following mix of services in accordance with the client's treatment plan and this chapter (unless the client is receiving ACRA services in which case SUD Counseling, Case Management and Clinical Care Coordination shall be provided in accordance with § 6344):

- (a) Assessment/Diagnostic and Treatment Planning in accordance with § 6336 of this chapter:
 - (1) Comprehensive Assessment: Required if this is the individual's first LOC in a single course of treatment; optional for a new provider if the client has been transferred from another LOC;
 - (2) Ongoing Assessment: Required within seven (7) calendar days of admission if no comprehensive was performed at intake into Level 1, cannot be billed more than twice within a sixty (60)-day period, cannot occur on the same day as a comprehensive assessment, and an ongoing assessment with a corresponding treatment plan update

must occur prior to a planned discharge from the LOC;

(3) Brief Assessment: Cannot exceed six (6) occurrences within the period of time that the individual is in Level 1.

(b) SUD Counseling (in accordance with § 6340 of this chapter): Counseling shall be provided as a clinically appropriate combination of Individual, Family, and Group Counseling, including Group Counseling-Pschoeducation, according to the client's assessed needs.

(c) Clinical Care Coordination (CCC) (in accordance with § 6337 of this chapter): Cannot exceed one hundred ninety-two (192) units (48 hours) during this LOC in a single course of treatment. The Clinical Care Coordinator is responsible for establishing the frequency of the ongoing assessments and must ensure the treatment plan is updated a minimum of every ninety (90) days.

(d) Case Management (in accordance with § 6338 of this chapter): For providers with a Human Care Agreement, a minimum of four (4) units (1 hour) of Case Management-HIV is required for the duration of the LOC. For all providers, a minimum of four (4) units (1 hour) of Case Management per month is required during the first six (6) months of the LOC in a single course of treatment; for those individuals in long-term Level 1, after the first year a minimum of eight (8) units (2 hours) annually is required.

(e) Drug Screening (in accordance with § 6341 of this chapter): Required at admission and as clinically indicated throughout the course of treatment.

(f) Crisis Intervention: As required and in accordance with § 6339 of this chapter.

6328.8 Level 1 providers may provide Medication Assisted Treatment (MAT) per § 6343 of this chapter, if so certified.

6329 LEVEL OF CARE 2.1: INTENSIVE OUTPATIENT PROGRAM (IOP)

6329.1 Level 2.1 Intensive Outpatient Program (IOP) providers shall be able to provide nine (9) to nineteen (19) hours of treatment services per week for adults and six (6) to nineteen (19) hours of treatment services per week for youth under the age of twenty-one (21). IOP is the appropriate level of care for individuals who are assessed as meeting the ASAM criteria for Level 2.1 and:

(a) Recognize their SUD and are committed to recovery;

- (b) Are transitioning from a different LOC; and
 - (c) Have stable medical or psychiatric co-occurring conditions.
- 6329.2 Level 2.1 IOP treatment duration varies from thirty (30) to sixty (60) days.
- 6329.3 Unless clinically inappropriate or a client does not consent, all providers shall adhere to the service requirements for this level of care.
- 6329.5 Level 2.1 IOP includes the following mix of core services, in accordance with the client's individual treatment plan:
- (d) Assessment/Diagnostic and Treatment Planning (§ 6336):
 - (1) Comprehensive Assessment: Required if this is the individual's first LOC in a single course of treatment; optional for a new provider if the client has been transferred from another LOC;
 - (2) Ongoing Assessment: Required within seven (7) calendar days of admission if no comprehensive was performed at intake into Level 2.1. Cannot be billed more than twice within a sixty (60)-day period and cannot occur on the same day as a comprehensive assessment. An ongoing assessment with a corresponding treatment plan update must occur prior to a planned discharge from the LOC;
 - (3) Brief Assessment: Cannot exceed four (4) occurrences within the period of time that the individual is in Level 2.1.
 - (b) SUD Counseling (in accordance with § 6340 of this chapter): Counseling shall be provided as a clinically appropriate combination of Individual, Family, and Group Counseling, including Group Counseling-Psychoeducation, according to the client's assessed needs.
 - (c) Clinical Care Coordination (CCC) (in accordance with § 6337 of this chapter): The Clinical Care Coordinator is responsible for establishing the frequency of the ongoing assessments and updates to the treatment plan.
 - (d) Case Management (in accordance with § 6338 of this chapter): For providers with a Human Care Agreement, a minimum of four (4) units (1 hour) of Case Management-HIV is required for the duration of the LOC; other Case Management is provided in accordance with the treatment plan.
 - (e) Drug Screening (in accordance with § 6341 of this chapter): Required at admission and as clinically indicated throughout the course of treatment.

- (f) Crisis Intervention: As required and in accordance with § 6339 of this chapter.

6329.6 Level 2.1 providers may provide Medication Assisted Treatment (MAT) per § 6343 of this chapter, if so certified.

6330 LEVEL OF CARE 2.5: DAY TREATMENT

6330.1 Level 2.5 Day Treatment providers shall be able to provide twenty (20) or more hours of treatment services per week. Day Treatment providers must also be certified as a mental health provider by the Department or have a psychiatrist on staff. Day Treatment is the appropriate LOC for individuals who are assessed as meeting the ASAM criteria for Level 2.5 and:

- (a) Have unstable medical or psychiatric co-occurring conditions; and
- (b) Have issues that require daily management or monitoring but can be addressed on an outpatient basis.

6330.2 Level 2.5 Day Treatment generally lasts thirty (30) to sixty (60) days.

6330.3 Unless clinically inappropriate or a client does not consent, all providers shall adhere to the service requirements for this level of care.

6330.4 Level 2.5 Day Treatment includes the following mix of core services as indicated on the treatment plan and in accordance with this chapter:

- (a) Assessment/Diagnostic and Treatment Planning (in accordance with § 6336 of this chapter):
 - (1) Comprehensive Assessment: Required if this is the individual's first LOC in a single course of treatment; optional if the client has been transferred from another LOC;
 - (2) Ongoing Assessment: Required within seven (7) days of admission if no comprehensive was performed at intake into Level 2.5. Cannot be billed more than twice within a sixty (60)-day period and cannot occur on the same day as a comprehensive assessment. An ongoing assessment with a corresponding treatment plan update must occur prior to a planned discharge from the LOC;
 - (3) Brief Assessment: Cannot exceed four (4) occurrences within the period of time that the individual is in Level 2.5.
- (c) SUD Counseling (in accordance with § 6340 of this chapter): Counseling

shall be provided as a clinically appropriate combination of Individual, Family, and Group Counseling, including Group Counseling-Psychoeducation, according to the client's assessed needs.

- (c) Clinical Care Coordination (CCC) (in accordance with § 6337 of this chapter): The Clinical Care Coordinator is responsible for establishing the frequency of the ongoing assessments and updates to the treatment plan. CCC shall be provided as clinically appropriate.
- (d) Case Management (in accordance with § 6338 of this chapter): For providers with a Human Care Agreement, a minimum of four (4) units (1 hour) of Case Management-HIV is required for the duration of the LOC; other Case Management per week is required in accordance with the treatment plan.
- (e) Drug Screening (in accordance with § 6341 of this chapter): Required at admission and as clinically indicated throughout the course of treatment.
- (f) Crisis Intervention: As required and in accordance with § 6339 of this chapter.

6330.5 Level 2.5 providers may provide Medication Assisted Treatment (MAT) per § 6343 of this chapter, if so certified.

6331 LEVEL OF CARE 3.1: CLINICALLY MANAGED LOW-INTENSITY RESIDENTIAL

6331.1 Level 3.1 Clinically Managed Low-Intensity Residential is a residential program that shall provide a minimum of five (5) hours of substance abuse treatment services per week for a period of up to ninety (90) days. Level 3.1 Clinically Managed Low-Intensity Residential is the appropriate level of care for individuals who are assessed as meeting the ASAM criteria for Level 3.1 and:

- (a) Are employed, in school, in pre-vocational programs, actively seeking employment, or involved in structured day program;
- (b) Recognize their SUD and are committed to recovery or are in the early stages of change and not yet ready to commit to full recovery but need a stable supportive living environment to support their treatment or recovery; and
- (c) May have a stable co-occurring physical or mental illness.

6331.2 Level 3.1 Clinically Managed Low-Intensity Residential generally lasts ninety (90) days.

- 6331.3 Unless clinically inappropriate or a client does not consent, all providers shall adhere to the minimum service requirements for this level of care.
- 6331.4 Level 3.1 Clinically Managed Low-Intensity Residential includes the following mix of core services, as indicated on the treatment plan and in accordance with this chapter:
- (a) Assessment/Diagnostic and Treatment Planning in accordance with § 6336 of this chapter:
 - (1) Comprehensive Assessment: Required if this is the individual's first LOC in a single course of treatment; optional if the client has been transferred from another LOC);
 - (2) Ongoing Assessment: Required within seven (7) days of admission if no comprehensive was performed at intake into Level 3.1. Cannot be billed more than twice within a sixty (60)-day period and cannot occur on the same day as a comprehensive assessment. An ongoing assessment with a corresponding treatment plan update must occur prior to a planned discharge from the LOC;
 - (3) Brief Assessment: Cannot exceed three (3) occurrences within the period of time that the individual is in Level 3.
 - (b) SUD Counseling (in accordance with § 6340 of this chapter): Counseling shall be provided as a clinically appropriate combination of Individual, Family, and Group Counseling, including Group Counseling-Psychoeducation, according to the client's assessed needs.
 - (c) Clinical Care Coordination (CCC) (in accordance with § 6337 of this chapter): The Clinical Care Coordinator is responsible for establishing the frequency of the ongoing assessments and updates to the treatment plan. A minimum of four (4) units (1 hour) of CCC is required for every twenty-eight (28) days.
 - (d) Case Management (in accordance with § 6338 of this chapter): For providers with a Human Care Agreement, a minimum of four (4) units (1 hour) of Case Management-HIV is required for the duration of the LOC. For all providers, other Case Management is required at a minimum every twenty-eight (28) days.
 - (e) Drug Screening (in accordance with § 6341 of this chapter): Required at admission and as clinically indicated throughout the course of treatment.
 - (f) Crisis Intervention: As required and in accordance with § 6339 of this chapter.

- (g) Medication Management: As required and in accordance with § 6342 of this chapter.

6331.5 Level 3.1 providers may provide Medication Assisted Treatment (MAT) per § 6343 of this chapter, if so certified.

6332 LEVEL OF CARE 3.3: CLINICALLY MANAGED POPULATION-SPECIFIC HIGH-INTENSITY RESIDENTIAL

6332.1 Level 3.3 Clinically Managed Population-Specific High-Intensity Residential shall provide no less than twenty (20) hours of treatment per week for a period of up to ninety (90) days. Level 3.3 providers must also be certified as a mental health provider by the Department or have a psychiatrist on staff. Level 3.3 Clinically Managed Population-Specific High-Intensity Residential, also referred to as Extended or Long-term Care, is the appropriate LOC for individuals who are assessed as meeting the ASAM criteria for Level 3.3, need a stable supportive living environment to support their treatment or recovery and:

- (a) Have co-occurring or other issues that have led to temporary or permanent cognitive impairments and would benefit from slower-paced repetitive treatment; or
- (b) Have unstable medical or psychiatric co-occurring conditions.

6332.2 Level 3.3 Clinically Managed Population-Specific High-Intensity Residential generally last up to ninety (90) days.

6332.3 Unless clinically inappropriate or a client does not consent, all providers shall adhere to the minimum service requirements for this level of care.

6332.4 Case Management does not satisfy the minimum service hour requirements. Case Management shall be provided as clinically appropriate, in accordance with the client's treatment plan, and in accordance with § 6332.5 of this chapter.

6332.5 Level 3.3 Clinically Managed Population-Specific High-Intensity Residential includes the following mix of services, as indicated on the treatment plan and in accordance with this chapter:

- (a) Assessment/Diagnostic and Treatment Planning in accordance with § 6336 of this chapter:
 - (1) Comprehensive Assessment: Required if this is the individual's first LOC in a single course of treatment; optional if the client has been transferred from another LOC;

(2) Ongoing assessment: Required within seven (7) days of admission if no comprehensive was performed at intake into Level 3.3. Cannot be billed more than twice within a sixty (60)-day period and cannot occur on the same day as a Comprehensive Assessment. An ongoing assessment with a corresponding treatment plan update must occur prior to a planned discharge from the LOC;

(3) Brief assessment: Cannot exceed three (3) occurrences within the period of time that the individual is in Level 3.

(b) SUD Counseling (in accordance with § 6340 of this chapter): Counseling shall be provided as a clinically appropriate combination of Individual, Family, and Group Counseling, including Group Counseling-Psychoeducation, according to the client’s assessed needs.

(c) Clinical Care Coordination (CCC) (in accordance with § 6337 of this chapter): The Clinical Care Coordinator is responsible for establishing the frequency of the ongoing assessments and updates to the treatment plan.

(d) Case Management (in accordance with § 6338 of this chapter): For providers with a Human Care Agreement, a minimum of four (4) units (1 hour) of Case Management-HIV is required for the duration of the LOC. For all providers, other Case Management is required every twenty-eight (28) days unless the Clinical Care Coordinator documents justification for a lesser amount.

(e) Drug Screening (in accordance with § 6341 of this chapter): Required at admission and as clinically indicated throughout the course of treatment.

(f) Crisis Intervention: As required and in accordance with § 6339 of this chapter.

(g) Medication Management: As required and in accordance with § 6342 of this chapter.

6332.6 Level 3.3 providers may provide Medication Assisted Treatment (MAT) per § 6343 of this chapter, if so certified.

6333 LEVEL OF CARE 3.5: CLINICALLY MANAGED HIGH-INTENSITY RESIDENTIAL (ADULT)/ CLINICALLY MANAGED MEDIUM-INTENSITY RESIDENTIAL (YOUTH)

6333.1 Level 3.5 is a residential program that generally provides twenty-five (25) hours of treatment services per week for a period of up to twenty-eight (28) days. Level 3.5 providers shall provide no less than twenty (20) hours of treatment services

per week. Level 3.5 is the appropriate level of care for individuals who are assessed as meeting the ASAM placement criteria for Level 3.5, need a 24-hour supportive treatment environment to initiate or continue their recovery process and:

- (a) Have co-occurring or severe social/interpersonal impairments due to substance use; or
- (b) Significant interaction with the criminal justice system due to substance use.

6333.2 Level 3.5 generally lasts up to twenty-eight (28) days.

6333.3 Unless clinically inappropriate or a client does not consent, all providers shall adhere to the minimum service requirements for this level of care.

6333.4 Case Management does not satisfy the minimum service hour requirements. Case managed shall be provided as clinically appropriate, in accordance with the client's treatment plan, and in accordance with Subsection 6332.6.

6333.5 Level 3.5 includes the following mix of services, as indicated on the treatment plan and in accordance with this chapter:

- (a) Assessment/Diagnostic and Treatment Planning in accordance with § 6336 of this chapter:
 - (1) Comprehensive Assessment: Required if this is the individual's first LOC in a single course of treatment; optional if the client has been transferred from another LOC;
 - (2) Ongoing assessment: Required within seven (7) days of admission if no comprehensive was performed at intake into Level 3.5. Cannot be billed more than twice within a sixty (60)-day period and cannot occur on the same day as a Comprehensive Assessment. An ongoing assessment with a corresponding treatment plan update must occur prior to a planned discharge from the LOC;
 - (3) Brief assessment: Cannot exceed three (3) occurrences within the period of time the individual is in Level 3.
- (c) SUD Counseling (in accordance with § 6340 of this chapter): Counseling shall be provided as a clinically appropriate combination of Individual, Family, and Group Counseling, including Group Counseling-Psychoeducation, according to the client's assessed needs.

- (d) Clinical Care Coordination (CCC) (in accordance with § 6337 of this chapter): The Clinical Care Coordinator is responsible for establishing the frequency of the ongoing assessments and updates to the treatment plan. A minimum of twelve (12) units (3 hours) per week is required.
- (e) Case Management (in accordance with § 6338 of this chapter): For providers with a Human Care Agreement, a minimum of four (4) units (1 hour) of Case Management-HIV is required for the duration of the LOC. For all providers, a minimum of sixteen (16) units (4 hours) of Case Management is required every twenty-eight (28) days unless the Clinical Care Coordinator documents justification for a lesser amount.
- (f) Drug Screening (in accordance with § 6341 of this chapter): Required at admission and as clinically indicated throughout the course of treatment.
- (g) Crisis Intervention: As required and in accordance with § 6339 of this chapter.
- (h) Medication Management: As required and in accordance with § 6342 of this chapter.

6333.6 Level 3.5 providers may provide Medication Assisted Treatment (MAT) per § 6343 of this chapter, if so certified.

6334 LEVEL OF CARE 3.7-WM: SHORT-TERM MEDICALLY MONITORED INTENSIVE WITHDRAWAL MANAGEMENT (SMMIWM)

6334.1 SMMIWM is 24-hour, medically directed evaluation and withdrawal management service. The service is for clients with sufficiently severe signs and symptoms of withdrawal from psychoactive substances such that medical monitoring and nursing care are necessary but hospitalization is not indicated.

6334.2 For providers with a Human Care Agreement, clients discharged from SMMIWM treatment shall be directly admitted into a residential SUD treatment program (Level 3.1 – 3.5) through a “bed-to-bed” transfer unless the Department previously authorized an exception or the client refuses admission to a residential program.

6334.3 For services provided under the Department’s Human Care Agreement, SMMIWM shall not exceed five (5) days unless prior authorization for a longer stay is authorized by the Department. The maximum allowable stay is ten (10) days.

6334.4 SMMIWM shall include the following services in accordance with ASAM guidelines, as clinically appropriate:

- (a) Medication Management;
- (b) Clinical Care Coordination;
- (c) Medication Assisted Treatment;
- (d) Crisis Intervention;
- (e) Case Management, which must be billed separately
- (f) SUD Counseling, which may be billed separately; and
- (g) Comprehensive Assessment/Diagnostic, which may be billed separately.

6334.5 SMMIWM providers shall have a physician on staff that is able to respond within one (1) hour of notification.

6334.6 SMMIWM providers shall have medical staff (MD, PA, APRN, or RN) on duty twenty four (24) hours per day, seven (7) days per week. Medical staff shall have a client-to-staff ratio of 12-to-1 during daytime operating hours, a 17-to-1 ratio during evening hours, and a 25-to-1 ratio during the night shift.

6335 LEVEL OF CARE-R: RECOVERY SUPPORT SERVICES

6335.1 Level-R Recovery Support Services (RSS) covers the provision of non-clinical services for individuals in treatment or in need of supportive services to maintain their recovery.

6335.2 Level-R Recovery Support Service providers shall provide the following core recovery support services:

- (a) Recovery Support Evaluation;
- (b) Recovery Support Management;
- (c) Recovery Coaching;
- (d) Life Skills Support Services;
- (e) Education Support Services;
- (f) Recovery Social Activities; and
- (g) Transportation Services (Public).

6335.3 RSS providers may provide the following specialty services, in accordance with

their certification:

- (a) Spiritual Support Services; and
- (b) Environmental Stability.

6335.4 Level-R Recovery Support Services are for individuals who have an identified need for recovery support services and:

- (a) Are actively participating in the Department treatment system;
- (b) Have completed treatment; or
- (c) Have a self-identified substance use issue that is not assessed as needing active treatment.

6335.5 If a recovery client is assessed as needing active treatment and not currently enrolled in treatment, he or she must be referred to an Assessment and Referral Center for treatment and begin receiving treatment services before enrolling in RSS.

6335.6 The duration of Level-R Recovery Support Services varies but lasts as long as needed, with a reassessment every ninety (90) days according to the client's recovery goals.

6335.7 Level-R Recovery Support Services are determined by a Recovery Support Evaluation, performed in accordance with Section 6344 of this chapter.

6335.8 Unless clinically inappropriate or a client does not consent, all providers shall adhere to the minimum service requirements for this level of care.

6335.9 RSS may not be provided while a client is in a MMIIWM program.

6335.10 Providers who are certified only as Level-R providers may not provide Level 1 through 3 treatment services.

6335.11 Each recovery program must have a recovery program manager and the recovery program manager is responsible for overseeing all services provided within the recovery program.

6335.12 Each recovery program must have a comprehensive curriculum for its Recovery Support Services that has been approved by the Department.

6336 CORE SERVICE: ASSESSMENT/DIAGNOSTIC AND TREATMENT PLANNING

- 6336.1 Assessment/Diagnostic and Treatment Planning services include two distinct actions: (1) the assessment and diagnosis of the client and (2) the development of the treatment plan. An Assessment/Diagnostic and Treatment Planning Service may be (1) Initial, (2) Comprehensive, (3) Ongoing, or (4) Brief.
- 6336.2 The assessment/diagnostic portion of this service includes the evaluation and ongoing collection of relevant information about a client to determine or confirm an SUD diagnosis and the appropriate Level of Care (LOC). The assessment shall serve as the basis for the formation of the treatment plan, which is designed to help the client achieve and sustain recovery. The assessment instrument shall incorporate ASAM client placement criteria.
- 6336.3 Treatment planning services are required each time an Assessment/Diagnostic and Treatment Planning service is performed. Treatment planning services include the development of a treatment plan or a treatment plan update and necessary referrals.
- 6336.4 Providers shall use a tool(s) approved by the Department for both the assessment and treatment plan.
- 6336.5 A treatment plan identifies all services considered medically necessary to address the needs of the client as determined by the assessment. All services shall be delivered in accordance with the treatment plan as part of organized treatment services. The treatment plan shall be person-centered and include:
- (a) A substance use disorder diagnosis (and any other diagnoses);
 - (b) Criteria for discharge from the program based on completion of the established course of treatment, and/or transfer to a less intensive/restrictive level of care;
 - (c) A list of any agencies currently providing services to the individual and family including the type(s) of service and date(s) of initiation of those services;
 - (d) A list of client strengths and needs;
 - (e) Specific individualized treatment and recovery goals and objectives for each client;
 - (f) The treatment regimen, including specific services and activities that will be used to meet the treatment and recovery goals;
 - (g) An expected schedule for service delivery, including the expected frequency and duration of each type of planned service encounter;

- (h) The name and title of personnel who will provide the services;
- (i) The name and title of the client's Clinical Care Coordinator, primary substance abuse counselor, and case manager;
- (j) A description of the involvement of family members or significant others, where appropriate;
- (k) The identification of specific client responsibilities;
- (l) The client's identified ASAM Level of Care (LOC);
- (m) The client or legal guardian's signature on the plan (if the client refuses to sign the treatment plan, the Clinical Care Coordinator shall document the reason(s) in the treatment plan); and
- (n) Signatures of all interdisciplinary team members participating in the development of the treatment plan. The Clinical Care Coordinator's signature on the treatment plan is required as certification that the services identified on the treatment plan are medically necessary.

6336.6

Initial, Comprehensive, Ongoing, and Brief assessments shall be performed by the following Qualified Practitioners, as evidenced by signature and dates on the assessment document and the treatment plan and in accordance with additional provisions of this section:

- (a) Qualified Physicians;
- (b) Psychologists;
- (c) Licensed Independent Clinical Social Workers ("LICSWs");
- (d) Licensed Graduate Professional Counselors ("LGPCs") (only for providers not operating under a Human Care Agreement);
- (d) Licensed Graduate Social Workers ("LGSWs");
- (e) Licensed Professional Counselors ("LPCs");
- (f) Licensed Marriage and Family Therapists ("LMFTs");
- (g) APRNs;
- (h) Certified Addiction Counselors II ("CAC IIs") (may not diagnose); or CAC Is (may not diagnose).

6336.7 An Initial Assessment/Diagnostic and Treatment Planning service (Initial Assessment) is a behavioral health screening and assessment that (1) identifies the individuals need for SUD treatment, (2) determines the appropriate level of care of SUD treatment, and (3) initiates the course of treatment. For providers operating pursuant to a Human Care Agreement, an Initial Assessment may only be provided by a Department-designated Assessment and Referral Center (ARC), with a Level 1-AR certification. The following provisions apply to an Initial Assessment:

- (a) The provider shall use and complete a screening and assessment tool approved by the Department. The screening and assessment should result in identification of the necessary Level of Care (LOC) and an appropriate SUD provider referral, documented in the designated electronic record format.
- (b) The provider shall record any medications used by the client;
- (c) Staff must have an in-person encounter with the client to conduct the initial assessment;
- (d) Providers must obtain and document client's understanding and agreement, evidenced by the client's signature, for consent to treatment, assessment, provider choice, the client bill of rights, and release of information;
- (e) An Initial Assessment should take at least forty (40) minutes to complete; and
- (f) For those providers with a Human Care Agreement with the Department, a maximum of one Initial Assessment may be billed within a thirty (30)-day period.

6336.8 The following provisions apply to the Comprehensive Assessment/Diagnostic and Treatment Planning service (Comprehensive Assessment):

- (a) When a client enters his or her first LOC within a treatment episode, the provider shall perform a Comprehensive Assessment to determine his or her treatment and recovery needs. A Comprehensive Assessment consists of a comprehensive assessment and the development of a treatment plan.
- (b) A Comprehensive Assessment shall include the use of a Department-approved assessment tool and a detailed diagnostic formulation. The comprehensive assessment will document the client's strengths, resources, mental status, identified problems, current symptoms as outlined in the DSM, and recovery support service needs. The Comprehensive Assessment will also confirm the client's scores on the ASAM criteria and

confirm that the assigned LOC is most applicable to the client's needs. The diagnostic formulation shall include presenting symptoms for the previous twelve (12) months, including mental and physical health symptoms, degree of severity, functional status, and differential diagnosis. This information forms the basis for the development of the individualized treatment plan as defined in § 6336.5 of this chapter.

- (c) A Comprehensive Assessment must be performed in-person by an interdisciplinary team consisting of the client and at least one Qualified Practitioner with the license and capability to develop a diagnosis. The client's Clinical Care Coordinator, Certified Addictions Counselor (CAC) and case manager shall also participate in the interdisciplinary team as evidenced by their signature(s) on the treatment plan. A completed treatment plan is required to establish medical necessity.
- (d) A Comprehensive Assessment must be completed within seven (7) calendar days of admission to a provider. Providers at Level 3.7-WM must complete a Comprehensive Assessment within forty-eight (48) hours, or prior to discharge or transfer to another LOC, whichever comes first.
- (e) Within twenty-four (24) hours of admission at a new LOC, during the period prior to the completion of the Comprehensive Assessment, the provider shall review the Department-approved assessment tool used during the client's Initial Assessment to develop an Initial Treatment Plan. This Initial Treatment Plan will validate treatment until the Comprehensive Assessment is completed. A Qualified Practitioner as listed in § 6336.6 shall develop the Initial Treatment Plan. The Initial Treatment Plan is considered part of the Comprehensive Assessment and Treatment Planning service.
- (f) A Comprehensive Assessment shall take a minimum of one (1) hour to complete.
- (g) A Comprehensive Assessment shall include client understanding and agreement, documented by the client's signature, for consent to treatment, assessment, provider choice, client bill of rights, and release of information.
- (h) For those SUD providers with a Human Care Agreement with the Department, no more than one (1) Comprehensive Assessment shall be billed per LOC, and a Comprehensive Assessment cannot be billed on the same day as an Ongoing Assessment.

6336.9

An Ongoing Assessment occurs at regularly scheduled intervals depending on the LOC. The following provisions apply to ongoing assessments:

- (a) An Ongoing Assessment, conducted using a tool(s) approved by the Department, provides a review of the client's strengths, resources, mental status, identified problems, and current symptoms as outlined in the DSM.
- (b) An Ongoing Assessment will confirm the appropriateness of the existing diagnosis and revise the diagnosis, as warranted. The Ongoing Assessment will also revise the client's scores on all dimensions of the ASAM criteria, as appropriate, to determine if a change in LOC is needed.
- (c) An Ongoing Assessment includes a review and update of the treatment plan to reflect the client's progress, growth, and ongoing areas of need.
- (d) The Ongoing Assessment is also used prior to a planned transfer to a different LOC and for discharge from a course of service.
- (e) The clinical care coordinator shall determine the frequency of ongoing assessments.
- (f) An Ongoing Assessment must be completed in-person with the client by an interdisciplinary team, which includes a CAC and at least one Qualified Practitioner with the license and capability to develop a diagnosis. The client's clinical care coordinator and primary counselor shall participate in the interdisciplinary team.
- (g) The Ongoing Assessment shall require a minimum of one (1) hour to complete.
- (h) The Ongoing Assessment requires documentation of the assessment tools, updated diagnostic formulation, and the treatment plan update. The diagnostic formulation shall include presenting symptoms since previous assessment (including mental and physical health symptoms), degree of severity, functional status, and differential diagnosis. The treatment plan update shall address current progress toward goals for all problematic areas identified in the assessment and adjust interventions and recovery support services as appropriate.
- (i) For providers with a Human Care Agreement with the Department, an Ongoing Assessment cannot be billed on the same day as a Comprehensive Assessment. These providers may bill a maximum of two (2) occurrences per sixty (60) days.

6336.10

A Brief Assessment is a review and documentation of a client's physical and mental status for acute changes that require an immediate response, such as a determination of a need for immediate hospitalization. The following provisions apply to brief assessments:

- (a) A Brief Assessment may also be used to incorporate minor updates to a client's diagnosis or treatment plan;
- (b) A Brief Assessment requires an in-person evaluation of the client by a Qualified Practitioner;
- (c) A single service of "Brief Assessment" requires a minimum of forty to fifty (40 – 50) minutes;
- (d) A Brief Assessment requires documentation of assessment tool(s), updated diagnostic formulation, and treatment plan update. The diagnostic formulation shall include presenting symptoms since previous assessment (including mental and physical health symptoms), degree of severity, functional status, and differential diagnosis. The treatment plan update shall address current progress toward goals for all problematic areas identified in the assessment and adjust interventions and recovery support services as appropriate;
- (e) Providers should reassess the appropriateness of a client's LOC if frequent brief assessments are needed; and
- (f) For providers with a Human Care Agreement with the Department, a Brief Assessment cannot be billed on the same day as Comprehensive Assessment. For these providers, a Brief Assessment must be billed as a minimum of one (1) occurrence. In addition, these providers may bill a maximum of three (3) occurrences in Level 3; a maximum of four (4) occurrences in Level 2; and a maximum of six (6) occurrences in Level 1.

6337 CORE SERVICE: CLINICAL CARE COORDINATION

- 6337.1 Clinical Care Coordination (CCC) is the initial and ongoing process of identifying, planning, coordinating, implementing, monitoring, and evaluating options and services to best meet a client's health needs.
- 6337.2 The Clinical Care Coordinator is responsible for ensuring that the client is at the appropriate level of care. If the client fails to make progress or has met all of his or her treatment goals, it is the Coordinator's responsibility to ensure timely assessment and transfer to a more appropriate level of care.
- 6337.3 CCC focuses on linking clients as they transition through the levels of care, ensuring that the treatment plan is formulated with the overarching goal of recovery regardless of the client's current status. The Clinical Care Coordinator is responsible for facilitating specified outcomes through recovery that will restore a client's functional status in the community. The Clinical Care Coordinator has the overall responsibility for the development and implementation of the client's treatment plan.

- 6337.4 CCC also includes oversight of linkages to off-site services to meet additional needs related to a co-occurring medical and/or psychiatric condition, as documented in the treatment plan.
- 6337.5 The assigned clinical care coordinator in each case will monitor the compliance with, and effectiveness of, services over the treatment period and make a determination of the frequency of ongoing assessments. A clinical care coordinator shall have no more than seventy-five (75) clients assigned to his or her caseload, and shall ensure that each client receives a clinically appropriate amount of CCC.
- 6337.6 The CCC service must be provided by a licensed practitioner under Subsection 6337.7 of this chapter and must address the health and behavioral health of the client. CCC shall not include administrative facilitation of the client's service needs, which is the primary purpose of the Case Management service.
- 6337.7 The CCC service must be documented in an encounter note that indicates the intended purpose of that particular service, the actions taken, and the result(s) achieved.
- 6337.8 Qualified Practitioners for CCC are:
- (a) Qualified Physicians;
 - (b) Psychologists;
 - (c) LICSWs;
 - (d) LGSWs;
 - (e) APRNs;
 - (f) RNs;
 - (g) LISWs;
 - (h) LPCs; and
 - (i) LMFTs.
- 6337.9 For providers with a Human Care Agreement with the Department, the following restrictions apply to CCC:
- (a) CCC may not be billed in conjunction with a staff person's clinical supervision or at the same time as any assessment/diagnostic/treatment

planning service;

- (b) CCC may not be billed separately for a person in MMIWM;
- (c) CCC may only be billed by the client's designated clinical care coordinator; and
- (d) A maximum of one hundred twenty-eight (128) units of CCC are allowed under Level 3, a maximum of one hundred thirty-two (132) units are allowed under Level 2, a maximum of one hundred ninety-two (192) units are allowed under Level 1, and a maximum of two hundred eight (208) units are allowed under Level-1 with MAT.

6338 CORE SERVICE: CASE MANAGEMENT

- 6338.1 Case Management facilitates implementation of the treatment plan and administrative facilitation of the client's service needs, including but not limited to scheduling of appointments, assisting in completing applications, facilitating transportation, tracking appointments, and collecting information about the client's progress.
- 6338.2 Case Management also encompasses the coordination of linkages such as vocational/educational services, housing services, legal monitoring entities (*e.g.* probation), childcare, public assistance, and social services. Case Management also includes training in the development of life skills necessary to achieve and maintain recovery.
- 6338.3 In addition to the case management activities listed below, Case Management-HIV entails providing access to testing and referrals for HIV and infectious diseases and coordination of services with medical care or specialty services related to an infectious disease (an individual does not need to be diagnosed with an infectious disease to receive this service).
- 6338.4 All Case Management services must be authorized in the individual's treatment plan.
- 6338.5 Additional key service functions of Case Management in a treatment program include:
 - (a) Attending interdisciplinary team meetings for assessment/diagnostic services;
 - (b) Following up on service delivery by providers external to the treatment program and ensuring communication and coordination of services;
 - (c) Contacting clients who have unexcused absences from program

appointments or from other critical off-site service appointments to re-engage them and promote recovery efforts;

- (d) Locating and coordinating services and resources to resolve a client's crisis;
- (e) Providing training in the development of life skills necessary to achieve and maintain recovery; and
- (f) Participating in discharge planning.

6338.6 The assigned case manager for each client shall provide case management services with or on behalf of a client to maximize the client's adjustment and functioning within the community while achieving sobriety and sustaining recovery. Each client shall have a case manager designated in his or her treatment plan. Each case manager shall be assigned no more than one hundred fifty (150) clients and shall ensure that each client receives clinically appropriate case management in accordance with the treatment plan.

6338.7 All case managers shall be supervised by a CAC II or a licensed practitioner. At least weekly, the case manager's supervisor shall review and approve encounter notes to indicate compliance with treatment plan. At least monthly, the case manager's supervisor shall provide regular case and chart review and meet in-person with the case manager. Providers with a Human Care Agreement with the Department shall comply with the Department policy on supervision.

6338.8 Case Management shall not be considered a counseling service or activity. An individual performing both SUD Counseling and Case Management as part of his or her normal duties shall maintain records that clearly document separate time spent on each of these functions, such as, work logs, encounter notes, and documentation in the client's record.

6338.9 Case Management services shall be provided by:

- (a) A Qualified Practitioner;
- (b) An individual with at least a bachelor's degree from an accredited college or university in social work, counseling, psychology, or closely related field; or
- (c) An individual with at least a GED or high school diploma, four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationship and the ability to negotiate complex service systems to obtain needed services and resources for individuals.

6339 CORE SERVICE: CRISIS INTERVENTION

- 6339.1 Crisis Intervention is an immediate short-term treatment intervention, which assists a client to resolve an acute personal crisis that significantly jeopardizes the client's treatment, recovery progress, health, or safety. Crisis Intervention does not necessarily lead to a change in LOC or a change to the treatment plan; however, if a change is needed, this service may be followed by a Brief Assessment.
- 6339.2 Crisis Intervention is a service available at all levels of care and can be provided to any individual in treatment, even if the service is not included on the treatment plan.
- 6339.3 Crisis Intervention services must be documented using an encounter note that explains the crisis and the response.
- 6339.4 The following Qualified Practitioners may perform this service:
- (a) Qualified Physicians;
 - (b) Psychologists;
 - (c) LICSWs;
 - (d) LGSWs;
 - (e) APRNs;
 - (f) RNs;
 - (g) LISWs;
 - (h) LPCs;
 - (i) LGPCs (only for providers not operating under a Human Care Agreement)
 - (j) LMFTs; and
 - (k) CAC Is and CAC IIs.
- 6339.5 For providers with a Human Care Agreement with the Department, Crisis Intervention shall be billed in increments of fifteen (15)-minute units. The following limits shall apply:
- (a) Level 1: 80 Units

- (b) Level 1 with MAT: 144 Units
- (c) Level 2: 120 Units
- (d) Level 3: 160 Units.

6340 CORE SERVICE: SUBSTANCE USE DISORDER COUNSELING

6340.1 SUD Counseling includes Individual, Family, Group, and Group-Psychoeducation Counseling.

6340.2 For providers with a Human Care Agreement with the Department, counseling shall be billed in increments of fifteen (15)-minute units, and a clinically appropriate combination of Individual, Family, Group, and Group-Psychoeducation counseling is limited to the following (the Department can approve additional units with justification):

- (a) Level 1: Thirty-two (32) Units per week;
- (b) Level 2: Eighty (80) Units per week; and
- (c) Level 3: One hundred (100) Units per week.

6340.3 Individual Substance Use Disorder Counseling (Individual SUD Counseling or Individual Counseling) is a one-on-one, in-person counseling interaction between a client and an authorized Qualified Practitioner for the purpose of supporting the client's recovery. The aim of Individual SUD Counseling is to improve functioning and cultivate the awareness, skills, and supports to facilitate long-term recovery.

6340.4 Individual SUD Counseling addresses the specific issues identified in the treatment plan. Individual counseling:

- (a) Shall be documented in an encounter note;
- (b) Shall not be conducted within the same or overlapping time period as Medication Management;
- (c) Shall not be considered or used as a Case Management service or activity; and
- (d) Shall be performed by one of the following Qualified Practitioners:
 - (1) Qualified Physicians;
 - (2) Psychologists;

- (3) LICSWs;
- (4) LGSWs;
- (5) APRNs,
- (6) RNs;
- (7) LISWs;
- (8) LPCs;
- (9) LGPCs (only for providers not operating under a Human Care Agreement);
- (9) LMFTs; or
- (10) CAC Is and CAC IIs.

6340.5

Group SUD Counseling (Group Counseling) facilitates disclosure of issues that permit generalization to a larger group; promotes help-seeking and supportive behaviors; encourages productive and positive interpersonal communication; and develops motivation through peer support, structured confrontation, and constructive feedback. The aim of counseling is to cultivate the awareness, skills, and supports to facilitate long-term recovery. Group SUD Counseling helps clients develop appropriate psychosocial, personal, parenting, and family skills needed to facilitate long-term recovery. The following provisions apply to Group SUD Counseling:

- (a) Group SUD Counseling addresses the specific issues identified in the treatment plan;
- (b) The focus of the group SUD counseling session shall be driven by the participant;
- (c) A maximum of fifteen (15) individuals may participate in a single Group SUD Counseling session;
- (d) Group SUD Counseling shall not be billed during recreational activities; and
- (e) Group SUD Counseling shall be performed by the following Qualified Practitioners:
 - (1) Qualified Physicians;

- (2) Psychologists;
- (3) LICSWs;
- (4) LGSWs;
- (5) APRNs;
- (6) RNs;
- (7) LISWs;
- (8) LPCs;
- (9) LGPCs (only for providers not operating under a Human Care Agreement);
- (9) LMFTs; or
- (10) CAC Is and CAC IIs.

6340.6

Group SUD Counseling-Psychoeducation promotes help-seeking and supportive behaviors by working in partnership with clients to impart current information and facilitate group discussion through lecture, audio-visual presentations, handouts, etc. to assist with developing coping skills that support recovery and encourage problem-solving strategies for managing issues posed by SUDs. This service should also address HIV, STDs, and other infectious diseases; clients are not required to have one of these diseases to receive this education. Group Counseling-Psychoeducation requires the following:

- (a) The subject of the counseling must be relevant to the client's needs as identified in his or her treatment plan;
- (b) This service must include facilitated group discussion of the relevant topic or topics;
- (c) An encounter note for each participant shall be completed, which documents the individual's response to the group;
- (d) A maximum of thirty (30) clients may participate in a single session; and
- (e) Qualified Practitioners authorized to perform the service are:
 - (1) Qualified Physicians;

- (2) Psychologists;
- (3) LICSWs;
- (4) LGSWs;
- (5) APRNs;
- (6) RNs;
- (7) LISWs;
- (8) LPCs;
- (9) LGPCs (only for providers not operating under a Human Care Agreement)
- (10) LMFTs; and
- (11) CAC Is and IIs.

6340.7

Family Counseling is a planned, goal-oriented therapeutic interaction between a Qualified Practitioner and the client's family, with or without the client present. The aim of Family Counseling is to improve the individual's functioning with his or her family and cultivate the awareness, skills, and supports to facilitate long-term recovery. Family Counseling must address specific issues identified in the treatment plan. The following provisions apply to Family Counseling:

- (a) Family Counseling shall be documented using an encounter note; if the client is not present for the service, the note must explain how the session benefits the client;
- (b) A service encounter note documenting Family Counseling shall clearly state the relationship of the participant(s) to the client;
- (c) Family Counseling participants other than the client must meet the definition of "family member" in Section 6399; and
- (d) Qualified Practitioners authorized to provide Family Counseling must be competent to work with families and must be:
 - (1) Qualified Physicians;
 - (2) Psychologists;
 - (3) LICSWs;

- (4) LGSWs;
- (5) APRNs;
- (6) RNs;
- (7) LISWs;
- (8) LPCs;
- (9) LGPCs (only for providers not operating under a Human Care Agreement)
- (10) LMFTs; or
- (11) CAC Is and IIs.

6341 CORE SERVICE: DRUG SCREENING

- 6341.1 Drug Screening consists of toxicology sample collection and breathalyzer testing to determine and detect the use of alcohol and other drugs.
- 6341.2 Providers reimbursed by the District for Drug Screening must comply with the Department policy on drug screening; those providers not reimbursed by the District must have their own drug screening policy.
- 6341.3 Toxicology sample collection involves the collection of biological specimens for drug analysis. The following provisions apply to toxicology sample collection:
- (a) The handling of biological specimens requires a chain of custody in accordance with District guidelines from the point of collection throughout the analysis process to ensure the integrity of the specimen;
 - (b) Toxicology sample collection shall be conducted to verify abstinence or use of substances to inform treatment;
 - (c) Toxicology sample collection shall include an in-person encounter with the client;
 - (d) Documentation of the toxicology sample collection service requires an encounter note, laboratory request, and recorded laboratory results from an approved laboratory;

- (e) Chain of custody for the toxicology specimen must be observed and documented in accordance with District guidelines; and
- (f) Individuals collecting the samples must be properly trained to do so.

6341.4 Breathalyzer testing is the collection and documentation of valid breath specimens for alcohol analysis in accordance with Department standards. A Breathalyzer is conducted to test for blood alcohol content to inform treatment for an individual. The following provisions apply to Breathalyzer services:

- (a) Breathalyzer testing requires an in-person collection of the sample;
- (b) Breathalyzer testing must be documented with an encounter note and recorded results;
- (c) The chain of custody must be kept in accordance with District guidelines; and
- (d) Individuals collecting the samples must be properly trained to do so.

6342 SPECIALTY SERVICE: MEDICATION MANAGEMENT

6342.1 Medication Management shall include the coordination and evaluation of medications consumed by clients, monitoring potential side effects, drug interactions, compliance with doses, and efficacy of medications.

6342.2 Medication Management also includes the evaluation of a client's need for Medication Assisted Treatment (MAT), the provision of prescriptions, and ongoing medical monitoring/evaluation related to the use of psychoactive drugs.

6342.3 Medication Management is used to inform treatment and to assist with withdrawal management, as clinically appropriate.

6342.4 All providers certified as MAT or Level 3 providers must be able to provide Medication Management.

6342.5 Medication Management requires in-person interaction with the client and may not be conducted at the same or overlapping times as any other service.

6342.6 The Qualified Practitioner performing the Medication Management service or the clinical care coordinator, if not the same individual, must coordinate with the client's primary care practitioner unless the client's record documents that the client refused to provide consent for the coordination.

6342.7 Documentation of Medication Management services shall include an encounter note and appropriately completed medication fields in the record, if applicable.

- 6342.8 Medication Management may be provided by the following:
- (a) Qualified Physicians;
 - (b) Psychologists (for providers not operating pursuant to a Human Care Agreement);
 - (c) APRNs;
 - (c) RNs;
 - (d) LPNs;
 - (e) PAs;
 - (f) LICSWs;
 - (g) LISWs;
 - (h) LGSWs;
 - (i) LPCs;
 - (j) LGPCs (only for providers not operating under a Human Care Agreement); and
 - (k) CAC Is and IIs, within the scope of their respective licenses.

6342.9 For providers with a Human Care Agreement with the Department, Medication Management shall be billed in increments of fifteen (15)-minute units. No more than ninety-six (96) units may be billed per LOC. Medication Management shall not be billed on the same day as MMIIWM.

6343 SPECIALTY SERVICE: MEDICATION ASSISTED TREATMENT

6343.1 Medication Assisted Treatment (MAT) is the use of methadone as a pharmacotherapy long-term treatment for opiate or other forms of dependence. A client who receives MAT must also receive SUD Counseling. Use of this service should be in accordance with ASAM service guidelines and practice guidelines issued by the Department.

6343.2 Individuals appropriate for MAT must have an SUD that is appropriately treated with an MAT in accordance with Federal regulations.

6343.3 MAT providers must ensure that individuals receiving MAT understand and

provide written informed consent to the specific medication administered. No person under eighteen (18) years of age may be admitted to MAT unless a parent or legal guardian consents in writing to such treatment.

6343.4 MAT may be administered on an in-office basis or as take-home regimen. Both MAT administrations include the unit of medication and therapeutic guidance. For clients receiving a take-home regimen, therapeutic guidance must include additional guidance related to storage and self-administration. MAT providers must comply with all Department policies concerning MAT.

6343.5 Therapeutic guidance provided during MAT shall include:

- (a) Safeguarding medications;
- (b) Possible side-effects and interaction with other medications;
- (c) Impact of missing doses;
- (d) Monitoring for withdrawal symptoms and other adverse reactions; and
- (e) Appearance of medication and method of ingestion.

6343.6 For providers with a Human Care Agreement with the Department:

- (a) MAT medication is billed on a per-dose basis;
- (b) A single fifteen (15)-minute administration session may be billed when an individual is receiving take-home doses in accordance with ASAM criteria and Department policy;
- (c) A client can be prescribed a maximum of one dose/unit per day;
- (d) An initial and second authorization is for a maximum of ninety (90) days each; subsequent authorizations cannot exceed one hundred and eighty (180) days each; and
- (e) Prior authorization from the Department is required for more than two-hundred fifty (250) units of medication in one calendar year. The maximum number of MAT services over a twelve (12)-month period is three hundred and sixty five (365) units of medication and administration.

6343.7 Providers shall have medical staff (MD, PA, APRN, or RN) on duty during all clinic hours. A physician shall be available on call during all clinic hours, if not present on site.

6343.8 A member of the medical staff must be available on call twenty-four (24) hours a

day, seven (7) days a week.

- 6343.9 A physician must evaluate the client a minimum of once per month for the first year that a client receives MAT and a minimum of every six (6) months thereafter, in coordination with the treatment plan and as needed.
- 6343.10 A provider must review the results of a client's physical, which has been completed within the past twelve (12) months, prior to prescribing or renewing a prescription for MAT.
- 6343.11 Documentation for this service must include medication log updates and an encounter note for each visit, which captures the therapeutic guidance provided.
- 6343.12 MAT may be provided by the following:
- (a) Qualified Physicians;
 - (b) APRNs;
 - (c) Physicians Assistants (PAs) (supervised by Qualified Physicians);
 - (d) RNs; or
 - (e) LPNs (supervised by an MD, RN, or APRN).

6344 SPECIALTY SERVICE: ADOLESCENT – COMMUNITY REINFORCEMENT APPROACH (ACRA)

- 6344.1 ACRA is a specialty service that can be infused into Level I Outpatient treatment as a more targeted approach to treatment for youth and young adults ages twelve (12) to twenty-four (24) years old with co-occurring mental health and substance use disorders. ACRA services include Counseling, Case Management, and Clinical Care Coordination when provided in accordance with the requirements of this section and the ACRA evidence-based practice certification model.
- 6344.2 The provider must have the following ACRA-certified staff for each ACRA team:
- (a) A clinical supervisor, with ACRA clinical supervisor certification, who is also a Master's-level qualified practitioner; and
 - (b) One (1) to four (4) clinicians with ACRA clinician certification who are either Master's-level qualified practitioners or Bachelor's-level qualified practitioners with at least five (5) years' experience working with behaviorally-challenged youth.
- 6344.3 ACRA practitioners must comply with the supervision, taping, feedback and

coaching requirements of the ACRA certification.

- 6344.4 A minimum of four units (one hour) of ACRA Counseling services should be provided each week. Additional units of ACRA Case Management and Clinical Care Coordination, and remaining Level 1 services shall be provided as clinically appropriate.
- 6344.5 ACRA generally lasts up to six (6) months with the first three (3) months of services provided in the office setting and the last three (3) months of service provided in the home or community setting, based on the client's needs and progress.
- 6344.6 ACRA may be provided by the following qualified practitioners who satisfy the requirements of Subsection 6344.2 above:
- (a) Qualified Physicians;
 - (b) Psychologists;
 - (c) LICSWs;
 - (d) LGSWs;
 - (e) APRNs;
 - (f) RNs;
 - (g) LISWs;
 - (h) LPCs;
 - (i) LGPCs (only for providers not operating under a Human Care Agreement);
 - (j) LMFTs; or
 - (k) CAC Is and IIs.

6345 RECOVERY SUPPORT SERVICE: RECOVERY SUPPORT EVALUATION

- 6345.1 A Recovery Support Evaluation is a process used to evaluate and document a client's individual recovery support service needs, develop a comprehensive individual recovery support plan, and monitor client progress on achievement of goals and objectives every ninety (90) days.

- 6345.2 The purpose of the Recovery Support Evaluation is to identify domains that require support, using a Department-approved recovery support assessment tool, and to develop a recovery support plan.
- 6345.3 Recovery Support Evaluation requires an in-person encounter with the client and must be performed by staff trained to use the recovery support assessment tool.
- 6345.4 Required elements of a Recovery Support Evaluation include the completion of a Department-approved recovery support assessment tool and recovery support plan.
- 6345.5 Providers must document completion and client signatures for: consents, completion of the recovery support assessment tool and recovery support plan, client bill of rights, and release of information.
- 6345.6 A Recovery Support Evaluation shall take at least forty (40) minutes to complete.
- 6345.7 A maximum of two (2) occurrences of Recovery Support Evaluation are allowed every six (6) months. Additional Recovery Support Evaluations require approval from the Department.
- 6345.8 The clinical care coordinator is responsible for ensuring coordination if an individual is receiving treatment and recovery services from different providers. An individual receiving treatment and recovery services from different providers may receive the CAT and a separate Recovery Support Evaluation.
- 6345.9 An individual receiving treatment and recovery services from the same provider shall receive only the CAT and not a separate Recovery Support Evaluation or recovery support plan. The treatment plan developed under the CAT shall include specific recovery goals and identify recovery support services.
- 6345.10 The following staff may perform this service:
- (a) A Qualified Practitioner; or
 - (b) A Recovery Coach; or
 - (c) An individual with at least a bachelor's degree from an accredited college or university in social work, counseling, psychology, or closely related field and training or relevant experience in substance use; or

- (d) An individual with at least four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationships and the ability to negotiate complex service systems to obtain needed services and resources for individuals.

6346 RECOVERY SUPPORT SERVICE: RECOVERY SUPPORT MANAGEMENT

6346.1 Recovery Support Management assists clients with the implementation of the recovery support plan, including but not limited to:

- (a) Scheduling of appointments, assisting in completing applications, facilitating transportation, tracking appointments, and collecting progress report information;
- (b) Helping clients access the District service network and other community resources that help sustain recover and coordinating linkages such as vocational/educational services, housing services, judicial entities, childcare, public assistance, and social services.

6436.2 All Recovery Support Management services must be authorized in the individual's recovery support plan or treatment plan (if applicable).

6346.3 Additional key service functions of Recovery Support Management include:

- (a) Monitoring service delivery by providers external to the RSS program and ensuring communication and coordination of services;
- (b) Contacting individuals who have unexcused absences from program appointments or from other critical off-site service appointments to re-engage the person and promote recovery efforts; and
- (c) Locating and coordinating services and resources to resolve a client's crisis.

6346.4 If the client is also in active treatment, the treatment provider's staff shall provide these services through Case Management and Clinical Care Coordination. Recovery Support Management shall not be billed while the client is in active treatment.

6346.5 Each client not in active treatment shall have a designated Recovery Support Manager. One (1) FTE is required for every fifty (50) clients.

6346.6 The recovery support manager's supervisor shall provide regular case and chart review, meet in-person with the case manager, and co-sign chart entries at least

monthly to indicate compliance with the recovery support plan.

- 6346.7 RSS providers with a Human Care Agreement with the Department must comply with the Department policy on supervision.
- 6346.8 An encounter note is required at each provision of Recovery Support Management.
- 6346.9 SUD Counseling shall not be considered a Recovery Support Management service or activity. An individual performing both SUD Counseling and Recovery Support Management as part of his or her normal duties shall maintain records that clearly document separate time spent on each of these functions, such as work logs, encounter notes, and documentation in the patients' records.
- 6346.10 Recovery Support Management services shall be provided by one of the following:
- (a) A Qualified Practitioner;
 - (b) A Recovery Coach;
 - (c) An individual with a bachelor's degree from an accredited college or university in social work, counseling, psychology, or closely related field; or
 - (d) An individual with at least a GED or high school diploma, four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationship and the ability to negotiate complex service systems to obtain needed services and resources for individuals.

6347 RECOVERY SUPPORT SERVICE: RECOVERY COACHING

- 6347.1 Recovery Coaching is provided by a person in recovery from an SUD or another staff member who is familiar with the community's support for persons seeking to live an alcohol- and drug-free life.
- 6347.2 Recovery Coaching assists clients in reviewing the recovery support plan and reviewing strategies to achieve the identified goals and support abstinence, and assists the client to overcome barriers that may inhibit their recovery process and develop a network of supportive relationships.
- 6347.3 Recovery Coaching provides ongoing support to a client in accordance with the recovery support plan.
- 6347.4 Recovery Coaching requires an in-person or electronic encounter with a client in

accordance with all documentation requirements as required in § 6322 of this chapter.

6347.5 Staff eligible to perform this service may be:

- (a) A Recovery Coach;
- (b) An individual with at least a GED or high school diploma, four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationship and the ability to negotiate complex service systems to obtain needed services and resources for individuals; or
- (c) A Qualified Practitioner.

6348 RECOVERY SUPPORT SERVICE: LIFE SKILLS SUPPORT SERVICES

6348.1 Life Skills Support Services help clients develop appropriate psychosocial skills needed to succeed in day-to-day life without the use of alcohol and drugs, including how to plan for and incorporate drug-free social activities into their recovery.

6348.2 The purpose of the Life Skills Support Services is to provide peer-to-peer support in a group setting to promote individual and community change through lived experiences.

6348.3 Life Skills Support Services requires in-person group encounters with clients. A maximum of fifteen (15) clients may participate in a group session.

6348.4 A Life Skills Support Services session must be guided by a curriculum approved by the Department.

6348.5 Life Skills Support Services sessions must be documented using an encounter note.

6348.6 The following staff may perform Life Skills Support Services:

- (a) A Recovery Coach;
- (b) An individual with at least a GED or high school diploma, four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationship and the ability to negotiate complex service systems to obtain needed services and resources for individuals; or
- (c) A Qualified Practitioner.

6349 RECOVERY SUPPORT SERVICE: SPIRITUAL SUPPORT SERVICES

- 6349.1 Spiritual Support Services shall provide spiritual support, which incorporates faith and religion in the recovery process based on spiritual practices and principles.
- 6349.2 The purpose of Spiritual Support Services is to provide strategies on how a client can incorporate spirituality into their recovery process.
- 6349.3 The following provisions apply to Spiritual Support Services:
- (a) Provision of the service requires an in-person encounter with the client in a group setting;
 - (b) Only RSS clients may attend a Spiritual Support Services group session;
 - (c) The Spiritual Support Services group may not prohibit clients from participation based on spiritual or religious beliefs;
 - (d) A maximum of thirty (30) clients may participate in a Spiritual Support Services group.
- 6349.4 Spiritual Support Services include ongoing support services through persons with lived experiences and similar spiritual beliefs.
- 6349.5 Spiritual Support Services group sessions must be documented using an encounter note.
- 6349.6 Staff that performs this service should have a background of study in the spiritual support being provided.
- 6349.7 The following staff may perform this service:
- (a) A Recovery Coach;
 - (b) An individual with at least a GED or high school diploma, four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationship and the ability to negotiate complex service systems to obtain needed services and resources for individuals; or
 - (c) A Qualified Practitioner.
- 6349.8 Providers of spiritual support services are prohibited from proselytizing with District funds or other government funds. Further, any providers of such support services may not coerce participants explicitly or implicitly into participating in

any religious activity or service made available to participants, and any such religious activities must be separate in time and location from government-funded spiritual support services.

6350 RECOVERY SUPPORT SERVICES: EDUCATION SUPPORT SERVICES

6350.1 Educational Support Services provide individual instruction and tools to expand a client's knowledge in specific recovery topics, including relapse prevention, employment preparation, money management, health and wellness, and family reunification, targeted to improve the client's functioning for substance-free living.

6350.2 The purpose of Education Support Services is to increase the client's ability to sustain long-term recovery.

6350.3 Education Support Services require an in-person encounter with the client.

6350.4 Educational Support Services must be documented using an encounter note.

6350.5 Educational Support Services maybe be provided on an individual or group basis.

6350.6 For individual Educational Support Services, a one-on-one interaction with the client is required.

6350.7 For group Educational Support Services, providers must use a curriculum approved for use in a group setting. Education Support Services groups may serve no more than thirty (30) clients.

6350.8 The following staff may perform this service:

- (a) A Recovery Coach; or
- (b) An individual with at least a GED or high school diploma, four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationship, and the ability to negotiate complex service systems to obtain needed services and resources for individuals; or
- (c) A Qualified Practitioner.

6351 RECOVERY SUPPORT SERVICE: TRANSPORTATION SERVICES (PUBLIC)

6351.1 Transportation Services provide transportation support (Metrobus or Metrorail) to a client for the purpose of attending RSS and other activities that support the client's recovery.

6351.2 The purpose of the Transportation Services is to provide transportation to help to a client to attend their scheduled appointments.

6351.3 Transportation Services require an in-person encounter to receive the transportation card.

6351.4 Transportation Services must be documented using an encounter note which includes the type of benefit and dollar value and be signed for by the client receiving the benefit.

6352 RECOVERY SUPPORT SERVICE: RECOVERY SOCIAL ACTIVITIES

6352.1 Recovery Social Activities provide group drug-free social activities for persons in recovery in order to demonstrate to the client how to maintain their recovery in drug-free environments.

6352.2 Recovery Social Activities require an in-person encounter with the client.

6352.3 Recovery Social Activities require an encounter note describing and documenting the social activity.

6352.4 The following staff may perform this service:

- (a) A Recovery Coach;
- (b) An individual with at least a GED or high school diploma, four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationship and the ability to negotiate complex service systems to obtain needed services and resources for individuals; or
- (c) A Qualified Practitioner.

6353 RECOVERY SUPPORT SERVICE: ENVIRONMENTAL STABILITY

6353.1 The Environmental Stability service provides a structured and stable living environment and recovery support system that includes recovery housing for up to six (6) months. The objective of Environmental Stability is to prepare the client for independent living upon completion of the Environmental Stability Service.

6353.2 Eligible persons for this service must:

- (a) Be drug- and alcohol-free (with the exception of prescribed medication) for thirty (30) days prior to admission;

- (b) Maintain sobriety throughout the program;
- (c) Be in recovery from a diagnosed SUD;
- (d) Be employed or participating in a structured training class or workforce-development program, or participating in both work and training, for a minimum of thirty (30) hours per week or specifically excepted for medical reasons by the Director;
- (e) Deposit fifty percent (50%) of net income into the provider's client escrow account for the purposes of post-environmental-stability independent living;
- (f) Be enrolled and active in other Department-certified recovery support services; and
- (g) Must be prior authorized by the Department.

6353.3 The Environmental Stability provider shall comply with the Department's drug testing policy.

6353.4 Each Environmental Stability facility shall be for a single gender or for single parents with one child.

6353.5 Environmental Stability providers must comply with the applicable of provisions of Section 6323 of this chapter governing residential recovery programs.

6353.6 No Environmental Stability program shall use a name on the exterior of the building or display any logo that distinguishes the facility from any other residence in the neighborhood.

6399 DEFINITIONS

Admission - Entry into the SUD treatment or recovery program after completion of intake, screening, and initial assessment and a determination that an individual is eligible for the program.

Advance Practice Registered Nurse (APRN) - A person who is licensed or authorized to practice as an advanced practice registered nurse pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2012 Repl. & 2014 Supp.)), and who has particular training and expertise in treating clients with SUD. An APRN is a Qualified Practitioner.

Affiliation Agreement - A legal agreement approved by the Department by and

between a provider and another entity that describes how they will work together to benefit clients.

Applicant - A program that has applied to the Department for certification as an SUD treatment or recovery program.

Case Manager - Program staff specially designated to provide Case Management services with or on behalf of a client to maximize the client's adjustment and functioning within the community while achieving sobriety and sustaining recovery. A client's case manager must be designated in his or her treatment plan.

Certification - The process of establishing that standards of care described in this chapter are met; or approval from the Department indicating that an applicant has successfully complied with all requirements for the operation of a substance use disorder treatment or recovery program in the District.

Certified Addiction Counselor (CAC) - A person who is certified to provide SUD counseling services in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2012 Repl. & 2014 Supp.)). A CAC may be certified as a CAC I or CAC II and must be supervised in accordance with Title 17 DCMR § 8715. A CAC is a Qualified Practitioner.

Child Development Facility - A center, home, or other structure that provides care and other services, supervision, and guidance for children up to fifteen (15) years of age on a regular basis, regardless of its designated name, but does not include a public or private elementary or secondary school engaged in legally required educational and related functions.

Client - A person admitted to an SUD treatment or recovery program and is assessed to need SUD treatment services or recovery services.

Clinical Care Coordination - The clinical and evaluative activities that identify the client's needs for substance abuse and other treatment services, community needs and other resources to achieve the goals and objectives identified in the treatment plan. Clinical Care Coordination establishes a framework of action to enable the client to achieve specified goals. It involves collaboration with client and significant others, coordination of treatment and referral services, liaison activities with community resources and managed care systems, client advocacy, and ongoing evaluation of treatment progress and client needs

Clinical Care Coordinator - A licensed or certified Qualified Practitioner who has the overall responsibility for the development and implementation of

the client's treatment plan, is responsible for identification, coordination, and monitoring of non-SUD-treatment clinical services, and is identified in the client's treatment plan.

Clinical Staff - Staff who are licensed, certified, or registered by the District Department of Health, Health Regulation and Licensing Administration (HRLA).

Communicable Disease - Any disease as defined in Title 22-B, § 201 of the District of Columbia Municipal Regulations (DCMR).

Continuity of Care Plan – A plan that provides for the ongoing care of clients in the event that a certified provider is no longer able to provide adequate care. The plan should include provision for the referral and transfer of clients, as well as for the provision of relevant treatment information, medications, and information to the new provider.

Co-Occurring Disorders - The presence of concurrent diagnoses of substance use disorder and a mental disease or disorder.

Crisis - An event that significantly jeopardizes the client's treatment, recovery progress, health or safety.

Department - The District of Columbia Department of Behavioral Health.

Director - The Director of the District Department of Behavioral Health.

Discharge - The time when a client's active involvement with a program is terminated.

Discharge Planning - Activities with or on behalf of an individual to arrange for appropriate follow-up care to sustain recovery after being discharged from a program, including educating the individual on how to access or reinstate additional services, as needed.

Discrete Clients - Children accompanied by a parent into a treatment environment that are clinically determined to require admission as a client with their own separate and distinct assessment, treatment plan, course of treatment, and record. Discrete Client does not apply to children who receive services primarily to support a parent's recovery.

District - The District of Columbia.

Drug - Substances that have the likelihood or potential to be misused or abused, including alcohol, prescription drugs, and nicotine.

Facility - Any physical premises which houses one or more SUD treatment or recovery programs.

Family Member - Individual identified by the client as a person with whom the client has a significant relationship and whose participation is important to the client's recovery.

Health Maintenance Organization (HMO) - A private organization which is a qualifying HMO under Federal regulations or has been determined to be an HMO pursuant to rules issued by the D.C. State Health Planning and Development Agency (SHPDA) in accordance with D.C. Official Code §§ 44-401 *et seq.*

Initial Treatment Plan - The treatment plan that is developed in conjunction with the first (non-comprehensive) diagnostic assessment conducted upon entry to a client's first LOC.

In-service Training - Activities undertaken to achieve or improve employees' competency to perform present jobs or to prepare for other jobs or promotions.

Interdisciplinary Team - Members of the SUD provider staff who provide services to the client. This group shall include the client, the client's CCC, a CAC, the client's case manager, and at least one QP with the license and ability to diagnose.

Licensed Graduate Professional Counselor (LGPC) – A person licensed as a graduate professional counselor in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2012 Repl. & 2014 Supp.)) applicable District laws and regulations. An LGPC is a Qualified Practitioner only for providers not providing services pursuant to a Human Care Agreement with the Department and must be appropriately supervised.

Licensed Graduate Social Worker (LGSW) – A person licensed as a graduate social worker in accordance with applicable District laws and regulations. An LGSW is a Qualified Practitioner.

Licensed Independent Clinical Social Worker (LICSW) - A person licensed as an independent clinical social worker in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2012 Repl. & 2014 Supp.)). An LICSW is a Qualified Practitioner.

Licensed Independent Social Worker (LISW) - A person licensed as a licensed independent social worker in accordance with Health Occupations

Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2012 Repl. & 2014 Supp.)). An LISW is a Qualified Practitioner.

Licensed Marriage and Family Therapist (LMFT) – A person licensed as a marriage and family therapist in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2012 Repl. & 2014 Supp.)). An LMFT is a Qualified Practitioner.

Licensed Practical Nurse (LPN) - A person licensed as practical nurse in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2012 Repl. & 2014 Supp.)).

Licensed Professional Counselor (LPC) - A professional counselor licensed in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2012 Repl. & 2014 Supp.)). An LPC is a Qualified Practitioner.

Major Investigations - Refers to the detailed inquiry or systematic examination of deaths related to suicide, unexpected deaths at a facility, death of a child or youth, and any other incident that the Director, DBH or the Deputy Director, OA, determine need a major investigation.

Major Unusual Incidents - Adverse events that can compromise the health, safety, and welfare of persons; employee misconduct; fraud; and actions that are violations of law and policy.

Medicaid - The program described in the District of Columbia State Medicaid Plan, approved by CMS, and administered by the Department of Health Care (DHCF) to enable the District of Columbia to receive Federal financial assistance for a medical assistance program and other purposes as permitted by law.

Medical Necessity (or Medically Necessary) - Those services contained in an approved treatment plan reasonably calculated to prevent the worsening of, alleviate, correct, cure, or ameliorate an identified substance use disorder. For children through age twenty (20), services reasonably calculated to promote the development or maintenance of age-appropriate functioning are also considered medically necessary.

Medical Waste - Any solid waste that is generated in the diagnosis, treatment, or immunization of human beings or in the testing of biologicals, including but not limited to: soiled or blood-soaked bandages, needles used to give shots or draw blood, and lancets.

Mental Illness - A diagnosable mental, behavioral, or emotional disorder (including those of biological etiology) which substantially impairs the mental health of the person or is of sufficient duration to meet diagnostic criteria specified within the DSM-IV or its ICD-9-CM equivalent (and subsequent revisions) with the exception of DSM-IV "V" codes, substance abuse disorders, mental retardation, and other developmental disorders, or seizure disorders, unless those exceptions co-occur with another diagnosable mental illness.

Notice of Infraction - An action taken by agencies to enforce alleged violations of regulatory provisions.

Opioid - A psychoactive substance in the narcotic class derived from opium, including natural and synthetic compounds. Substances in this class may produce pharmacological effects such as physical withdrawal symptoms when used for non-medicinal purposes.

Organized Treatment Services – Treatment that consists of a scheduled series of structured, face-to-face or group therapeutic sessions organized at various levels of intensity and frequency in order to assist the clients served in achieving the goals identified in the person-centered treatment plans. Also may be called structured treatment services.

Outcomes of Care - The results of a course of treatment, including abstinence or reduction of abuse of substances, elimination or reduction of criminal activity, reduction of antisocial activity associated with SUD, reduction in need for medical or mental health services, reduction of need for SUD treatment, increase in pro-social involvement, and increase in productivity and employment.

Outpatient Services - Therapeutic services that are medically or psychologically necessary, provided to a client according to an individualized treatment plan, and do not require the client's admission to a hospital or a non-hospital residential facility. The term "outpatient services" refers to services that may be provided (on an ambulatory basis) in a hospital; a non-hospital residential facility; an outpatient treatment facility; or the office of a person licensed to provide SUD treatment services.

Outreach - Efforts to inform and facilitate access to a program's services.

Parent - A person who has custody of a child as a natural parent, stepparent, adopted parent, or has been appointed as a guardian for the child by a court of competent jurisdiction.

Postpartum - A period of time for up to twenty-four (24) months after birth of an

infant.

Privacy Officer - A person designated by an organization that routinely handles protected health information, to develop, implement, and oversee the organization's compliance with the U.S. Health Insurance Portability and Accountability Act (HIPAA) privacy rules, 42 C.F.R. part 2, and D.C. Mental Health Information Act.

Program - An SUD Treatment or Recovery Program certified by the Department at a specific Level of Care to provide substance use treatment or recovery services.

Program Director - An individual having authority and responsibility for the day-to-day operation of an SUD treatment or recovery program.

Protected Health Information (PHI) - Any written, recorded, electronic (ePHI), or oral information which either (1) identifies, or could be used to identify, a consumer; or (2) relates to the physical or mental health or condition of a consumer, provision of health care to a consumer, or payment for health care provided to a consumer. PHI does not include information in the records listed in 45 C.F.R. § 160.103.

Provider - An entity certified by the Department to provide either SUD treatment or recovery support services or both.

Psychiatrist - A physician licensed in accordance with applicable District laws and regulations who has completed a residency program in psychiatry accredited by the Residency Review Committee for Psychiatry of the Accreditation Council for Graduate Medical Education and is eligible to sit for the psychiatric board examination. A psychiatrist is a Qualified Practitioner.

Psychologist - A person licensed to practice psychology in accordance with applicable District laws and regulations. A psychologist is a Qualified Practitioner.

Qualified Physician - A person who is licensed or authorized to practice medicine pursuant to Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2012 Repl. & 2014 Supp.)) and eligible for a waiver pursuant to the federal Drug Addiction Treatment Act of 2000 or subsequent amendments.

Qualified Practitioner (QP) - Clinical staff authorized to provide treatment and other services. These clinical staff are (i) a qualified physician; (ii) a psychiatrist; (iii) a psychologist; (iv) a licensed independent clinical social

worker (LICSW); (v) a licensed graduate social worker (LGSW); (vi) a licensed marriage and family therapist (LMFT); (vii) a physician's assistant (PA); (viii) an advance practice registered nurse (APRN); (ix) a registered nurse (RN); (x) a licensed professional counselor (LPC); (xi) an independent social worker (LISW); (xii) a graduate professional counselor for services provided outside of a Human Care Agreement with the Department; and (xiii) a certified addiction counselor (CAC).

Recovery Coach - A Recovery Coach is a person with lived experience of addiction and recovery that meets the eligibility requirements and provides support to individuals in recovery from an SUD. The role of a Recovery Coach is to serve as a personal guide and mentor for people seeking or already in recovery. A Recovery Coach must have demonstrated recovery from a substance use disorder and be willing to self-disclose his or her own recovery; have a high-school diploma or General Education Degree certified by the state in which it was received; and be at least eighteen years of age.

Recovery Support Plan - A document developed during a Recovery Support Evaluation that outlines the client's needs, goals, and recovery services to be utilized to achieve those goals. The Recovery Support plan assists a person in recovery to develop goals and objectives to maintain their sobriety in the community with supports from family, community and recovery support programs.

Recovery Support Services - Non-clinical services provided to a client by a certified RSS provider to assist him or her in achieving or sustaining recovery from an SUD.

Registered Nurse (RN) - A person licensed as a registered nurse in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 et seq. (2012 Repl. & 2014 Supp.)). An RN is a Qualified Practitioner.

Representative Payee – An individual or organization appointed by the Social Security Administration to receive Social Security or Supplemental Security Income (SSI) benefits for someone who cannot manage or direct someone else to manage his or her money.

Research - Experiments including new interventions of unknown efficacy applied to clients whether behavioral, psychological, biomedical, or pharmacological.

Residential Program - Any treatment or recovery program which houses clients overnight, including Level III treatment programs and environmental stability programs.

Substance Use Disorder (SUD) - A chronic relapsing disease characterized by a cluster of cognitive, behavioral, and psychological symptoms indicating that the beneficiary continues using a substance despite significant substance-related problems. A diagnosis of a SUD requires a beneficiary to have had persistent, substance related problem(s) within a twelve (12)-month period.

Treatment - A therapeutic effort to improve a client's cognitive or emotional conditions or the behavior of a client, consistent with generally recognized principles or standards in the SUD treatment field, provided or supervised by a Qualified Practitioner.

Treatment Plan - A document that meets the requirements of Subsection 6335.5 of this chapter and establishes medical necessity for all services identified to address the needs of the client as determined by the assessment.

Withdrawal Management - A program designed to achieve systematic reduction in the degree of physical dependence on alcohol or drugs.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL 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. 744; D.C. Official Code § 1-307.02 (2014 Repl.)) 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 of an amendment to Section 1919, entitled “Behavioral Support 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 behavioral support services provided to participants in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (Waiver) and conditions of participation for providers.

The current Notice of Final Rulemaking for 29 DCMR § 1919 (Behavioral Support Services) was published in the *D.C. Register* on February 28, 2014, at 61 DCR 001655. A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on October 3, 2014, at 61 DCR 010394. 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 13, 2015, at 61 DCR 003143. The second emergency and proposed rules amended the previously published emergency and proposed rules by: (1) increasing the rate for one-to-one behavioral support services provided by Direct Support Professionals, using the approved rate methodology, to reflect the anticipated increase in the D.C. Living Wage for 2015 and 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.)); (2) adding language in Subsection 1919.5(b) to specify that a person can qualify for Medicaid reimbursable one-to-one behavioral supports if the person exhibits self-injurious behavior that poses a serious risk to the person’s safety; (3) adding language to Subsection 1919.7(d) clarifying that day service staff are members of a person’s support team and that training of those staff is a Medicaid reimbursable behavioral support service; (4) clarifying that functional assessments shall be performed in the residential community settings, as applicable; (5) modifying the responsibilities of a Direct Support Professional who is providing one-to-one supports; and (6) adding a definition of “Mental Health Rehabilitation Services.” The second emergency and proposed rules were adopted on January 7, 2015, became effective on that date, and remained in effect until May 7, 2015. 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 006698, 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 11, 2015, became effective on that

date, and will remain in effect until September 8, 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 24, 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 1919, BEHAVIORAL SUPPORT SERVICES, is amended to read as follows:

1919 BEHAVIORAL SUPPORT SERVICES

1919.1 The purpose of this section is to establish standards governing Medicaid eligibility for behavioral support services for persons enrolled in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (Waiver), and to establish conditions of participation for providers of behavioral support services.

1919.2 Behavioral support services are designed to assist persons who exhibit behavior that is extremely challenging and frequently complicated by medical or mental health factors.

1919.3 To qualify for Medicaid reimbursable behavioral support services, the person shall have specific behavioral support needs that jeopardize their health, safety, and wellbeing and/or interfere with their ability to gain independence and acquire community living skills.

1919.4 Medicaid reimbursable behavioral support services shall:

- (a) Be recommended by the person's support team;
- (b) Be identified in the person's ISP and Plan of Care;
- (c) Be prior authorized by DDS before the commencement of services; and
- (d) Be recommended by a physician or Advanced Practice Registered Nurse (APRN) if the services are one-to-one behavioral supports related to a medical condition.

1919.5 To qualify for Medicaid reimbursable one-to-one behavioral supports, a person shall meet one (1) of the following characteristics:

- (a) Exhibit elopement resulting in serious risk to the safety of self or others;

- (b) Exhibit behavior that is life threatening to self and others;
- (c) Exhibit destructive behavior causing serious property damage;
- (d) Exhibit sexually predatory behavior;
- (e) Exhibit self-injurious behavior that poses a serious risk to the person's safety; or
- (f) Have a medical condition that requires one-to-one services.

1919.6 In order to be eligible for Medicaid reimbursement, a physician or APRN shall issue an order for one-to-one behavioral supports associated with a medical condition which shall meet the requirements of DDS's policies and procedures and shall include and not be limited to the following information:

- (a) A specific time period or duration for the delivery of services;
- (b) A description of the medical condition that causes the person's health or safety to be at risk; and
- (c) The responsibilities of each staff person delivering supports; and
- (d) A justification for the need for one-to-one behavioral supports.

1919.7 Medicaid reimbursable behavioral support services shall consist of the following activities:

- (a) Development of a Diagnostic Assessment Report (DAR) in accordance with the requirements described under Subsection 1919.16;
- (b) Development of a Behavior Support Plan (BSP) in accordance with the requirements described under Subsections 1919.17 through 1919.19;
- (c) Implementation of positive behavioral support strategies and principles based on the DAR and BSP;
- (d) Training of the person, their family, their support team, and the providers of their day services, to implement the BSP;
- (e) Evaluation of the effectiveness of the BSP by monitoring the plan at least monthly, developing a system for collecting BSP-related data, and revising the BSP;
- (f) Counseling and consultation services for the person and their support team; and

- (g) Participating in the person's quarterly medication review.
- 1919.8 Within ninety (90) days of service authorization, a provider of Medicaid reimbursable behavioral supports services shall:
- (a) Administer the diagnostic assessment;
- (b) Complete the DAR based on the results of the diagnostic assessment and the accompanying behavioral support referral worksheet ("worksheet"); and
- (c) Complete the BSP when recommended by the DAR.
- 1919.9 The DAR shall be effective for three (3) years except as indicated in Subsection 1919.10, or for persons receiving one-to-one behavioral supports, which shall be updated annually. The behavioral supports provider shall submit a diagnostic update to amend the DAR and accompanying worksheet to the Department on Disability Services (DDS) Service Coordinator.
- 1919.10 When a person experiences changes in psychological or clinical functioning, the behavioral supports provider shall submit a diagnostic update to amend the DAR and accompanying worksheet to the DDS Service Coordinator at any time during the three- (3) year period, upon the recommendation of the support team.
- 1919.11 The worksheet accompanying the DAR shall include the number of hours requested for professional and paraprofessional staff services to address recommendations in the DAR.
- 1919.12 The diagnostic update shall include a written clinical justification supporting the reauthorization of services.
- 1919.13 The diagnostic update shall be reviewed by the person and their support team in consultation with behavioral supports staff.
- 1919.14 The BSP shall be effective for one (1) calendar year which shall correspond with the person's ISP year, unless revised or updated in accordance with the recommendations of the DAR and accompanying worksheet.
- 1919.15 To be eligible for Medicaid reimbursement, the diagnostic assessment shall include the following activities:
- (a) Direct assessment techniques such as observation of the person in the setting in which target behaviors are exhibited, and documentation of the frequency, duration, and intensity of challenging behaviors;

- (b) Indirect assessment techniques such as interviews with the person's family members and support team, written record reviews, and questionnaires; and
- (c) A written evaluation of the correlation between the person's environmental, psychological, and medical influences and the occurrence of behavioral problems.

1919.16 To be eligible for Medicaid reimbursement, the DAR shall include the following:

- (a) The names of individuals to contact in the event of a crisis;
- (b) A summary of the person's cognitive and adaptive functioning status;
- (c) A full description of the person's behavior including background, and environmental contributors;
- (d) The counseling and problem-solving strategies used to address behavioral problems and their effectiveness;
- (e) A list of less restrictive interventions utilized, the results, and an explanation of why the interventions were unsuccessful;
- (f) A list of proposed goals for achieving changes in target behaviors; and
- (g) The recommendations to initiate, continue, or discontinue behavioral support services.

1919.17 In order to be eligible for Medicaid reimbursement, the BSP shall be developed utilizing the following activities:

- (a) Interviews with the person and their support team;
- (b) Observations of the person at his/her residence and in the community, if applicable; and
- (c) Review of the person's medical and psychiatric history including laboratory and other diagnostic studies, and behavioral data.

1919.18 In order to be eligible for Medicaid reimbursement, the behavioral supports staff that develops the BSP shall be responsible for:

- (a) The coordination of the delivery of behavioral support services in the person's residential and day activity settings; and

- (b) Obtaining the person's written informed consent and the approval of the person's substitute decision-maker, the support team, the provider's human rights committee, and DDS, when required by DDS's policies and procedures.

1919.19 In order to be eligible for Medicaid reimbursement, the BSP shall include the following:

- (a) A clear description of the targeted behavior(s) that is consistent with the person's diagnosis;
- (b) The data reflecting the frequency of target behaviors;
- (c) A functional behavioral analysis of each target behavior;
- (d) A description of techniques for gathering information and collecting data;
- (e) The proactive strategies utilized to foster the person's positive behavioral support;
- (f) The measurable behavioral goals to assess the effectiveness of the BSP;
- (g) If restrictive techniques and procedures are included, the rationale for utilizing the procedures and the development of a fade-out plan; and
- (h) Training requirements for staff and other caregivers to implement the BSP.

1919.20 Each provider of behavioral support services shall comply with Sections 1904 (Provider Qualifications) and 1905 (Provider Enrollment) of Chapter 19 of Title 29 DCMR and consist of one (1) of the following provider types:

- (a) A professional service provider in private practice as an independent clinician, as described in Section 1904 (Provider Qualifications) of Chapter 19 of Title 29 DCMR;
- (b) A Mental Health Rehabilitation Services agency (MHRS) certified in accordance with the requirements of Chapter 34 of Title 22-A DCMR;
- (c) A home health agency as described in Section 1904 (Provider Qualifications), of Chapter 19 of Title 29 DCMR; or
- (d) A HCBS Provider, as described under Section 1904 (Provider Qualifications), of Chapter 19 of Title 29 DCMR.

1919.21 In order to be eligible for Medicaid reimbursement, each MHRS shall agency serve as a clinical home by providing a single point of access and accountability

for the provision of behavioral support services and access to other needed services.

1919.22 Individuals authorized to provide professional behavioral support services without supervision shall consist of the following professionals:

- (a) A psychiatrist;
- (b) A psychologist;
- (c) An APRN or a Nurse-Practitioner (NP) ; and
- (d) A Licensed Independent Clinical Social Worker (LICSW).

1919.23 Individuals authorized to provide paraprofessional behavioral support services under the supervision of qualified professionals described under Subsection 1919.22 shall consist of the following behavior management specialists:

- (a) Licensed Professional Counselor;
- (b) Licensed Social Worker (LISW);
- (c) Licensed Graduate Social Worker (LGSW);
- (d) Board Certified Behavior Analyst;
- (e) Board Certified Assistant Behavior Analyst; and
- (f) Registered Nurse.

1919.24 In order to receive Medicaid reimbursement, the minimum qualifications to draft a BSP shall be master's level degree psychologist working under the supervision of a psychologist or a LICSW.

1919.25 In order to receive Medicaid reimbursement, the minimum qualifications for providing consultation are a master's level psychologist, APRN, LICSW, LGSW or licensed professional counselor, with at least one (1) year of experience in serving people with developmental disabilities. Knowledge and experience in behavioral analysis shall be preferred.

1919.26 In order to receive Medicaid reimbursement, a LGSW may provide counseling under the supervision of an LICSW or a LISW in accordance with the requirements set forth in Section 3413 of Chapter 34 of Title 22-A DCMR.

- 1919.27 In order to receive Medicaid reimbursement, each DSP providing behavioral support services and/or one-to-one behavioral supports shall meet the following requirements:
- (a) Comply with Section 1906 (Requirements for Persons Providing Direct Services) of Chapter 19 of Title 29 DCMR;
 - (b) Possess specialized training in physical management techniques where appropriate, positive behavioral support practices, and all other training required to implement the person's specific BSP; and
 - (c) When providing one-to-one supports, the DSP shall provide exclusive supports to ensure the person's safety, health and well-being in addition to implementation of all habilitative supports and services.
- 1919.28 Each provider of Medicaid reimbursable behavioral support services shall meet the requirements established under Section 1908 (Reporting Requirements) and Section 1911 (Individual Rights) of Chapter 19 of Title 29 DCMR.
- 1919.29 In order to be eligible for Medicaid reimbursement, each provider of Medicaid reimbursable behavioral supports services shall maintain the following documents for monitoring and audit reviews:
- (a) A copy of the DARs and accompanying worksheets;
 - (b) A copy of the BSPs;
 - (c) A current copy of the behavioral support clinician's professional license to provide clinical services;
 - (d) The documentation and data collection related to the implementation of the BSP;
 - (e) The records demonstrating that the data was reviewed by appropriate staff; and
 - (f) The documents required to be maintained under Section 1909 (Records and Confidentiality of Information) of Chapter 19 of Title 29 DCMR.
- 1919.30 Medicaid reimbursement for behavioral support services shall be limited on an annual basis as set forth below. Services provided that exceed the limitations shall not be reimbursed except as provided in Subsection 1919.31:
- (a) Development of a new BSP shall be limited to ten (10) hours;
 - (b) Reviewing and updating the existing BSP shall be limited to six (6) hours;

- (c) Training of the person, their family, the support team, and residential and day staff, shall be limited to twelve (12) hours;
- (d) On-site counseling, consultation and observations shall be limited to twenty-six (26) hours;
- (e) Participation in behavioral review or treatment team meetings, delivering notes including emergency case conferences, hospital discharge meetings, interagency meetings, pre-ISP and ISP meetings, and human rights meetings shall be limited to twelve (12) hours;
- (f) Monitoring of quarterly medication reviews, reports and monthly data monitoring shall be limited to eight (8) hours; and
- (g) Participation in psychotropic medication review meetings to deliver notes shall be limited to three (3) hours.

1919.31 In order to be eligible for Medicaid reimbursement, requests for additional hours beyond the annual limits described in Subsection 1919.30 may be approved by the DDS upon the submission of a diagnostic update to amend the DAR and accompanying worksheet.

1919.32 In order to be eligible for Medicaid reimbursement, requests for counseling as a behavioral support service shall be approved by a DDS designated staff member and shall be limited to counseling services that are not available under the District of Columbia State Plan for Medical Assistance.

1919.33 Medicaid reimbursable one-to-one behavioral support services provided by a DSP shall not be provided concurrently with day habilitation one-to-one services.

1919.34 The Medicaid reimbursement rate for each diagnostic assessment shall be two-hundred and forty dollars (\$240.00) and shall be at least three (3) hours in duration, and include the development of the DAR and accompanying worksheet.

1919.35 The Medicaid reimbursement rate for behavioral support services provided by professionals identified in Subsection 1919.21 shall be one-hundred and three dollars and twenty cents (\$103.20) per hour. The billable unit for fifteen (15) minutes is twenty-five dollars and eighty cents (\$25.80) per fifteen (15) minute billable increment for at least eight (8) continuous minutes.

1919.36 The Medicaid reimbursement rate for behavioral support services provided by paraprofessionals identified in Subsection 1919.22 shall be sixty dollars (\$60.00) per hour. The billable unit for fifteen (15) minutes is fifteen dollars (\$15.00) for each fifteen- (15) minute billable increment for at least eight (8) continuous minutes.

1919.37 The Medicaid reimbursement rate for one-to-one behavioral support services provided by DSPs shall be twenty-three dollars and eighty-eight cents (\$23.88) per hour. The billable unit for fifteen (15) minutes is five dollars and ninety-seven cents (\$5.97) per fifteen (15) minute billable increment for at least eight (8) continuous minutes.

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

Advance Practice Registered Nurse (APRN) or Nurse-Practitioner (NP) - An individual who is licensed to practice nursing pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1202 *et seq.*), or licensed to practice nursing in the jurisdiction where the services are being provided.

Behavior Management Specialist - An individual who has the training and experience in the theory and technique of changing the behavior of individuals to enhance their learning of life skills and adaptive behaviors, and to decrease maladaptive behaviors, and who works under the supervision of a licensed practitioner.

Board Certified Behavior Analyst - An individual with at least a Master's Degree and a certificate from the Behavioral Analyst Certification Board (BCABA), in the jurisdiction where the credential is accepted.

Board Certified Assistant Behavior Analyst - An individual with at least a Bachelor's Degree and a certificate from the Behavioral Analyst Certification Board (BCABA), in the jurisdiction where the credential is accepted.

Fade-out plan - A plan used by providers to ensure that the restrictive technique or processes utilized are gradually and ultimately eliminated in the person's plan of care.

Functional Behavioral Analysis - A comprehensive and individualized process for identifying events that precede and follow a target behavior in order to develop hypotheses regarding the purpose of the target behavior and identify positive changes to be made.

Licensed Independent Clinical Social Worker - An individual who is licensed to practice social work pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1208 *et seq.*) or licensed to practice social work in the jurisdiction where the services are being provided.

Licensed Graduate Social Worker - An individual who is licensed to practice social work pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1208 *et seq.*) or licensed to practice social work in the jurisdiction where the services are being provided.

Licensed Independent Social Worker - An individual who is licensed to practice social work pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1208 *et seq.*) or licensed to practice social work in the jurisdiction where the services are being provided.

Licensed Professional Counselor - An individual who is licensed to practice counseling pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1207 *et seq.*) or licensed to practice counseling in the jurisdiction where the services are being provided.

Mental Health Habilitation Services – Mental health services provided by a Department of Behavioral Health (DBH) certified community mental health provider to consumers to assist consumers in partially or fully acquiring or improving skills and functioning in accordance with the District of Columbia State Medicaid Plan, the DHCF/DBH Interagency Agreement, and Chapter 34 of Title 22-A DCMR.

Positive behavioral support strategies – An alternative to traditional or punitive approaches for managing challenging behaviors that focuses on changing the physical and interpersonal environment and increasing skills so that the person is able to get his/her needs met without having to resort to challenging behavior.

Proactive strategies – Specific interventions such as staff actions or environmental modifications that prevent the occurrence of target behaviors.

Psychiatrist - An individual licensed to practice psychiatry pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1202 *et seq.*) or licensed as a psychiatrist in the jurisdiction where the services are being provided.

Psychologist - An individual licensed to practice psychology pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1202 *et seq.*) or licensed as a psychologist in the jurisdiction where the services are being provided.

Registered Nurse - An individual who is licensed to practice nursing pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1202 *et seq.*), or licensed to practice nursing in the jurisdiction where the services are being provided.

Sensorimotor - Functioning in both sensory and motor aspects of bodily activity.

Target behavior - The challenging behaviors to be addressed by staff.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**NOTICE OF FINAL RULEMAKING****AND****Z.C. ORDER NO. 14-22****Z.C. Case No. 14-22****Office of Planning****(Text and Map Amendment to Create and Implement the Walter Reed (WR) Zone)****July 27, 2015**

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2012 Repl.)), hereby gives notice of adoption of the following text and map amendments to the Zoning Regulations of the District of Columbia. The amendments create and implement the WR zone. A Notice of Proposed Rulemaking was published in the *D.C. Register* on June 26, 2015, at 62 DCR 9006. The amendment shall become effective upon the publication of this notice in the *D.C. Register*.

Description of Amendment

The amendments create and implement the WR zone, which allows mixed-use development on the former Walter Reed site (Site), including development ranging from moderate to high density. The WR zone will have eight (8) subzones and will be mapped on the portion of the Site that is to be transferred to the District of Columbia. The entire Site is located in Northwest, Washington and is bounded by Georgia Avenue on the east, Aspen Street on the south, 16th Street on the west, Alaska Avenue on the northwest, and Fern Street on the north.

The text amendments include references to existing streets and to proposed streets identified in the Walter Reed Medical Center Small Area Plan (SAP), as approved by the Walter Reed Army Medical Center Small Area Plan Approval Resolution of 2013, effective September 13, 2013, Res 20-0105 (60 DCR 12813).

Procedures Leading to Adoption of Amendment

On November 21, 2014, the Office of Planning (OP) submitted a memorandum that served as a petition requesting amendments to the Zoning Regulations and Map. (Exhibit [Ex.] 1.) Pursuant to the United States Defense Department's Base Realignment and Closure process, approximately sixty-six (66) acres of land on the Walter Reed campus will be transferred to the District. As part of this land disposition process, the federal government required the completion of a Base Reuse Plan by the Local Redevelopment Authority, which, in this case, is the District Government acting through the Office of the Deputy Mayor for Planning and Economic Development (DMPED). Concurrently, OP developed the SAP in conjunction with the community to satisfy local requirements for land use planning and zoning implementation. This planning process involved a number of public meetings and workshops to solicit community input regarding the Site's future use and design. The SAP was approved by the Council of the District of Columbia on April 30, 2013, and it focuses on four main goals: integrating the Site

with the community; providing a mix of uses; creating new jobs and revenue for the District; and activating the Site. Along with the petition, OP submitted a draft of the proposed regulations, which included alternative height and story maximums and rear yard setbacks for the WR-1 zone, shown in bold text below: (Ex. 2.)

| | Height (max.) | Stories (max.) | Rear Yard Setback (min.) |
|---------------------------------------|----------------------------|----------------------|---------------------------------------|
| Lots with any frontage on Fern Street | 40 ft. [alt. 50] | 3 [alt. 4] | None required [alt. 20 ft.] |
| Any other lot | 45 ft. [alt. 55] | 4 [alt. 5] | None required [alt. 20 ft.] |

The proposed regulations also included an alternative version of § 3530.3 providing that parallel parking spaces on private streets would count toward the overall parking cap imposed on the WR Zone District.

At a regularly scheduled and properly noticed public meeting on December 8, 2014, the Commission voted to set down the requested amendments as a rulemaking case. A Notice of Public Hearing was published in the *D.C. Register* on January 2, 2015 at 62 DCR 41.

On February 23, 2015, OP submitted a report providing updates on the proposed amendments following setdown, which included proposing the version of § 3530.3 that would not consider parking on private streets as counting toward the Site’s parking cap. (Ex. 9A, 9B.) OP stated that it was continuing to work with DMPED and the Office of the Attorney General (OAG) to refine the language of the text amendments, as well as making additional substantive changes to the proposed regulations. In response to concerns raised by the Commission regarding the affordable housing requirements for the Site, OP stated that it had requested that DMPED address these concerns and provide additional information regarding the land disposition process and affordable housing commitments made by the selected developer.

On February 24, 2015, the District Department of Transportation (DDOT) submitted a report. (Ex. 10.) DDOT stated that, as part of the SAP process, a transportation analysis had been performed to identify impacts and various possible mitigations focused on transportation demand management. DDOT stated that it understood these mitigations to be required as part of the land disposition agreement with the Site’s developer. DDOT also addressed automobile and bicycle parking and loading issues in its report. DDOT stated no objection to the proposed WR zone, conditioned upon implementation of the mitigations identified in its Comprehensive Transportation Review for the Site and performance monitoring plan.

In response to notice given pursuant to § 13 of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10 (2014 Repl.)), the Commission received written reports from Advisory Neighborhood Commissions (ANC) 4A and 4B.

ANC 4A submitted its report on April 2, 2015. (Ex. 18.) At a meeting on March 3, 2015, ANC 4A voted, with a quorum present, 4-2-1 to adopt a resolution generally in support of the proposed amendments, noting specific issues and recommendations. The ANC stated that it opposes any changes made to the zoning plan for the Site without consultation with the affected ANCs and the community, and that the roles of the ANCs and WR Community Advisory Committee should be clearly defined in the WR zoning plan. The ANC also stated that it is strongly opposed to development similar to that at the corner of Military Road and Connecticut Avenue, N.W. ANC 4A stated that it opposes allowing vehicular access at the Site's future 13th Street, preferring that only pedestrian and bicycle access be permitted there and that vehicular access be limited to 12th Street.¹ ANC 4A stated that it is concerned with rush hour commuter traffic using 12th and 13th Streets and that it is willing to have the gate located at 13th Street and Fern Street reopened as a compromise.

ANC 4A also stated that it was focused on ensuring the compatibility of the proposed zoning with the surrounding neighborhoods. The ANC addressed each of the three main frontages of the Site specifically:

Fern Street. In order to ensure that the Site's development reflects the heights and view corridors of homes on the existing north side of Fern Street, the ANC recommended that townhome strings be limited to no more than four (4) units long, with minimum side yard requirements, as well as a minimum front yard requirement of twenty feet (20 ft.). Due to the steep decline in elevation from the north to the south in this area of the Site, the ANC supports allowing four (4)-story townhomes with a roof structure and deck, as long as roof heights are compatible with those currently on Fern Street. ANC 4A also recommended that market rate homes on Fern Street be required to have a minimum size of two-thousand square feet (2,000 sq. ft.). The ANC also requested that there be rear yard and setback requirements for the townhomes to facilitate sustainability measures, such as trees and storm water management.

Georgia Avenue. ANC 4A supports the proposed height limitations, setbacks, and designated open areas for this area of the Site. The ANC also stated that it cares deeply about protecting the mature trees along Georgia Avenue and strongly supports the no-build areas shown in OP's plans for proposed Land Bay F.

Aspen Street. The ANC stated that it is important that the existing homes across from the Site on Aspen Street are not dwarfed or overshadowed by the proposed new building. The ANC stated that it heard significant concerns from residents regarding the corner of 16th Street and Aspen Street, requesting the following: that proposed development be set back from 16th Street by at least the same amount as other buildings on adjacent blocks; that there be sufficient open space along Aspen Street so that new development does not

¹ Although ANC 4A's resolution states that it is opposed to vehicular access on 12th Street, as opposed to 13th Street, the testimony submitted by ANC Commissioner Stephen Whatley on behalf of the ANC clarifies that the ANC actually prefers access to be limited for 13th Street. (Ex. 18.) Further, this resolves an internal inconsistency in the ANC's recommendation, which also requests that vehicular access be permitted for 12th Street.

tower over the townhomes across the street; that the parcel be treated in deference to its location near Rock Creek Park; and that the permitted height for the development be similar to the scale of existing Building 11 on the site (called Delano Hall). Additionally, the ANC stated that some residents prefer that this area be open space, but that this was not envisioned in the SAP. However, ANC 4A noted that it had requested that OP restrict height and setback for this area, and that OP had reduced the development potential for the WR-8 zone from that provided in the SAP.

With respect to the “Town Center” proposed for the WR-2 zone, ANC 4A stated strong support for bringing new retail to this area of the Site, especially an anchor grocery store. The ANC further supports the height and story restrictions for this area. Additionally, as to the affordable housing commitment made by the Site’s developer — four hundred and thirty-two (432) affordable units distributed across varying levels of affordability — the ANC recommended that that commitment be included as a contractual obligation, be spread throughout the Site, and be targeted to seniors, veterans, teachers, firefighters, police officers, and artists.

Lastly, ANC 4A requested that parking be required for every residential unit and that parking spaces on private streets not be counted toward the total number of spaces required at the site. Additionally, ANC 4A recommended that the Site’s developer be required to provide additional services, such as electric car charging stations, parking for car sharing services, and expanded parking capacity for persons with disabilities.

On April 23, 2015, ANC 4B submitted a report on the proposed amendments. (Ex. 29.) At a properly noticed meeting on April 22, 2015, the ANC voted, with a quorum present, 9-0-1 to adopt a resolution in support of the proposed amendments. The ANC specifically noted its support for the area restrictions proposed in the regulations, as well as the affordable housing commitment made by the Site’s developer. The ANC also recommended that parking be available for every residential unit and that parking spaces on private streets not be counted toward the total number of required spaces at the Site. Additionally, the ANC stated that the Site’s developer should be required to provide additional transportation services, such as electric car charging stations, parking for car sharing services, and parking capacity for persons with disabilities.²

On April 2, 2015, the Commission held a public hearing on the proposed amendments, at which it heard testimony from representatives from the following: OP; DMPED; Hines-Urban Atlantic-Triden, the Master Development team for the Site; ANCs 4A and 4B; several non-profit organizations that are Notice of Interest users of the Site; the Shepherd Park Citizens Association; and several District residents.

On May 4, 2015, OP submitted a supplemental report responding to requests by the Commission for additional information as to various issues. (Ex. 31.) OP reiterated that the proposed

² ANC 4B also submitted an earlier report on February 24, 2015. (Ex. 11.) However, at the Commission’s April 2, 2015, public hearing, the ANC requested permission to submit a report revising its recommendations. Accordingly, the Commission only considers the issues and concerns raised in ANC 4B’s second report.

amendments were not inconsistent with the SAP approved by the Council, including the detailed Future Land Use Map. OP discussed potential alternatives for rowhouse layouts in the WR-1 zone, specifically possible rear yard requirements. Additionally, OP stated that, based on Commission feedback, it had revised the proposed text to allow five (5) permanent structures in the WR-6 zone, the placement and design of which would be governed by the Historic Preservation Review Board (“HPRB”).

In its supplemental report, OP also addressed ANC 4A’s comments and recommendations on the following issues:

Zoning. OP stated that, as with any change to the Zoning Regulations or Map, future amendments to the WR zone would require a full public hearing before the Commission and, thus, ensure consideration of ANC and community input. With respect to the ANC’s opposition to development similar to that at the corner of Military Road and Connecticut Avenue, N.W., OP stated that the referenced development was built in conformance with the R-5-D zone. OP stated that, consistent with the SAP, the proposed WR-2 zone would have permitted similar height and density as the R-5-D zone, and such development would be located in the center of the Site and would be separated from existing development by lower scale buildings. With respect to vehicular access on 13th Street, OP stated that the proposed amendments can neither require nor prohibit the creation of a new 13th Street; rather, the proposal merely utilizes the street network as shown in the SAP. OP noted that streets are established by the Council, independent of zoning.

SAP Siting and Building Size. With respect to ANC 4A’s request that townhome strings on Fern Street be limited to no more than four (4) units long, OP stated that such a building form would be very unusual for District rowhouse neighborhoods and thus, while not prohibited, such arrangement was also not required by the proposed regulations. As to the ANC’s recommendation of minimum front yard requirements, OP noted that properties on the south side of Fern Street have a fifteen foot (15 ft.) building restriction line. On the issue of the height of new townhomes on Elder Street, OP stated that such heights would not be significantly taller in elevation, if at all, than existing homes due to the change in grade across the street. As to the ANC’s request for minimum square footage requirements for market rate homes on Fern Street, OP stated that zoning in the District does not mandate minimum or maximum sizes for residential units, nor does the SAP.

Affordable Housing. OP stated that the proposed regulations would require distribution of affordable housing throughout the Site, but would not prohibit certain populations, such as seniors and homeless veterans, from being served in specific locations.

Transportation. In response to ANC 4A’s recommendation that a parking space be available for every residential unit, OP stated that parking would be limited to three thousand four hundred (3,400) spaces, in conformance to the SAP and Transportation Impact Study. OP stated that those spaces are not assigned to any particular use but that

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the Site's developer would likely dedicate a significant number to residential use. Further, the proposed regulations would not count parking on private streets toward the parking cap as long as those spaces are open to the public and not reserved for a particular use. OP also noted that the proposed regulations do not include the additional services the ANC had requested that the Site's developer be required to provide. OP stated that car-share spaces would not count toward the overall parking cap and that, based on the ANC's comment, § 3530.4 had been amended to also exclude spaces dedicated to charging electric vehicles from the Site's parking cap.

In addition to addressing the issues raised by ANC 4A, OP stated that it recommends maintaining the standard inclusionary zoning language originally proposed and allowing the District's Land Disposition Agreement (LDA) to govern higher quantities of affordable housing, which would provide flexibility. OP also stated, because of a confidentiality agreement, DMPED indicated that it could not provide the Exclusive Rights Agreement for the record.

On May 11, 2015, the Commission held a properly noticed public meeting on the proposed amendments. At the meeting, OP stated that, as to the issue of rear yard requirements in the WR-1 zone, it recommended that there be no minimum requirement. At the conclusion of the public meeting, the Commission voted to take proposed action on the amendments as advertised, with the revisions indicated in OP's reports of February 23, 2015 and May 4, 2015, including the alternative height for the WR-1 zone, as well as OP's recommendation regarding rear yard setback in the WR-1 zone. In addition to proposing the text before them, the Commission asked that an alternative affordable housing provision be published reflecting the commitment made by the Site's developer to set aside four hundred and thirty-two (432) units to be available at specified levels of affordability during the affordability control period.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on June 26, 2015, at 62 DCR 9006. The affordable housing alternative requested by the Commission appeared as an alternative version of § 3540. That alternative also provided the percentages of the affordable units that will remain affordable after the expiration of the initial control period.

In response to the Notice of Proposed Rulemaking, the Commission received written comments from the Shepherd Park Citizens Association (Ex. 35); the Committee of 100 (Ex. 37); two District residents (Ex. 38); and TPWR, LLC, a joint venture of Hines-Urban Atlantic-Triden, which is the Master Development team for the Site (Ex. 36). Comments from the citizens groups and the two residents generally expressed that the proposed area requirements for the Site allow for too much density and do not reflect the SAP. The comments also requested more specific parking provisions. Additionally, community comments noted that the amendments allow development with a density similar to that permitted in a planned unit development (PUD), but without requiring the developer to provide public benefits in return or receive ANC and community input, as is required for a PUD. Lastly, the comments requested that the regulations include greater requirements for affordable housing.

Comments from the Master Development team stated support for the alternative heights for the WR-1 zone and the more specific alternative for affordable housing requirements under § 3540.

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The Master Development team also requested that § 3540.8 be modified to require that affordability requirements after the initial control period be imposed on a site-wide basis, rather than imposing those requirements on each multifamily development, building-by-building.

The proposed text was also referred to the National Capital Planning Commission (NCPC) pursuant to § 492 of the District's Home Rule Act. In a letter dated June 10, 2015, the Executive Director of NCPC informed the Commission that, at its June 4, 2015 meeting, the NCPC found that the proposed text and map amendments are not inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.

On July 17, 2015, OP submitted a final report that attached the alternative version of § 3540 as published in the Notice of Proposed Rulemaking except for a minor revision to reflect that the initial control period would be established for each building through a separate affordability covenants rather than by the LDA as had been indicated in the notice. (Ex. 34.) In response to the Commission's request at the May 11, 2015 hearing to address the compatibility of the proposed WR-8 zone with the surrounding neighborhood, OP stated that the proposed stepback requirement would ensure that development would not unduly impact existing houses.

At its regularly scheduled public meeting on July 27, 2015, the Commission considered taking final action on the proposed regulations. With respect to the height alternatives for the WR-1 zone, the Commission decided to adopt the proposed alternative, except to permit a maximum height of forty-five feet (45 ft.) for lots with frontage on Fern Street, rather than the proposed fifty-feet (50 ft.). The Commission found this height to be more compatible with the existing houses on Fern Street. As to the affordable housing provisions, the Commission decided to adopt the proposed alternative that specifies the number of affordable units to be provided and their varying levels of affordability, rather than making the WR zone subject to the Inclusionary Zoning provisions in Chapter 26 of the Zoning Regulations. The Commission determined that adopting the alternative would more accurately reflect the commitment made by the Site's developer to provide a greater number of affordable units at deeper levels of affordability.

The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2014 Repl.)) to give great weight to issues and concerns raised in the affected ANC's written recommendation. Great weight requires acknowledgement of the ANC as the source of the recommendations and explicit reference to each of the ANC's concerns. The written rationale for the decision must articulate with precision why the ANC does or does not offer persuasive evidence under the circumstances. In doing so, the Commission must articulate specific findings and conclusions with respect to each issue and concern raised by the ANC. (*See* D.C. Official Code § 1-309.10(d)(3)(A) and (B).)

Here, ANC 4A and 4B indicated general support for the proposed amendments, while also noting specific issues and recommendations. The Commission finds persuasive OP's report of May 4, 2015, which addressed in detail each of the issues that the ANCs raised. (Ex 31.) The Commission agrees with OP that development in the WR zone that is of the same scale and size as that at the corner of Military Road and Connecticut Avenue, N.W. would, pursuant to the

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SAP, be limited to the WR-2 zone and be sufficiently separated from the surrounding neighborhoods by lower-scale buildings. As to vehicular access on 13th Street, the Commission also agrees that those issues are determined by the Council, not by the Zoning Regulations. The Commission further finds that, with respect to ANC 4A's recommendations regarding the size and setback of buildings, the proposed regulations properly implement the SAP and ensure that future development will be consistent with the scale of the surrounding neighborhoods and will provide appropriate view corridors, as well as space for trees and storm water management. The Commission also finds that the proposed regulations will ensure distribution of affordable housing throughout the Site and, as described in more detail by OP, will provide ample parking for future development, including residential development. The Commission declines to require the Site's developer to provide the additional transportation-related services the ANCs requested, which would be unusual in a rulemaking case establishing a new zone, as opposed to a PUD development in which the developer is required to proffer substantial public benefits in exchange for greater development flexibility.

As to the comments submitted in response to the Notice of Proposed Rulemaking, the Commission finds, for the same reasons just stated, that the WR regulations will be compatible with the surrounding neighborhoods, will implement the SAP, will provide sufficient parking for the site, and will result in the development of a significant number of affordable housing units. The Commission also reiterates that this is not a PUD application requiring a proffer of community benefits and that the community has had significant input in the Site's planning throughout the process of developing the SAP, as well as in the proceedings leading to the adoption of these regulations. With respect to the Master Development team's recommendation that § 3540.8 be modified, the Commission finds this recommendation unpersuasive and chooses to retain the building-by-building requirement proposed by OP.

For the reasons stated above, the Commission concludes that the adoption of the following text amendments is consistent with the best interests of the public and not inconsistent with the Comprehensive Plan for the National Capital.

Title 11 of the District of Columbia Municipal Regulations, ZONING, is amended as follows:

The Zoning Map is proposed to be amended as follows:

Rezone from R-1-B to WR-1 the area described in the metes and bounds descriptions at Exhibit 30 in the record of Z.C. Case No. 14-22 entitled "DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT A.1," "DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT B," and "DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT C," as well as the area of adjacent, actual, or proposed streets as depicted on those descriptions.

Rezone from R-1-B to WR-2 the area described in the metes and bounds descriptions at Exhibit 30 in the record of Z.C. Case No. 14-22 entitled "DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT D" and "DESCRIPTION ASSESSMENT AND

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TAXATION OF PROPOSED LOT E,” as well as the area of adjacent, actual, or proposed streets as depicted on those descriptions.

Rezone from R-1-B to WR-3 the area described in the metes and bounds descriptions at Exhibit 30 in the record of Z.C. Case No. 14-22 entitled “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT A.2,” “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT F,” “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT G.4,” and “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT K.1,” as well as the area of adjacent, actual, or proposed streets as depicted on those descriptions.

Rezone from R-1-B to WR-4 the area described in the metes and bounds descriptions at Exhibit 30 in the record of Z.C. Case No. 14-22 entitled “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT G.1,” “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT G.3,” “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT G.5,” “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT H.1,” “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT H.2,” “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT H.3,” and “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT J.6,” as well as the area of adjacent, actual, or proposed streets as depicted on those descriptions.

Rezone from R-1-B to WR-5 the area described in the metes and bounds descriptions at Exhibit 30 in the record of Z.C. Case No. 14-22 entitled “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT J.8,” “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT J.9,” “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT K.2,” and “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT K.3,” as well as the area of adjacent, actual, or proposed streets as depicted on those descriptions.

Rezone from R-1-B to WR-6 the area described in the metes and bounds descriptions at Exhibit 30 in the record of Z.C. Case No. 14-22 entitled “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT G.2,” “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT G.6,” “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT J.1,” “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT J.7,” and “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT K.4.”

Rezone from R-1-B to WR-7 the area described in the metes and bounds descriptions at Exhibit 30 in the record of Z.C. Case No. 14-22 entitled “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT J.3,” “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT J.4,” and “DESCRIPTION ASSESSMENT AND TAXATION OF PROPOSED LOT J.5,” as well as the area of adjacent, actual, or proposed streets as depicted on those descriptions.

Rezone from R-1-B to WR-8 the area described in the metes and bounds descriptions at Exhibit 30 in the record of Z.C. Case No. 14-22 entitled “DESCRIPTION ASSESSMENT AND

TAXATION OF PROPOSED LOT J.2,” as well as the area of adjacent, actual, or proposed streets as depicted on those descriptions.

Title 11 of the District of Columbia Municipal Regulations, ZONING, is amended as follows:

Chapter 21, OFF-STREET PARKING REQUIREMENTS, § 2101, SCHEDULE OF REQUIREMENTS FOR PARKING SPACES, § 2101.1 is amended to exempt the WR zone from the parking requirements of that chapter, so that the portion of the subsection prior to the appended table reads as follows:

2101.1 On and after May 12, 1958, all buildings or structures shall be provided with parking spaces as specified in the following table, except for buildings and structures located in the StE or the WR zones:

A new Chapter 35, WALTER REED ZONE, is added to read as follows:

CHAPTER 35 – WALTER REED ZONE

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3500 GENERAL PROVISIONS AND PURPOSE AND INTENT (WR)

3500.1 The purposes of the Walter Reed (WR) zones are to:

- (a) Provide for the growth of the former Walter Reed Army Medical Center campus with a broad mix of uses, achieved through the adaptive reuse of existing buildings as well as new construction, as generally indicated in the Comprehensive Plan and as recommended by the planning studies of the area;
- (b) Preserve the unique historic architectural and landscape character of the Walter Reed campus as a resource for the adjacent neighborhoods and the District as a whole;
- (c) Reweave the Walter Reed campus into the physical and social fabric of the adjacent neighborhoods by extending the existing street grid into the WR zone;
- (d) Create a vibrant town center that will provide economic development, employment, and retail opportunities for the District and adjacent neighborhoods;
- (e) Advance sustainability performance with green building techniques and promote innovative energy uses and stormwater management; and
- (f) Accommodate selected uses pursuant to a Base Realignment and Closure Act Notice of Interest process.

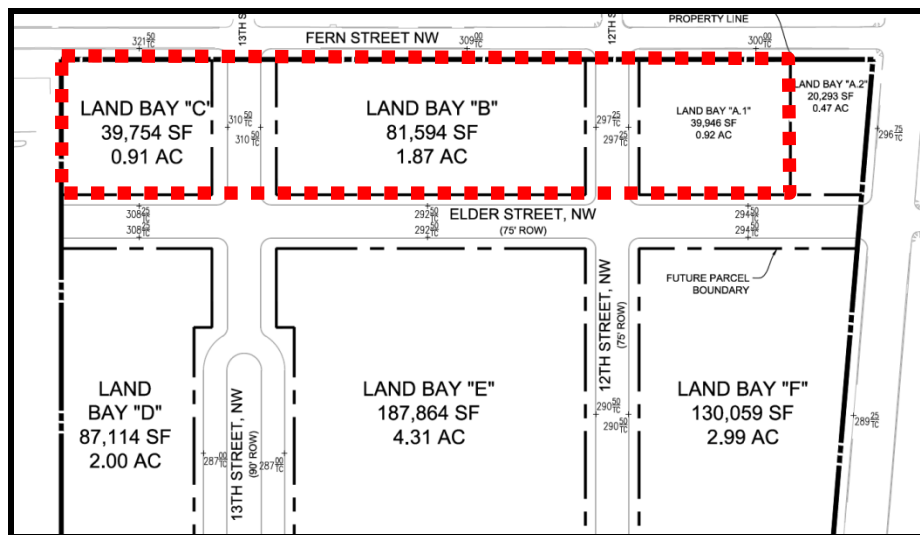
3500.2 This chapter shall constitute the Zoning Regulations for the geographic area described by the plat attached to Z.C. Order No. 14-22. Where there are conflicts between this chapter and other chapters or subtitles of this title, the provisions of this chapter shall govern.

3500.3 The WR zone is divided into the WR-1 through the WR-8 zones. Each zone may have one (1) or more sub-areas, as identified in the Development Standards table for each zone. Each sub-area may be comprised of one (1) or more Land Bays.

3500.4 Land Bays are defined on the plat attached to Z.C. Order No. 14-22.

- 3500.5 Any reference to a street refers to either existing or proposed streets as depicted on the plat attached to Z.C. Order No. 14-22.
- 3500.6 Any reference to a building number refers to the buildings as identified in the Walter Reed Army Medical Center Small Area Plan, adopted by the Council of the District of Columbia, April 30, 2013.
- 3500.7 The area of private rights-of-way shall not be included in the area of any land bay, nor included in the calculation of floor area ratio (FAR).
- 3500.8 In the WR zone, square footage allocated for streetcar related facilities or for the production of energy, such as co- or tri-generation facilities, does not count against FAR maximums.
- 3500.9 In the WR zone, floor area allocated to a covered loading area, whose perimeter is at least seventy-five percent (75%) lined with other uses, does not count against FAR maximums.

3501 WR-1 ZONE



- 3501.1 The WR-1 zone is intended to:
 - (a) Provide for residential development that complements the character of nearby established residential neighborhoods;
 - (b) Transition from the low- to moderate-scale residential uses north of Fern Street to the medium-density commercial and residential uses proposed for south of Elder Street; and

- (c) Discourage driveway access directly from the street to private off-street parking.

3501.2 The development standards for the WR-1 zone are set forth in the following table:

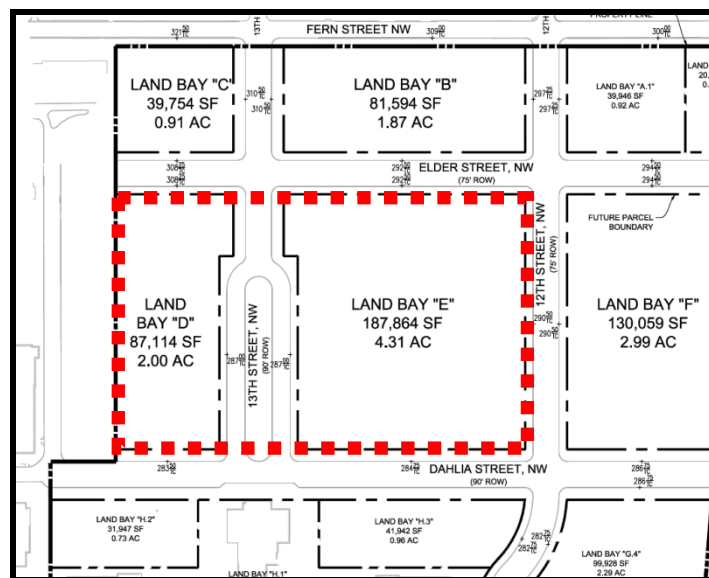
| WR-1 | | | | | | | |
|---|------------------------|------------------|-------------------|----------------------------|-------------------------------|-------------------------------------|--------------------------------|
| Sub-Area (Land Bays A.1, B and C) | Lot Width (min.) | Height (max.) | Stories (max.) | Lot Occupancy (max.) | Pervious Surface (min.) | Side Yard Setback (min.) | Rear Yard Setback (min.) |
| Lots with any frontage on Fern Street | 18 ft. | 45 ft. | 4 | 70% | 10% | None required; 4 ft. if provided | None required |
| Any other lot | 18 ft. | 55 ft. | 5 | 70% | 10% | None required; 4 ft. if provided | None required |

- 3501.3 The maximum number of permitted dwelling units on any lot shall be two (2), which includes both principal and accessory units.
- 3501.4 For any Inclusionary or affordable residential unit that is administered through the Department of Housing and Community Development, the minimum lot width shall be sixteen feet (16 ft.).
- 3501.5 Height shall be measured in accordance with §§ 400.16 through 400.21, except that for any building fronting on Elder Street, the building height measuring point may be established at the finished grade at the middle of the front of the building.
- 3501.6 No building shall be located between Fern and Elder Streets within fifty feet (50 ft.) of the western boundary of the WR zone.
- 3501.7 In the WR-1 zone, no driveway or garage entrance providing access to parking or loading areas shall be permitted from a public or private street.
- 3501.8 In the WR-1 zone, any private driveway shall be constructed of pervious materials. This does not apply to a private alley.
- 3501.9 An addition to a one (1)-family dwelling or flat, or a new or enlarged accessory structure on the same lot as a one (1)-family dwelling or flat, shall be permitted, even though the addition or accessory structure does not comply with all of the requirements of § 3501.2, as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this subsection:
 - (a) The addition or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

- (1) The light and air available to neighboring properties shall not be unduly affected;
 - (2) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;
 - (3) The addition or accessory structure, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage; and
 - (4) In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways;
- (b) The lot occupancy of all new and existing structures on the lot shall not exceed eighty percent (80%); and
- (c) The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties.

3502

WR-2 ZONE



3502.1 The WR-2 zone is intended to:

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- (a) Create a vibrant and pedestrian-oriented commercial and residential center to serve as a housing, commercial, and retail anchor for the Walter Reed campus, adjacent neighborhoods, and the District.
- (b) Promote an engaging streetscape to activate adjacent uses and users;
- (c) Encourage clear visibility of retail uses along 12th Street from Georgia Avenue; and
- (d) Create new passive and active open space amenities to accommodate residential and retail uses.

3502.2 The development standards for the WR-2 zone are set forth in the following table:

| WR-2 | | | | | |
|------------|---------------|----------------|-------------------------|---------------------|--|
| Sub-Area | Height (max.) | Stories (max.) | Floor Area Ratio (max.) | | Residential Lot Occupancy Above the First Two Stories (max.) |
| | | | Total | Non-Residential Use | |
| Land Bay D | 85 ft. | 7 | 2.5 | 1.0 | 80% |
| Land Bay E | 85 ft. | 7 | 3.75 | 1.0 | 80% |

3502.3 The non-residential maximum FAR requirement shall be measured per sub-area, as opposed to per building.

3502.4 Lot occupancy on the first two (2) stories is permitted up to one hundred percent (100%), regardless of use.

3502.5 If less than 3.75 FAR is developed in Land Bay E, excess floor area can be transferred to Land Bay K.1 in the WR-3 zone, or Land Bay F in the WR-3 zone, or Land Bay D in the WR-2 zone, or a combination of those land bays, subject to the requirements of this subsection:

- (a) No more than one hundred fifty thousand square feet (150,000 sq. ft.) of floor area may be transferred in total, of which no more than fifty thousand square feet (50,000 sq. ft.) may be non-residential floor area;
- (b) The maximum total FAR and the maximum non-residential FAR on Land Bay E shall be reduced by the total amount of floor area transferred and the amount of non-residential floor area transferred, respectively;
- (c) The maximum total FAR and the maximum non-residential FAR on the receiving land bays shall be increased by the total amount of floor area

transferred and the amount of non-residential floor area transferred, respectively;

- (d) The allowable building height and lot occupancy on the receiving parcels shall not be increased, but the total FAR and the non-residential FAR of the receiving land bays may be increased to the amounts listed in the following table:

| Land Bay | Maximum FAR (Total) | Maximum FAR (Non-residential uses) |
|----------|---------------------|------------------------------------|
| K.1 | 3.5 | 1.25 |
| F | 2.5 | 1.25 |
| D | 3.5 | 1.25 |

- (e) Before the transfer may occur, the applicant shall record in the Land Records of the District of Columbia a covenant for each property, in a form acceptable to the District, that states the size, in square feet, of Land Bays E, K.1, F, and D, the maximum FAR and non-residential FAR permitted as a matter-of-right for Land Bays E, K.1, F, and D, the total amount of floor area being transferred, the amount of non-residential floor area being transferred, and the resulting maximum FAR and non-residential FAR for both Land Bays E, K.1, F, and D; and
- (f) The applicant for any building permit for Land Bays E, K.1, F, or D shall submit with the permit application the covenant required by sub-paragraph (e) as well as any and all calculations used to derive the matter-of-right and resulting FARs for the land bays.

3502.6

In the WR-2 zone, no less than one hundred percent (100%) of the façade of buildings located along Elder Street, Dahlia Street, 12th Street, and 13th Street shall be built to within ten feet (10 ft.) of the property lines abutting the subject street to a height of not less than twenty-five feet (25 ft.), except that:

- (a) The requirements of this subsection shall not apply to the portions of building façades that front on a plaza located along 12th Street;
- (b) The height requirement of this subsection may be reduced to eighteen feet (18 ft.) if the roof immediately above the eighteen (18)-foot façade is occupied by a public or private outdoor terrace; and
- (c) Relief from the build-to requirements of this subsection may be granted by the Board of Zoning Adjustment as a special exception subject to the requirements of § 3104, provided that the applicant adequately demonstrates that:

- (1) The proposed design meets the intent of creating a streetwall along the street in question; and
- (2) The area set back from the property line does not unduly restrict access by the public by a gate, fence, wall, or other barrier.

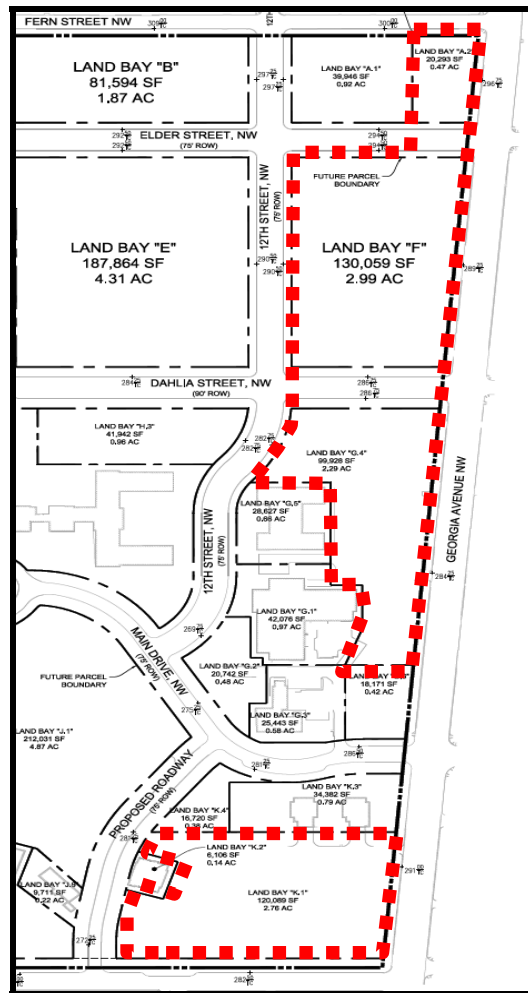
3502.7 In the WR-2 zone, all portions of the ground floor devoted to non-residential uses shall be subject to the following requirements:

- (a) The minimum floor-to-ceiling clear height shall be fourteen feet (14 ft.), except for those spaces within the ground floor of any building devoted to the following uses: mechanical, electrical, and plumbing; storage; fire control; loading; parking; and retail corridors and service corridors;
- (b) The surface of any streetwall or wall fronting on a plaza shall devote at least fifty percent (50%) of the surface area at the ground floor to display windows with clear glass or pedestrian entrances;
- (c) Each non-residential use with frontage on a public street or plaza shall have an individual public pedestrian entrance directly accessible from a sidewalk or plaza upon which the use has frontage;
- (d) Pedestrian entrances or areas where future entrances to non-residential uses could be installed without structural changes shall be located no more than an average distance of forty feet (40 ft.) apart on all façades fronting a public street or plaza;
- (e) On 12th Street, no single non-residential occupancy shall occupy more than one hundred (100) consecutive linear feet of ground-floor building frontage. On other streets, no single non-residential occupancy shall occupy more than fifty (50) consecutive linear feet of ground-floor building frontage; and
- (f) One (1) or more building frontages of a grocery store may be exempt from the requirements of paragraph (e) provided that:
 - (1) The grocery store contains as an ancillary use a café, restaurant or similar use, or a seating area within the grocery store where food and beverages purchased on-site may be consumed;
 - (2) The use described in sub-paragraph (1) is located directly against the subject building frontage;
 - (3) Clear glass allows the plain view of the use from the exterior of the building;

- (4) The use is open to the public at least during normal grocery store hours; and
- (5) In no case shall a single non-residential occupancy occupy more than two hundred (200) consecutive linear feet of ground-floor building frontage on 12th Street or one hundred feet (100 ft.) on any other street.

3503

WR-3 ZONE



3503.1 The WR-3 zone is intended to:

- (a) Provide for moderate- to medium-density commercial and residential development that activates Georgia Avenue frontage through enhanced ground-floor retail opportunities, a more uniform street wall, and publicly accessible plazas;
- (b) Maintain a sensitive scale of development in relation to properties on the east side of Georgia Avenue as appropriate; and
- (c) Preserve existing and encourage new green and open space to activate the site, and to allow for recreation opportunities as appropriate.

3503.2 The development standards for the WR-3 zone are set forth in the following table:

| |
|-------------|
| WR-3 |
|-------------|

| Sub-Area | Height (max.) | Stories (max.) | Floor Area Ratio (max.) | | Residential Lot Occupancy Above the First Two Stories (max.) | Setbacks |
|--------------|---------------|----------------|-------------------------|---------------------|--|--------------|
| | | | Total | Non-Residential Use | | |
| Land Bay A.2 | 70 ft. | 5 | 3.5 | 1.0 | 80% | n/a |
| Land Bay F | See § 3503.3 | 6 | 1.75 | 1.0 | 80% | n/a |
| Land Bay G.4 | 75 ft. | 6 | 3.0 | 1.0 | 80% | n/a |
| Land Bay K.1 | 70 ft. | 5 | 2.75 | 1.0 | 80% | See § 3503.7 |

3503.3 For Land Bay F, the maximum height of buildings or structures shall be sixty (60) feet within one hundred feet (100 ft.) of Georgia Avenue, and seventy-five feet (75 ft.) elsewhere.

3503.4 For Land Bays F, G.4, and K.1, the non-residential maximum FAR requirement shall be measured by sub-area, as opposed to per building.

3503.5 Lot occupancy on the first two (2) stories is permitted up to one hundred percent (100%), regardless of use, and except as limited by § 3503.10.

3503.6 Non-residential uses or building entrances to any use shall occupy one hundred percent (100%) of the ground-floor building façades facing the plaza constructed pursuant to § 3503.10.

3503.7 In Land Bay K.1, any new construction shall be set back no less than twenty feet (20 ft.) from the Aspen Street property line as it exists as of January 1, 2015.

3503.8 In the WR-3 zone, no less than seventy percent (70%) of the façade of buildings located along Fern Street, Elder Street, Dahlia Street, Aspen Street, and Georgia Avenue shall be built to the property lines abutting the subject street right-of-way to a height of not less than twenty-five feet (25 ft.), except that:

- (a) The requirements of this subsection shall not apply to the portions of building façades that front on a plaza established pursuant to § 3503.10;
- (b) The requirements of this subsection shall not apply to portions of building façades that are set back from the right-of-way for the purpose of preserving existing mature trees and for which trees the applicant for a building permit shall provide a permanent plan, approved by the Urban Forestry Administration, for tree maintenance and replacement;
- (c) The height requirement of this subsection may be reduced to eighteen feet (18 ft.) if the roof immediately above the eighteen (18)-foot façade is occupied by a public or private outdoor terrace; and

- (d) Relief from the build-to requirements of this subsection may be granted by the Board of Zoning Adjustment as a special exception subject to the requirements of § 3104, provided that the applicant adequately demonstrates that:
 - (1) The proposed design meets the intent of creating a streetwall along the street in question; and
 - (2) The area set back from the property line does not unduly restrict access by the public by a gate, fence, wall, or other barrier.

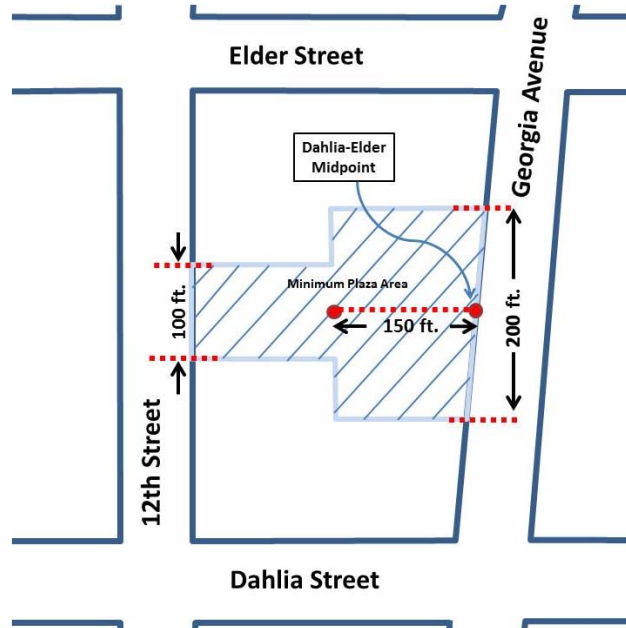
3503.9 In the WR-3 zone, all portions of the ground floor devoted to non-residential uses shall be subject to the following requirements:

- (a) The minimum floor-to-ceiling clear height shall be fourteen feet (14 ft.), except for those spaces within the ground floor of any building devoted to the following uses: mechanical, electrical, and plumbing; storage; fire control; loading; parking; and retail corridors and service corridors;
- (b) The surface of any streetwall or wall fronting on a plaza shall devote at least fifty percent (50%) of the surface area at the ground floor to display windows with clear glass or pedestrian entrances;
- (c) Each non-residential use with frontage on a public street or plaza shall have an individual public pedestrian entrance directly accessible from a sidewalk or plaza upon which the use has frontage; and
- (d) Pedestrian entrances or areas where future entrances to non-residential uses could be installed without structural changes shall be located no more than an average distance of forty feet (40 ft.) apart on all facades fronting a public street or plaza.

3503.10 In Land Bay F, a plaza shall be provided which meets the criteria of this subsection:

- (a) No part of a building above grade shall cover the areas described below, as illustrated in the diagram below. The resulting plaza is the minimum open space, and building façades need not front immediately upon or follow the boundaries of the prescribed open space:
 - (1) The central two hundred feet (200 ft.) of the frontage on Georgia Avenue between Dahlia and Elder Streets to a depth of one hundred fifty feet (150 ft.) west of Georgia Avenue, with the depth measured at the midpoint between Dahlia and Elder Streets and drawn parallel to Dahlia and Elder Streets; and

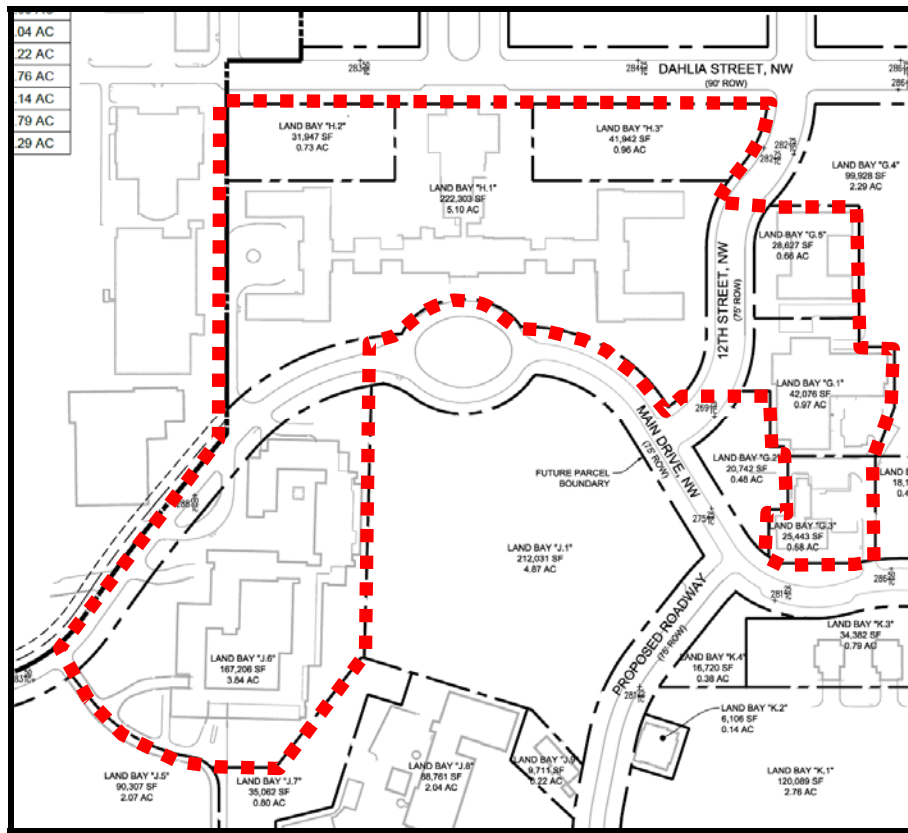
- (2) The central one hundred feet (100 ft.) of frontage on 12th Street between Dahlia and Elder Streets and extending east to connect to the open space described in § 3503.10(a)(1); and



- (b) The open space described in § 3503.10(a) shall constitute a plaza that must:
 - (1) Be open to the sky;
 - (2) Be open and available to the general public on a continuous basis;
 - (3) Be lighted and landscaped;
 - (4) Preserve at least ninety percent (90%) of the existing mature, healthy trees; and
 - (5) Provide at least fifty percent (50%) pervious surface, including any water feature.

3504

WR-4 ZONE



3504.1 The WR-4 zone is intended to:

- (a) Provide for moderate-density commercial and residential development that adaptively reuses and sensitively develops proximate to historic resources; and
- (b) Maintain the campus-like setting of Building 1 and other buildings through preservation of certain nearby open spaces.

3504.2 The development standards for the WR-4 zone are set forth in the following table:

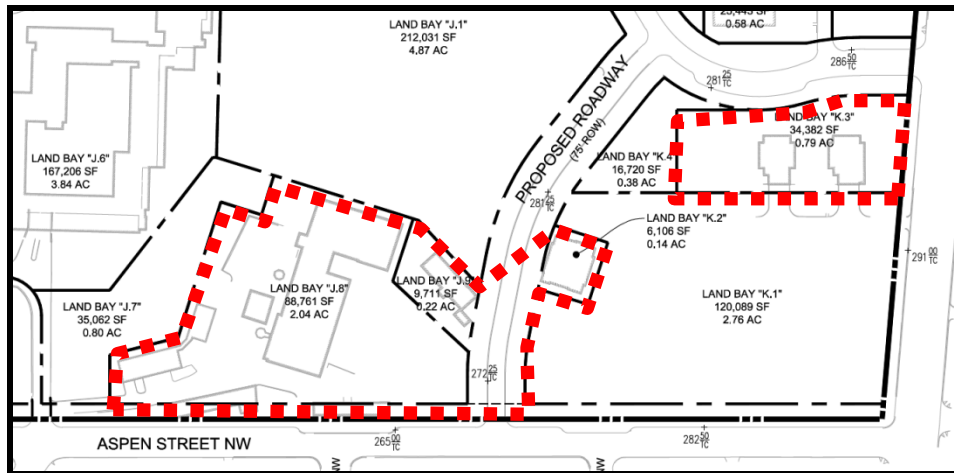
| WR-4 | | | | | |
|-----------------------|---------------|----------------|-------------------------|----------------------|--------------|
| Sub-Area | Height (max.) | Stories (max.) | Floor Area Ratio (max.) | Lot Occupancy (max.) | Setbacks |
| Land Bay H.1 | 40 ft. | 3 | 1.0 | 60% | See § 3504.3 |
| Land Bays H.2 and H.3 | 40 ft. | 3 | 2.0 | 100% | See § 3504.3 |
| Land Bays G.1 and G.5 | 50 ft. | 4 | 1.75 | 75% | n/a |
| Land Bay G.3 | 40 ft. | 4 | 0.9 | 60% | See § 3504.4 |
| Land Bay J.6 | 55 ft. | 4 | 1.15 | 50% | n/a |

3504.3 In Land Bays H.1, H.2, and H.3, no building or portion of a building shall be constructed east of the easternmost point of existing Building 1.

3504.4 In Land Bay G.3, no building or portion of a building shall be constructed south of the southernmost point of existing Building 12.

3504.5 In Land Bay H.3, no surface parking lot is permitted east of the easternmost point of existing Building 1.

3505 WR-5 ZONE



3505.1 The WR-5 zone is intended to:

- (a) Provide moderate-density residential and commercial development that also supports arts and cultural uses; and

- (b) Encourage continuous east/west green connections and passive and active recreation opportunities.

3505.2 The development standards for the WR-5 zone are set forth in the following table:

| WR-5 | | | | | |
|-----------------------|----------------------|-----------------------|-------------------|-----------------------------|-----------------|
| Sub-Area | Height (max.) | Stories (max.) | FAR (max.) | Lot Occupancy (max.) | Setbacks |
| Land Bay K.3 | 50 ft. | 3 | 1.0 | 35% | See § 3505.3 |
| Land Bays J.9 and K.2 | 35 ft. | 2 | 0.75 | 75% | n/a |
| Land Bay J.8 | 35 ft. | 2 | 0.4 | 40% | See § 3505.4 |

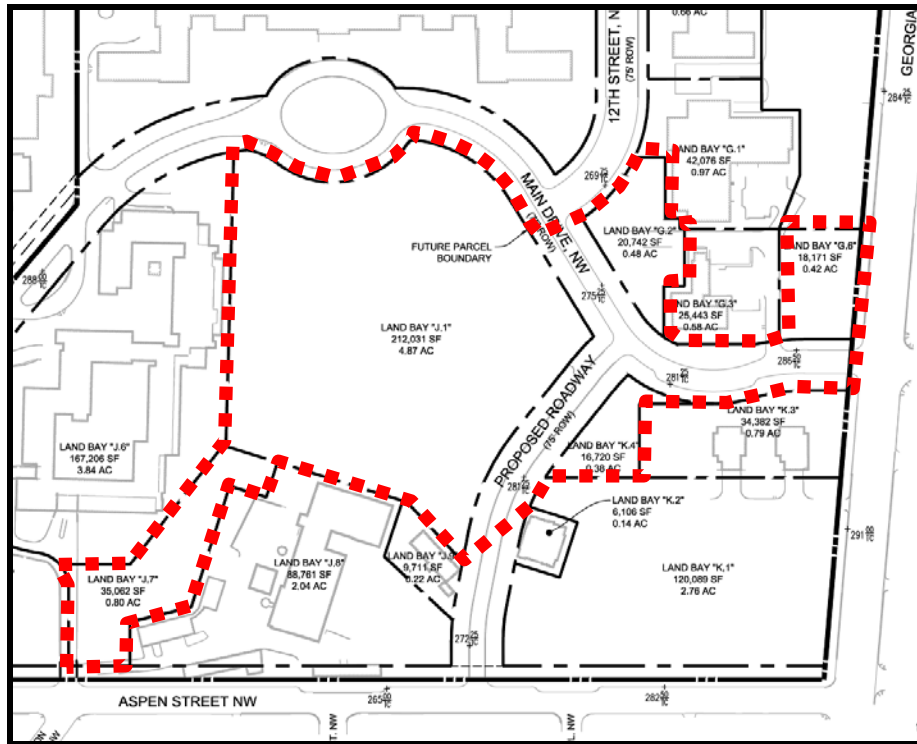
3505.3 In Land Bay K.3, no building or portion of a building shall be constructed north of the northernmost point of existing Buildings 8 or 9, or east of the easternmost portion of Building 8.

3505.4 In Land Bay J.8, any new construction shall be set back no less than twenty feet (20 ft.) from the Aspen Street property line as it exists on January 1, 2015. Existing buildings may be renovated and adaptively reused, even if within the setback area.

3505.5 For new construction in Land Bay J.8, all portions of the ground floor devoted to non-residential uses shall have a minimum floor-to-ceiling height of fourteen feet (14 ft.), except for those spaces within the ground floor of any building devoted to the following uses: mechanical, electrical, and plumbing; storage; fire control; loading; parking; and retail and service corridors.

3506

WR-6 ZONE



3506.1 The WR-6 zone is intended to:

- (a) Preserve the unique character of the Great Lawn and maintain the campus atmosphere at the heart of the historic Walter Reed campus, including the landscaped entrances to the WR zone around Main Drive and East and West Cameron Drives;
- (b) Assure that the Great Lawn’s permanent use is for its primary natural function as well as for enjoyment by the general public; and
- (c) Encourage continuous east/west green connections.

3506.2 The development standards for the WR-6 zone are set forth in the following table:

| WR-6 | |
|---------------------------------------|------------|
| Sub-Area | FAR (max.) |
| Land Bays J.1, J.7, G.2, G.6, and K.4 | 0 |

3506.3 In the WR-6 zone, no new surface parking lots are permitted.

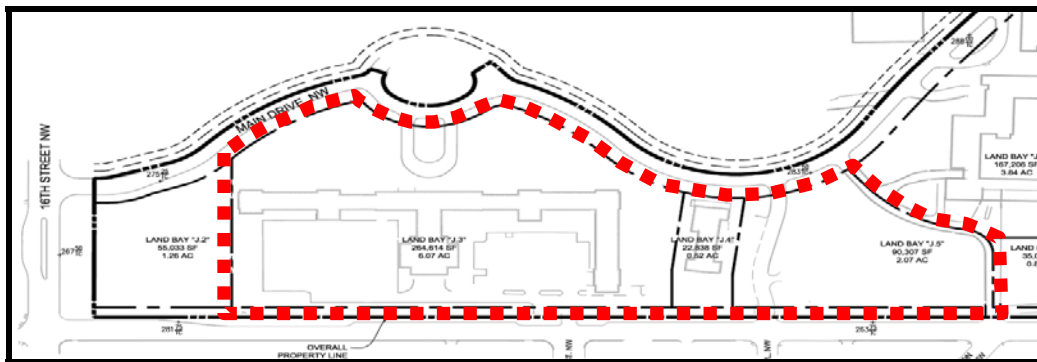
3506.4 Notwithstanding the restriction of § 3506.2, temporary structures may be erected to house any temporary use, subject to the temporary use provisions of § 3591.6.

3506.5 Notwithstanding the restriction of § 3506.2, up to five (5) permanent structures, of no more than four hundred square feet (400 sq. ft.) each, may be constructed for the general purpose of food and beverage sales, or other retail or service use ancillary to the role of the WR-6 as an open space zone. This section shall not imply approval by the Historic Preservation Review Board or any other permitting authority.

3506.6 In Land Bay J.7, a density of 0.5 FAR is permitted for a Parks and Recreation use, or a similar use operated by a non-governmental entity.

3506.7 In Land Bay J.7, any new construction built pursuant to § 3506.5 shall be set back no less than twenty feet (20 ft.) from the Aspen Street property line as it exists on January 1, 2015.

3507 WR-7 ZONE



- 3507.1 The WR-7 zone is intended to:
- (a) Provide medium-density residential development that is sensitive to existing development on the south side of Aspen Street;
 - (b) Encourage adaptive reuse of existing buildings to accommodate, among other uses, institutions; and
 - (c) Encourage open and green space suitable for sustainable infrastructure and amenities as appropriate.

3507.2 The development standards for the WR-7 zone are set forth in the following table:

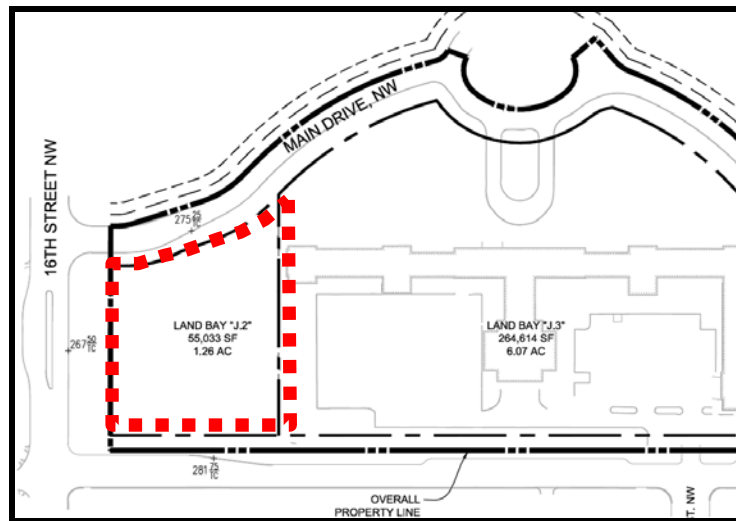
| |
|-------------|
| WR-7 |
|-------------|

| Sub-Area | Height (max.) | Stories (max.) | FAR (max.) | Lot Occupancy (max.) | Setbacks |
|--------------|---------------|----------------|------------|----------------------|------------------------------|
| Land Bay J.5 | 55 ft. | 5 | 1.25 | 50% | See § 3507.3 |
| Land Bay J.4 | 25 ft. | 2 | 1.0 | 50% | See § 3507.3 |
| Land Bay J.3 | 45 ft. | 4 | 0.75 | 40% | See § 3507.3 See § 3507.4 |

3507.3 In the WR-7 zone, any new construction shall be set back no less than twenty feet (20 ft.) from the Aspen Street property line as it exists on January 1, 2015.

3507.4 In Land Bay J.3, no building or portion of a building shall be constructed north of the northernmost point of existing Building 11.

3508 WR-8 ZONE



- 3508.1 The WR-8 zone is intended to:
- (a) Provide medium-density residential development that is sensitive to existing development on the south side of Aspen Street; and
 - (b) Encourage open and green space suitable for sustainable infrastructure and amenities as appropriate.

3508.2 The development standards for the WR-8 zone are set forth in the following table:

| |
|-------------|
| WR-8 |
|-------------|

| Sub-Area | Height (max.) | Stories (max.) | FAR (max.) | Lot Occupancy (max.) | Setbacks |
|--------------|---------------|----------------|------------|----------------------|--------------|
| Land Bay J.2 | See § 3508.3 | 5 | 3.25 | 80% | See § 3508.4 |

3508.3 In the WR-8 zone, the maximum height of buildings or structures shall be as follows:

- (a) Within twenty-five feet (25 ft.) of the setback specified in § 3508.4, fifty feet (50 ft.) above the finished grade at the middle of the Aspen Street building façade; and
- (b) Elsewhere, sixty-five feet (65 ft.) as measured from whichever measuring point is chosen for the building for the purpose of measuring height.

3508.4 In the WR-8 zone, any new construction shall be set back no less than twenty feet (20 ft.) from the Aspen Street property line, as it exists on January 1, 2015.

3509 [RESERVED]

3510 HEIGHT AND ROOFTOP STRUCTURES (WR)

3510.1 For the purposes of applying general zoning requirements of this title:

- (a) The WR-1, WR-7, and WR-8 zones shall be considered Residence zones and shall be subject to § 411; and
- (b) The WR-2, WR-3, WR-4, WR-5, and WR-6 zones shall be considered Mixed Use or Commercial Zones and shall be subject to §§ 770.6-770.9 and 777.

3510.2 In the WR zone, the point chosen for measurement of height shall conform to the other provisions of this title, except that the point may be on either a public or private street.

3511 STREETScape STANDARDS (WR)

3511.1 In all WR zones, all buildings are subject to the following design requirements:

- (a) Façades that front on public or private streets or plazas shall not have blank walls uninterrupted for more than ten feet (10 ft.) by doors, windows, or architectural features that modulate and articulate the building wall planes. Projections permitted into the public right-of-way by other regulations shall satisfy this requirement; and

(b) Security grilles shall have no less than seventy percent (70%) transparency.

3512 USE PERMISSIONS (WR)

3512.1 This table specifies which use groups, defined in § 3590, are permitted by right (P), by right with conditions (C), as a special exception (S), or not permitted (N) within the WR zones as either a principal or accessory use:

| Use Category | ZONE | | | | | | | |
|---|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|------|--------------------------------|--------------------------------|
| | WR-1 | WR-2 | WR-3 | WR-4 | WR-5 | WR-6 | WR-7 | WR-8 |
| Agriculture, large | P | P | P | P | P | P | P | P |
| Agriculture, residential | P | P | P | P | P | P | P | P |
| Animal Sales, Care and Boarding | N | S § 3514.3 | S § 3514.3 | S § 3514.3 | S § 3514.3 | N | N | N |
| Antennas | C § 3513.2 | C § 3513.2 | C § 3513.2 | C § 3513.2 | C § 3513.2 | N | C § 3513.2 | C § 3513.2 |
| Arts Design and Creation | C § 3513.3 | P | P | P | P | P | P | C § 3513.3 |
| Basic Utilities | P | P | P | P | P | P | P | P |
| Chancery | P | P | P | P | P | N | P | P |
| Community-based Institutional Facility | S § 3514.7 | S § 3514.7 | S § 3514.7 | S § 3514.7 | S § 3514.7 | N | S § 3514.7 | S § 3514.7 |
| Daytime Care | C § 3513.5 | C § 3513.6 S § 3514.4 | C § 3513.6 S § 3514.4 | C § 3513.6 S § 3514.4 | C § 3513.6 S § 3514.4 | N | C § 3513.6 S § 3514.4 | C § 3513.6 S § 3514.4 |
| Eating and Drinking Establishments | N | C § 3513.7 S § 3514.5 | C § 3513.7 S § 3514.5 | C § 3513.7 S § 3514.5 | C § 3513.7 S § 3514.5 | P | N | N |
| Education, College/University | N | P | P | P | P | N | C § 3513.8 | N |
| Education, Private | N | P | P | P | P | N | C § 3513.8 | N |
| Education, Public | N | P | P | P | P | N | C § 3513.8 | N |
| Emergency Shelter | C § 3513.4 S § 3514.6 | C § 3513.4 S § 3514.6 | C § 3513.4 S § 3514.6 | C § 3513.4 S § 3514.6 | C § 3513.4 S § 3514.6 | N | C § 3513.4 S § 3514.6 | C § 3513.4 S § 3514.6 |
| Entertainment, Assembly and Performing Arts | N | P | P | P | P | P | N | N |
| Firearm Sales | N | N | N | N | N | N | N | N |
| Government, Large | N | N | N | N | N | N | N | N |
| Government, Local | N | P | P | P | P | N | N | N |

| Use Category | ZONE | | | | | | | |
|---------------------------------------|----------------|----------------|----------------|----------------|----------------|------|----------------|----------------|
| | WR-1 | WR-2 | WR-3 | WR-4 | WR-5 | WR-6 | WR-7 | WR-8 |
| Institutional, General | N | P | P | P | P | N | P | P |
| Institutional, Religious-Based | P | P | P | P | P | P | P | P |
| Lodging | N | P | P | P | P | N | N | N |
| Marine | N | N | N | N | N | N | N | N |
| Medical Care | N | P | P | P | P | N | P | P |
| Motor Vehicle-related | N | S § 3514.8 | S § 3514.8 | S § 3514.8 | S § 3514.8 | N | N | N |
| Office | N | P | P | P | P | N | P | N |
| Parking | C § 3513.9 | C § 3513.9 | C § 3513.9 | C § 3513.9 | C § 3513.9 | N | C § 3513.9 | C § 3513.9 |
| Parks and Recreation | P | P | P | P | P | P | P | P |
| Production, Distribution and Repair | N | N | N | N | N | N | N | N |
| Residential | P | P | P | P | P | N | P | P |
| Retail | C § 3513.10 | P | P | P | P | P | C § 3513.10 | C § 3513.10 |
| Service, Financial | N | P | P | P | P | N | N | N |
| Service, General | N | C § 3513.11 | C § 3513.11 | C § 3513.11 | C § 3513.11 | N | N | N |
| Sexually-based Business Establishment | N | N | N | N | N | N | N | N |
| Transportation Infrastructure | P | P | P | P | P | P | P | P |
| Waste-related Services | N | N | N | N | N | N | N | N |

3512.2 For the purposes of the WR zone, a community garden or playground managed by a non-profit organization or homeowners’ association shall be considered a use in the Parks and Recreation use group provided the community garden or playground is open to the public.

3512.3 A Home Occupation use, including a business, profession, or other economic activity, which is conducted full-time or part-time in a dwelling unit that serves as the principal residence of the practitioner, shall be permitted subject to the following conditions:

- (a) The home occupation use shall comply with the requirements of § 203 of this title; and
- (b) The home occupation use is not within a dwelling unit in an accessory building.

A home occupation use not meeting all of the above conditions may be permitted as a special exception by the Board of Zoning Adjustment under § 3104 of this title.

3513 CONDITIONAL USES (WR)

3513.1 The following conditions shall apply to the By Right with Conditions (C) uses in § 3512.

3513.2 Antennas shall be permitted subject to the standards and procedures that apply to the particular class of antenna in Chapter 27 of this title, which shall be applied to the WR zone as follows:

- (a) The WR-1, WR-7, and WR-8 zones shall be considered Residential/R zones; and
- (b) The WR-2, WR-3, WR-4, WR-5, and WR-6 zones shall be considered as C-2-A zones.

3513.3 An Arts Design and Creation use shall be permitted if it is clearly incidental to and accessory to the primary residential use, and subject to the following:

- (a) The practitioner of the Arts Design and Creation use must reside on the premises;
- (b) All operations and storage of materials shall occur inside the building;
- (c) Incidental sales of art work or other craft produced on site shall be permitted within the dwelling; and
- (d) The practitioner may teach the art to one (1) or more apprentices.

3513.4 An Emergency Shelter for one (1) to four (4) persons shall be a matter-of-right use. An Emergency Shelter for more than four (4) persons may be permitted as a Special Exception pursuant to § 3514.6.

3513.5 In the WR-1 zone, Daytime Care uses shall be permitted by right subject to the following conditions:

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver; and
- (b) The use otherwise shall meet the definition of a home occupation.

3513.6 Daytime Care uses shall be permitted by right subject to the following conditions in the WR-2, WR-3, WR-4, WR-5, WR-7, and WR-8 zones:

- (a) A Daytime Care use is permitted by right for no more than twenty-five (25) persons not including resident supervisors or staff and their families;
- (b) Any outdoor play area shall be located on the same lot as the Daytime Care use; and
- (c) Daytime Care uses not meeting the above conditions may be permitted by special exception subject to § 3514.4 and the special exception criteria of § 3104.

3513.7 All Eating and Drinking Establishment uses shall be permitted by right except that:

- (a) A drive-through shall not be permitted; and
- (b) Fast Food Establishments and a Fast Food Establishment that meets the definition of a Food Delivery Services may be permitted by special exception pursuant to § 3514.5 and if approved by the Board of Zoning Adjustment as a special exception under § 3104.

3513.8 Education (Public, Private, College/University) uses shall be permitted in the WR-7 zone only on Land Bay J.3.

3513.9 Parking shall be permitted by right provided that all off-street parking is provided in compliance with the provisions of § 3530;

3513.10 A sale in the nature of a yard sale, garage sale, or home sales party may be held at a dwelling unit at most four (4) times during a twelve (12) month period.

3513.11 Service, General uses shall be permitted by right provided that a laundry or dry cleaning facility shall not exceed two thousand five hundred square feet (2,500 sq. ft.) of gross floor area.

3514 SPECIAL EXCEPTION USES (WR)

3514.1 The uses listed as requiring special exception approval (S) in § 3512 shall be permitted in a WR zone if approved by the Board of Zoning Adjustment pursuant to § 3104 and subject to the provisions of this section.

3514.2 The Board of Zoning Adjustment may impose additional requirements pertaining to design, appearance, screening, lighting, location of buildings, soundproofing, hours of operation or other aspects of the proposed use that the Board of Zoning Adjustment deems necessary to protect adjacent or nearby property.

3514.3 Animal Sales, Care, and Boarding shall be subject to the following conditions:

- (a) The use shall produce no noise or odor objectionable to nearby properties, including residential units located in the same building as the use, and shall utilize industry standard sound-absorbing materials, such as acoustical floor and ceiling panels, acoustical concrete and masonry, and acoustical landscaping;
- (b) The applicant shall demonstrate that the use will comply with the following conditions, and any Board of Zoning Adjustment approval shall be subject to the use's continued compliance with these standards:
 - (1) The use shall take place entirely within an enclosed building;
 - (2) The windows and doors of the space devoted to the animal boarding use shall be kept closed;
 - (3) No animals shall be permitted in an external yard on the premises;
 - (4) Animal waste shall be placed in closed waste-disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly; and
 - (5) Odors shall be controlled by means of an air filtration system (for example, High Efficiency Particulate Air "HEPA" filtration) or an equivalently effective odor control system;
- (c) A veterinary boarding hospital may board any animal permitted to be lawfully sold in the District of Columbia, pursuant to D.C. Official Code § 8-1808(h)(1); and
- (d) The Board of Zoning Adjustment may impose additional requirements pertaining to the location of buildings or other structures; entrances and exits; buffers, barriers, and fencing; soundproofing; odor control; waste storage and removal (including frequency); the species and/or number and/or breeds of animals; or other requirements, as the Board of Zoning Adjustment deems necessary to protect adjacent or nearby property.

3514.4 Daytime Care uses not meeting the conditions of § 3513.6 shall be permitted by special exception, subject to the following conditions:

- (a) The facility shall be located and designed to create no objectionable traffic condition and no unsafe condition for picking up and dropping off persons in attendance; and
- (b) Any off-site play area shall be located so as to not endanger individuals traveling between the play area and the center or facility.

3514.5 Fast Food Establishment and a Fast Food Establishment that meets the definition of a Food Delivery Services shall be permitted by special exception, subject to the following conditions:

- (a) No part of a lot on which a fast food establishment or food delivery business is located shall be within twenty-five feet (25 ft.) of a residential zone, including WR-1, WR-7, and WR-8, unless separated therefrom by a street or alley;
- (b) Any outdoor refuse dumpsters shall be housed in a three (3)-sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater, with the entrance to the enclosure including an opaque gate;
- (c) The use shall not include a drive-through;
- (d) There shall be no customer entrance in the side or rear of a building that faces an alley containing a zone boundary line for a residential zone;
- (e) There shall be adequate facilities to allow deliveries to be made and trash to be collected without obstructing public rights-of-way or unreasonably obstructing parking spaces, aisles, or driveways on the site;
- (f) The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation; and
- (g) The use shall be located and designed so as to create no dangerous or other objectionable traffic conditions.

3514.6 Emergency Shelter use for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the following conditions:

- (a) There shall be no other property containing an emergency shelter for seven (7) or more persons either in the same square or within a radius of five hundred feet (500 ft.) from any portion of the property;
- (b) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility;
- (c) The proposed facility shall meet all applicable code and licensing requirements;
- (d) The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area;

- (e) The Board of Zoning Adjustment may approve more than one (1) emergency shelter in a square or within five hundred feet (500 ft.) only when the Board of Zoning Adjustment finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations; and
- (f) The Board of Zoning Adjustment may approve a facility for more than twenty-five (25) persons, not including resident supervisors or staff and their families, only if the Board of Zoning Adjustment finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and if there is no other reasonable alternative to meet the program needs of that area of the District.

3514.7 Community-based Institutional Facilities (CBIF) for one (1) to twenty (20) persons, not including resident supervisors or staff and their families subject to the following conditions:

- (a) There shall be no other property containing a CBIF for seven (7) or more persons in the same square;
- (b) There shall be no other property containing a CBIF for seven (7) or more persons within a radius of five hundred feet (500 ft.) from any portion of the subject property;
- (c) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility;
- (d) The proposed facility shall meet all applicable code and licensing requirements;
- (e) The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area; and
- (f) The Board of Zoning Adjustment may approve more than one (1) community-based institutional facility in a square or within five hundred feet (500 ft.) only when the Board of Zoning Adjustment finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.

3514.8 All motor vehicle related uses are prohibited except motor vehicle sales, which may be permitted by Special Exception subject to the following conditions:

- (a) There shall be no outdoor storage of vehicles;

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- (b) The surface of any streetwall or wall fronting on a plaza shall devote at least fifty percent (50%) of the surface area at the ground floor to display windows with clear glass or pedestrian entrances;
- (c) Vehicular access into the showroom shall be through a moveable glass façade, or through an internal ramp or elevator from an underground garage;
- (d) If vehicular access into the showroom is from the street through a moveable façade, the applicant shall submit a plan showing the area external to the building, including landscaping, hardscape, the method by which vehicles shall be transferred into the showroom, and where any necessary delivery trucks shall unload and park. The Board of Zoning Adjustment shall find that the loading activities shall not unduly impact pedestrian movement outside the building, or negatively impact the streetscape, including street trees and street furniture. If the use fronts on a public street, approval under this section shall not imply approval by the Public Space Committee or any other permitting authority;
- (e) Any repair of vehicles shall occur inside the building in a location not visible from the right-of-way; and
- (f) The Board of Zoning Adjustment shall find that the use does not impair the overall pedestrian or retail environment of the neighborhood.

3515 PROHIBITED USES (WR)

3515.1 In addition to the use groups listed in the table in § 3512 as not permitted, the following uses are prohibited in the WR zone as both principal and accessory uses:

- (a) Drive-through or drive-in, as either a principal or accessory use;
- (b) Any establishment that has as its principal use the administration of massages; and
- (c) Self-service storage establishment that provides separate storage areas for individual or business uses.

3515.2 Any use not listed in the table in § 3512 as permitted by right or otherwise permitted by conditions, special exception, or as an accessory or home occupation in this section/chapter shall be deemed to be not permitted unless determined by the Zoning Administrator to be compatible with like permitted uses and consistent with the general use impacts of permitted uses.

3616-3529 [RESERVED]

3530 AUTOMOBILE PARKING (WR)

- 3530.1 The cumulative total of all automobile parking spaces, including below-grade, surface, and above-grade structured parking, shall not exceed a total of three thousand four hundred (3,400) parking spaces.
- 3530.2 Each application to the Department of Consumer and Regulatory Affairs for a development that includes parking shall provide an accounting of the total number of parking spaces within the WR zone which count towards the parking space limit of § 3530.1.
- 3530.3 Parallel parking spaces on a private street shall not count toward the limit of § 3530.1, provided they are open to use by the public and not reserved for a particular or private use.
- 3530.4 Parking spaces dedicated for use by a car-sharing service or dedicated for the charging of electric vehicles shall not count toward the limit of § 3530.1.
- 3530.5 Additional parking spaces beyond the limit of § 3530.1 shall be permitted by special exception by the Board of Zoning Adjustment pursuant to § 3104 and provided that the applicant addresses compliance with the following standards:
- (a) The application shall include:
 - (1) A detailed accounting of the existing and proposed number and locations of parking spaces provided pursuant to § 3530.1;
 - (2) A traffic study assessing the impacts of the proposed additional parking spaces that would, at a minimum, include an updated trip generation study, parking occupancy study for the entire site, and impacts on local traffic patterns, for referral to and comment by the District Department of Transportation (DDOT). The parameters of the analysis shall be outlined by DDOT prior to the application; and
 - (3) A transportation demand management (TDM) plan, for referral to and comment by DDOT. The parameters of the analysis shall be outlined by DDOT prior to the application; and
 - (b) Vehicular access and egress to the additional parking will be located and designed so as to encourage safe and efficient pedestrian movement, minimize conflict with principal pedestrian ways, function efficiently, and create no dangerous or otherwise objectionable traffic conditions.

- 3530.6 For any application pursuant to § 3530.5:
- (a) The Board of Zoning Adjustment shall judge, balance, and reconcile the need for additional on-site parking against any adverse impacts the presence of the parking will have on traffic, and the aesthetics and development of the surrounding neighborhood; and
 - (b) The Board of Zoning Adjustment may impose requirements pertaining to design, appearance, signs, massing, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the WR zone.
- 3530.7 Parking spaces need not be located on the same lot as the building or buildings they are intended to serve, but must be located within the WR zone.
- 3530.8 Parking spaces may be shared among more than one (1) use, whether the uses are on the same lot or on separate lots. A parking space that is shared among more than one (1) use shall be subject to the following conditions:
- (a) The parking space and the uses shall all be within the WR zone;
 - (b) The parking space shall not serve as required parking for any other use during the days and times each use the space serves is in operation;
 - (c) A written agreement assigning the parking space to each use, stating compliance with § 3530.8(b), shall be signed by the owner of the parking space and the owner of each use requiring the parking space;
 - (d) The final, original written agreement shall be filed with the Zoning Administrator prior to the issuance of the first certificate of occupancy for the use;
 - (e) Any amendment or successor agreement must be filed no later than ten (10) days following execution by the parties; and
 - (f) The Zoning Administrator shall maintain a file of all written agreements and amendments for each lot containing a parking space shared between multiple uses and for the lots sharing the parking space.
- 3530.9 Parking spaces shall not be located between a street right-of-way line and the more restrictive of either a building façade or a line extending from and parallel to a building façade. A building used solely as a parking attendant shelter shall not trigger this restriction. Notwithstanding the restriction of this subsection, the existing surface parking lot south of Building 11 may remain, but shall not be expanded in size.

- 3530.10 Parking spaces within an above-grade structure shall be lined with preferred uses on the ground and second floors to a depth of fifteen feet (15 ft.) minimum, except the portions of the building façade used for vehicular, bicycle, or pedestrian access to the parking area. For the purposes of this subsection, preferred uses shall include any use from the Arts Design and Creation; Eating and Drinking Establishments; Office; Residential; Retail; Service, General; and Service, Financial use groups.
- 3530.11 All parking spaces, other than mechanical parking spaces, shall be accessible at all times from a driveway accessing either an improved street or an improved alley or alley system with a minimum width of ten feet (10 ft.). Parking spaces provided within or accessed by a mechanized parking system need not meet the accessibility requirement of this subsection as long as the mechanized parking system does.
- 3530.12 New parking spaces and drive aisles shall be designed in accordance with the standards of 11 DCMR Chapter 21.
- 3530.13 Approval of a driveway under this chapter shall not be interpreted to imply permission for a curb cut in public space. All curb cuts in public space shall obtain all necessary approvals and permissions.
- 3530.14 All access to parking facilities, whether from a public or private right-of-way, shall meet DDOT and Public Space Committee standards.

3531 BICYCLE PARKING (WR)

- 3531.1 When bicycle parking spaces are required, signs shall be posted in a prominent place at each entrance to the building or structure stating where bicycle parking spaces are located.
- 3531.2 A property owner shall provide and maintain all required bicycle parking spaces so long as the structure that the bicycle parking spaces are designed to serve exists. Maintenance of required bicycle parking spaces shall include keeping all racks and spaces clear of snow, ice, and any other obstructions.
- 3531.3 Where required bicycle parking is provided as racks, the racks must meet the following standards:
- (a) The bicycle frame and one wheel can be locked to the rack with a high security U-shaped shackle lock without removing a wheel from the bicycle;
 - (b) A bicycle six feet (6 ft.) long can be securely held with its frame supported in at least two (2) places so that it cannot be pushed over or fall in a manner that would damage the wheels or components;

- (c) Racks shall be placed a minimum of thirty inches (30 in.) on center from one another; twenty-four inches (24 in.) from any other obstructions; with a forty-eight inch (48 in.) minimum aisle separating racks; and provide a minimum clearance width of twelve inches (12 in.) for each bicycle; and
- (d) The rack shall be securely anchored.

3531.4 Each required bicycle parking space shall be accessible without moving another bicycle.

3531.5 Bicycle parking spaces shall be provided as stated in this subsection:

- (a) All residential uses with eight (8) or more dwelling units and non-residential uses with four thousand square feet (4,000 sq. ft.) or more of gross floor area shall provide bicycle parking spaces pursuant to the following table:

| Use | Long-Term Spaces | Short-Term Spaces |
|--|---------------------------------|---|
| Agriculture, Large | None | 2 spaces |
| Agriculture, Residential | None | None |
| Animal Sales, Care and Boarding | 1 space for each 10,000 sq. ft. | 1 space for each 10,000 sq. ft. |
| Antennas | None | None |
| Arts Design and Creation | 1 space for each 10,000 sq. ft. | 1 space for each 20,000 sq. ft. |
| Basic Utilities | 1 space for each 20,000 sq. ft. | None |
| Chancery | 1 space for each 5,000 sq. ft. | 1 space for each 40,000 sq. ft. |
| Community-Based Institutional Facility | 1 space for each 10,000 sq. ft. | 1 space for each 10,000 sq. ft. |
| Daytime Care | 1 space for each 10,000 sq. ft. | 1 space for each 10,000 sq. ft. |
| Eating and Drinking Establishment | 1 for each 10,000 sq. ft. | 1 space for each 3,500 sq. ft. |
| Education, College/ University | 1 space for each 7,500 sq. ft. | 1 space for each 2,000 sq. ft. |
| Education, Private School | 1 space for each 7,500 sq. ft. | 1 space for each 2,000 sq. ft. |
| Education, Public | 1 space for each 7,500 sq. ft. | 1 space for each 2,000 sq. ft. |
| Emergency Shelter | 1 space for each 10,000 sq. ft. | 1 space for each 10,000 sq. ft. |
| Entertainment, Assembly, and Performing Arts | 1 space for each 10,000 sq. ft. | 1 space for each 10,000 sq. ft. |
| Firearm Sales | 1 space for each 10,000 sq. ft. | 1 space for each 3,500 sq. ft. |
| Government, Large-Scale | 1 for each 7,500 sq. ft. | 1 space for each 40,000 sq. ft. but no less than 6 spaces |
| Government, Local | 1 for each 7,500 sq. ft. | 1 space for each 40,000 sq. ft. but no less than 6 spaces |
| Medical Care | 1 space for each 10,000 sq. ft. | 1 space for each 40,000 sq. ft. |
| Institutional, General | 1 space for each 7,500 sq. ft. | 1 space for each 2,500 sq. ft. but no less than 8 spaces |
| Institutional, Religious | 1 space for each 7,500 sq. ft. | 1 space for each 2,500 sq. ft. but no |

| Use | Long-Term Spaces | Short-Term Spaces |
|---------------------------------------|-----------------------------------|---|
| | | less than 8 spaces |
| Lodging | 1 space for each 10,000 sq. ft. | 1 space for each 40,000 sq. ft. |
| Marine | None | 1 space for each 3,500 sq. ft. |
| Motor Vehicle-related | 1 space for each 20,000 sq. ft. | 1 space for each 10,000 sq. ft. |
| Office | 1 for each 2,500 sq. ft. | 1 space for each 40,000 sq. ft. |
| Parking | None | None |
| Parks and Recreation | None | 1 space for each 10,000 sq. ft. but no less than 6 spaces |
| Production, Distribution, & Repair | 1 space for each 20,000 sq. ft. | None |
| Residential House Residential Flat | None | None |
| Residential Apartment | 1 space for each 3 dwelling units | 1 space for each 20 dwelling units |
| Retail | 1 for each 10,000 sq. ft. | 1 space for each 3,500 sq. ft. |
| Service, General | 1 for each 10,000 sq. ft. | 1 space for each 3,500 sq. ft. |
| Service, Financial | 1 for each 10,000 sq. ft. | 1 space for each 3,500 sq. ft. |
| Sexually-based Business Establishment | 1 for each 10,000 sq. ft. | 1 space for each 10,000 sq. ft. |
| Transportation Infrastructure | None | None |
| Waste-related Services | 1 space for each 20,000 sq. ft. | None |

- (b) After the first fifty (50) bicycle parking spaces are provided for a use, additional spaces are required at one-half (1/2) the ratio specified in § 3531.5(a);
- (c) Notwithstanding §§ 3531.5(a) and (b), no property shall be required to provide more than one hundred (100) short-term bicycle parking spaces. All properties with a long-term bicycle parking requirement shall provide at least two (2) long-term spaces, and all properties with a short-term requirement shall provide at least two (2) short-term spaces. The bicycle parking standards of this chapter shall be met when a new building is constructed;
- (d) When a property changes use categories or adds a use category, the property shall add any bicycle parking spaces necessary to meet the requirements for the new use. However, historic resources shall not be required to provide additional bicycle parking spaces for a change in use when the gross floor area of the building is not expanded;
- (e) An addition to an existing building, or the expansion of a use within a building, triggers additional bicycle parking requirements only when the gross floor area of the building or use is expanded or enlarged by twenty-five percent (25%) or more beyond the gross floor area on September 4, 2015, or in the case of a new building, the gross floor area used to

calculate the initial parking requirement. The additional minimum parking required shall be calculated based upon the entire gross floor area added;

- (f) Additions to historic resources shall be required to provide additional bicycle parking spaces only for the addition's gross floor area and only when the addition results in at least a fifty percent (50%) increase in gross floor area beyond the gross floor area existing on September 4, 2015;
- (g) If a use operates solely outside of a building, any expansion of that use shall conform to the applicable bicycle parking standards;
- (h) Uses governed by a campus plan are subject to the bicycle parking requirements approved by the Zoning Commission and are not subject to the bicycle parking requirements otherwise applicable; and
- (i) When there is more than one (1) use on a lot, the number of bicycle parking spaces provided must equal the total required for all uses. If a single use falls into more than one (1) use category for which different bicycle parking minimums apply, the standard that requires the greater number of bicycle parking spaces shall apply.

3531.6 The amount of bicycle parking shall be calculated pursuant to the rules of this subsection:

- (a) All bicycle parking standards shall be calculated on the basis of gross floor area, except for Residential uses, which base bicycle parking standards on the number of dwelling units;
- (b) For purposes of calculating bicycle parking standards, gross floor area does not include floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space; and
- (c) Calculations of bicycle parking spaces that result in a fractional number of one-half (1/2) or more shall be rounded up to the next consecutive whole number. Any fractional result of less than one-half (1/2) shall be rounded down to the previous consecutive whole number.

3531.7 Short-Term Bicycle Parking Spaces shall meet the following requirements:

- (a) Required short-term bicycle parking spaces shall be located either on the same lot as the use they are intended to serve or on public space within twenty feet (20 ft.) of the lot. A use providing short-term bicycle parking on adjacent public space must obtain approval of a public space application under Title 24 DCMR;

- (b) Required short-term bicycle parking spaces shall be located within one-hundred and twenty feet (120 ft.) of a primary entrance to the building they serve;
- (c) Areas devoted to short-term bicycle parking on private property shall be surfaced and maintained with an all-weather surface;
- (d) Required short-term bicycle parking spaces shall be provided as bicycle racks that meet the standards of § 3531.3;
- (e) An aisle at least four feet (4 ft.) wide between rows of bicycle parking spaces and the perimeter of the area devoted to bicycle parking shall be provided. Aisles shall be kept clear of obstructions at all times. Where the bicycle parking is on or adjacent to a sidewalk, the aisle may extend into the right-of-way; and
- (f) Required short-term bicycle parking spaces shall be provided in a convenient, well-lit location that can be viewed from the building the spaces are intended to serve. Required short-term bicycle parking spaces shall be available for shoppers, customers, commuters, messengers, and all other visitors to the site.

3531.8

Long-Term Bicycle Parking Spaces shall meet the following requirements:

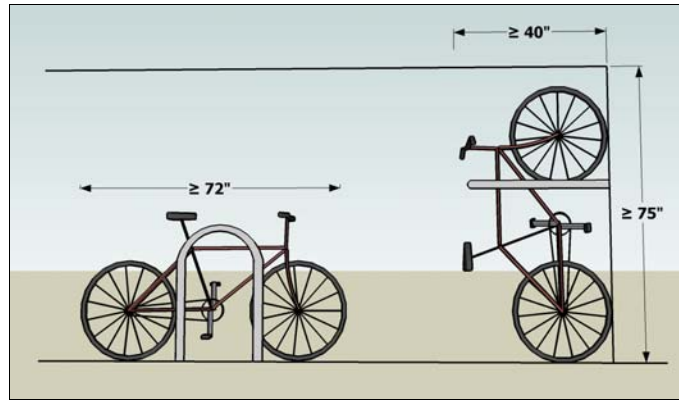
- (a) All required long-term bicycle parking spaces shall be located within the building of the use requiring them;
- (b) Except as noted below, required long-term bicycle parking spaces shall be located no lower than the first cellar level or the first complete parking level below grade, and no higher than the first above-grade level. Spaces shall be available to employees, residents, and other building occupants;
- (c) If vehicular parking is segregated on different levels of a parking garage based on use, required long-term bicycle parking spaces may be located on the garage level dedicated to the use which generated the bicycle parking requirement. However, in no instance shall required long-term bicycle spaces be located lower than the second parking level below grade or the second parking level above grade;
- (d) Required long-term bicycle parking shall be provided as racks or lockers. Bicycle racks for required long-term parking shall be provided in a parking garage or a bicycle storage room;
- (e) Where required long-term bicycle parking is provided in a garage, it shall be clearly marked and be separated from adjacent motor vehicle parking spaces by wheel stops or other physical automobile barrier;

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- (f) Where required long-term bicycle parking is provided in a bicycle room, the room shall have either solid walls or floor-to-ceiling fencing. The room shall have locked doors;
- (g) For any bicycle room with solid walls, the entirety of the interior of the bicycle room shall be visible from the entry door. A motion-activated security light enclosed in a tamper-proof housing shall be provided in each bicycle room;
- (h) Where required long-term bicycle parking is provided in lockers, the lockers shall be securely anchored and meet the following minimum dimensions:
 - (1) Twenty-four inches (24 in.) in width at the door end;
 - (2) Eight inches (8 in.) in width at the opposite end;
 - (3) Seventy-two inches (72 in.) in length; and
 - (4) Forty-eight inches (48 in.) in height;
- (i) Each required long-term bicycle parking space shall be directly accessible by means of an aisle of a minimum width of four feet (4 ft.) and have a minimum vertical clearance of seventy-five inches (75 in.). Aisles shall be kept clear of obstructions at all times;
- (j) A minimum of fifty percent (50%) of the required long-term bicycle parking spaces shall allow the bicycles to be placed horizontally on the floor or ground. Vertical bicycle racks shall support the bicycle without the bicycle being suspended; and
- (k) Each required long-term bicycle parking space shall be a minimum width of twenty-four inches (24 in.), and shall be:
 - (1) A minimum of seventy-two inches (72 in.) in length if the bicycles are to be placed horizontally; or
 - (2) A minimum of forty inches (40 in.) in length if the bicycles are to be placed vertically.



3531.9 Showers and Changing Facilities for newly constructed buildings and buildings that expand in gross floor area by more than twenty five percent (25%) shall meet the requirements of this subsection, which is intended to ensure that long-term bicycle parking spaces are usable by the long-term occupants, especially employees, of non-residential uses:

- (a) A non-residential use that requires long-term bicycle parking spaces and that occupies more than twenty-five thousand square feet (25,000 sq. ft.) in gross floor area shall provide a minimum of two (2) showers. An additional two (2) showers shall be installed for every fifty thousand square feet (50,000 sq. ft.) of gross floor area above the first twenty-five thousand square feet (25,000 sq. ft.), up to a maximum requirement of six (6) showers;
- (b) A non-residential use that requires long-term bicycle parking spaces and that occupies more than twenty-five thousand square feet (25,000 sq. ft.) in gross floor area shall provide a minimum number of clothing lockers equal to six-tenths (0.6) times the minimum number of required long-term bicycle parking spaces. Each locker required by this subsection shall be a minimum of twelve inches (12 in.) wide, eighteen inches (18 in.) deep, and thirty-six inches (36 in.) high;
- (c) Showers and lockers required by this subsection shall be accessible to employees and other long-term occupants of the use requiring them. Showers and lockers shall be located within the same building as the use requiring them; and
- (d) Where more than one non-residential use in a building requires shower and locker facilities under this subsection, the uses may share a single shower and locker facility, as long as the total number of showers and lockers is equal to the sum total required for the uses individually.

3531.10 When providing the number of bicycle parking spaces or showers and changing facilities required is impractical or contrary to other District regulations, or when it is unnecessary due to a lack of demand for bicycle parking, the Board of Zoning Adjustment may grant, as a special exception, a full or partial reduction in the minimum number of long-term spaces, the minimum number of short term spaces, or the quantity of shower and changing facilities required for a use or structure, subject to the general requirements of § 3104 and the requirements of this subsection:

- (a) If requesting a reduction in the amount of parking, the applicant must demonstrate one (1) of the following:
 - (1) Due to the physical constraints of the property, the required bicycle parking spaces cannot be provided on the lot or, in the case of short-term bicycle parking spaces, on abutting public space; or
 - (2) The use or structure will generate demand for less bicycle parking than the minimum bicycle parking standards require, as a result of:
 - (A) The nature of the use or structure;
 - (B) Land use or topographical characteristics of the neighborhood that minimize the need for required bicycle parking spaces; or
 - (C) A transportation demand management plan approved by DDOT, the implementation of which shall be a condition of the Board of Zoning Adjustment's approval, will result in demand for less short-term bicycle parking than the minimum bicycle parking standards require; or
 - (3) The nature or location of an historic resource precludes the provision of bicycle parking spaces; or providing the required bicycle parking would result in significant architectural or structural difficulty in maintaining the integrity and appearance of the historic resource;
- (b) A reduction in parking granted under this subsection shall only be for the amount that the applicant demonstrates cannot be physically provided, and proportionate to the reduction in bicycle parking demand demonstrated by the applicant; and
- (c) If requesting a reduction in the quantity of shower and changing facilities, the applicant must demonstrate that:
 - (1) The intent of § 3531.9 is met; and

- (2) Either:
 - (A) The use will not generate the demand for the full number of showers and changing facilities required; or
 - (B) The property owner has an arrangement to make use of showers and changing facilities off-site, and that the showers and changing facilities will be reasonably available to long-term occupants of the use requiring the facilities.

3532 LOADING (WR)

- 3532.1 Any building permit application for new construction or an addition to an existing building shall be accompanied by a detailed loading plan demonstrating full compliance with this chapter.
- 3532.2 All access to loading facilities, whether from a public or private right of way, shall meet DDOT and Public Space Committee standards.
- 3532.3 The Zoning Administrator may at his or her discretion, request that DDOT review and make a recommendation regarding any item on the loading plan prior to approving the building permit application.
- 3532.4 No certificate of occupancy shall be issued unless the loading facilities have been constructed in accordance with the approved loading plans.
- 3532.5 All buildings or structures shall be provided with loading berths and service/delivery spaces as follows, except for structures erected on Kingman and Heritage Islands for which the construction of service delivery loading spaces shall be prohibited:

| Use | Minimum Number of Loading Berths Required | Minimum Number of Service/Delivery Spaces Required |
|--|---|--|
| Agriculture | None | None |
| Animal Sales, Care and Boarding | | |
| 5,000 to 20,000 sq. ft. gross floor area | 1 | None |
| More than 20,000 to 100,000 sq. ft. gross floor area | 2 | 1 |
| More than 100,000 sq. ft. gross floor area | 3 | 1 |
| Antennas | | |
| | None | None |
| Arts Design and Creation | | |
| 5,000 to 20,000 sq. ft. gross floor area | 1 | None |
| More than 20,000 to 100,000 sq. ft. gross floor area | 2 | 1 |
| More than 100,000 sq. ft. gross floor area | 3 | 1 |
| Basic Utilities | | |

| Use | Minimum Number of Loading Berths Required | Minimum Number of Service/Delivery Spaces Required |
|---|---|--|
| 20,000 to 50,000 sq. ft. gross floor area | 1 | 1 |
| More than 50,000 to 200,000 sq. ft. gross floor area | 2 | 1 |
| More than 200,000 sq. ft. gross floor area | 3 | 1 |
| Chancery | | |
| 30,000 to 100,000 sq. ft. gross floor area | 1 | 1 |
| More than 100,000 sq. ft. gross floor area | 2 | 1 |
| Community-Based Institutional Facility | | |
| 30,000 to 100,000 sq. ft. gross floor area | 1 | 1 |
| More than 100,000 sq. ft. gross floor area | 2 | 1 |
| Daytime Care | | |
| 30,000 to 100,000 sq. ft. gross floor area | 1 | 1 |
| More than 100,000 sq. ft. gross floor area | 2 | 1 |
| Education | | |
| 30,000 to 100,000 sq. ft. gross floor area | 1 | 1 |
| More than 100,000 sq. ft. gross floor area | 2 | 1 |
| Emergency Shelter | | |
| 30,000 to 100,000 sq. ft. gross floor area | 1 | 1 |
| More than 100,000 sq. ft. gross floor area | 2 | 1 |
| Entertainment, Assembly, and Performing Arts | | |
| 50,000 to 100,000 sq. ft. gross floor area | 1 | None |
| More than 100,000 to 500,000 sq. ft. gross floor area | 2 | None |
| More than 500,000 sq. ft. gross floor area | 3 | None |
| Firearm Sales | | |
| 5,000 to 20,000 sq. ft. gross floor area | 1 | None |
| More than 20,000 to 100,000 sq. ft. gross floor area | 2 | 1 |
| More than 100,000 sq. ft. gross floor area | 3 | 1 |
| Food and Alcohol Services | | |
| 5,000 to 20,000 sq. ft. gross floor area | 1 | None |
| More than 20,000 to 100,000 sq. ft. gross floor area | 2 | 1 |
| More than 100,000 sq. ft. gross floor area | 3 | 1 |
| Government, Large-Scale | | |
| 30,000 to 100,000 sq. ft. gross floor area | 1 | 1 |
| More than 100,000 sq. ft. gross floor area | 2 | 1 |
| Government, Local | | |
| 30,000 to 100,000 sq. ft. gross floor area | 1 | 1 |
| More than 100,000 sq. ft. gross floor area | 2 | 1 |
| Health Care | | |
| 30,000 to 100,000 sq. ft. gross floor area | 1 | 1 |
| More than 100,000 sq. ft. gross floor area | 2 | 1 |
| Institutional | | |
| 30,000 to 100,000 sq. ft. gross floor area | 1 | 1 |
| More than 100,000 sq. ft. gross floor area | 2 | 1 |
| Lodging | | |
| 10,000 to 50,000 sq. ft. gross floor area | 1 | None |
| More than 50,000 to 100,000 sq. ft. gross floor area | 2 | None |
| More than 100,000 to 500,000 sq. ft. gross floor area | 3 | None |

| Use | Minimum Number of Loading Berths Required | Minimum Number of Service/Delivery Spaces Required |
|--|---|--|
| More than 500,000 sq. ft. gross floor area | 4 | None |
| Marine | | |
| 30,000 to 100,000 sq. ft. gross floor area | 1 | 1 |
| More than 100,000 sq. ft. gross floor area | 2 | 1 |
| Motor Vehicle-related | | |
| 5,000 to 20,000 sq. ft. gross floor area | 1 | None |
| More than 20,000 to 100,000 sq. ft. gross floor area | 2 | 1 |
| More than 100,000 sq. ft. gross floor area | 3 | 1 |
| Office | | |
| 20,000 to 50,000 sq. ft. gross floor area | 1 | 1 |
| More than 50,000 to 200,000 sq. ft. gross floor area | 2 | 1 |
| More than 200,000 sq. ft. gross floor area | 3 | 1 |
| Parking | | |
| | None | None |
| Parks and Recreation | | |
| More than 30,000 sq. ft. gross floor area | None | 1 |
| Production, Distribution, and Repair | | |
| 5,000 to 25,000 sq. ft. gross floor area | 1 | None |
| More than 25,000 sq. ft. gross floor area | 2 | None |
| For each 100,000 sq. ft. gross floor area more than 50,000 sq. ft. | 1 | None |
| Residential | | |
| More than 50 dwelling units | 1 | 1 |
| Retail | | |
| 5,000 to 20,000 sq. ft. gross floor area | 1 | None |
| More than 20,000 to 100,000 sq. ft. gross floor area | 2 | 1 |
| More than 100,000 sq. ft. gross floor area | 3 | 1 |
| Service | | |
| 5,000 to 20,000 sq. ft. gross floor area | 1 | None |
| More than 20,000 to 100,000 sq. ft. gross floor area | 2 | 1 |
| More than 100,000 sq. ft. gross floor area | 3 | 1 |
| Sexually-oriented Business Est. | | |
| 5,000 to 20,000 sq. ft. gross floor area | 1 | None |
| More than 20,000 to 100,000 sq. ft. gross floor area | 2 | 1 |
| More than 100,000 sq. ft. gross floor area | 3 | 1 |
| Transportation Infrastructure | | |
| | None | None |
| Waste-related Services | | |
| 5,000 to 25,000 sq. ft. gross floor area | 1 | None |
| More than 25,000 sq. ft. gross floor area | 2 | None |
| For each 100,000 sq. ft. gross floor area more than 50,000 sq. ft. | 1 | None |

3532.6 The loading requirements must be met when a new building or structure is constructed.

3532.7 No loading berths are required for buildings or structures with a gross floor area less than the minimum specified in § 3532.5.

- 3532.8 Each loading berth shall be accompanied by one (1) adjacent loading platform.
- 3532.9 When a property changes or adds a use category, the following shall apply:
- (a) Additional loading berths, loading platforms and service/delivery spaces shall be required only when the minimum number of loading spaces required for the new use category exceeds the number of spaces required for the prior use category that occupied the same floor area;
 - (b) When determining the amount of additional required loading, it shall be assumed that the previous use provided the minimum number of spaces required; and
 - (c) Historic resources shall not be required to provide additional loading for a change in use without expansion.
- 3532.10 An addition to an existing building, or the expansion of a use within a building triggers additional loading requirements only when the gross floor area of the building or use is expanded or enlarged by twenty-five percent (25%) or more beyond the gross floor area on September 4, 2015, or in the case of a new building, the gross floor area used to calculate the initial loading requirement. The additional minimum loading berths and service/delivery spaces required shall be calculated based upon the entire gross floor area added.
- 3532.11 An addition to a historic resource shall be required to provide additional loading berths, loading platforms, and service/delivery spaces only for the addition's gross floor area and only when the addition results in at least a fifty percent (50%) increase in gross floor area beyond the gross floor area existing on September 4, 2015.
- 3532.12 Where two (2) or more uses share a building or structure, the uses may share loading as long as internal access is provided from all shared uses requiring loading.
- 3532.13 For a building or structure having three (3) or more required loading berths in one (1) location, the loading berths may be stacked.
- 3532.14 No other use shall be conducted from or upon the loading berth or service/delivery space or any portion thereof.
- 3532.15 Each service/delivery space shall be clearly marked "For Service and Delivery Vehicles Only" and used exclusively for such vehicles.
- 3532.16 The provision of loading spaces shall be governed by the rules of measurement contained in this subsection:

- (a) When two (2) or more non-residential uses in the same use category share a building or structure, all of the uses in the same use category shall be added together to derive the total gross floor area, to determine the required number of berths and spaces for that use category;
- (b) When two (2) or more uses in different use categories share a building or structure, the building or structure is only required to provide enough berths and spaces to meet the requirement for the use category with the highest requirement, and not the combination of requirements for all use categories provided that all uses that require loading have access to the loading area;
- (c) At least one (1) loading berth shall be provided when the sum of the gross floor area of the separate uses exceeds the minimum gross floor area requiring loading berths for any one (1) of the separate uses; and
- (d) For purposes of calculating loading requirements for non-residential uses, gross floor area does not include floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space.

3532.17 Loading facilities shall be located as described in this subsection:

- (a) Except as provided elsewhere in this subsection, all loading berths and service/delivery spaces shall be located within the building or structure the berths or spaces are designed to serve;
- (b) Loading may be located in the rear or side yard of the building that it is designed to serve, but must be screened in accordance with § 3532.21;
- (c) All loading platforms shall be located contiguous and with unobstructed access to the loading berth and shall have unobstructed access to an entrance to the building or structure;
- (d) All uses in the building shall have direct access to required loading platforms or access through a common interior space or corridor;
- (e) All loading berths shall be designed so that no vehicle or any part thereof shall project over any lot line, front setback line, or building restriction line; and
- (f) Required loading berths may be provided in facilities designed to serve jointly two (2) or more adjoining buildings or structures on lots that share a party wall or lot line or are separated only by an alley within a single square; provided:

- (1) The number of berths in the joint facilities shall not be less than that required for the total combined requirement in § 3532.5; and
- (2) A binding covenant that is acceptable to the Zoning Administrator, ensuring the joint use of the loading berths and entered into by all property owners concerned, shall be recorded in the land records of the District of Columbia for the affected properties. A certified true copy of the recorded covenant shall be filed with the Zoning Administrator. Joint use of the loading berths by all parties involved shall continue in effect so long as the binding agreement remains in force. If the agreement becomes legally ineffective or inoperable, the loading berths shall be provided as otherwise required by this section.

3532.18 Access to loading facilities shall be provided as required by this subsection:

- (a) All loading berths and service/delivery spaces shall be accessible at all times from a driveway meeting the following requirements:
 - (1) A driveway or access aisle leading to a loading berth or service/delivery space shall have a minimum width of twelve feet (12 ft.), a maximum width of twenty-four feet (24 ft.), and a maximum slope of twelve percent (12%); and
 - (2) No driveway providing access to a loading berth or service/delivery space shall be located in such a way that a vehicle entering or exiting from the loading berth blocks any street intersection; and
- (b) A loading berth or service/delivery space shall be designed so that it is usable and accessible by the vehicles that it is intended to serve.

3532.19 The size, layout, and maintenance of loading facilities shall be as prescribed in this subsection:

- (a) All loading berths shall be a minimum of twelve feet (12 ft.) wide, have a minimum depth of thirty feet (30 ft.) and have a minimum vertical clearance of fourteen feet (14 ft.);
- (b) All service/delivery spaces shall be a minimum of ten feet (10 ft.) wide, have a minimum depth of twenty feet (20 ft.) and have a minimum vertical clearance of ten feet (10 ft.);
- (c) All loading berths shall be accompanied by one (1) adjacent loading platform that meets the following requirements:

- (1) A loading berth that is less than fifty-five feet (55 ft.) deep shall have a platform that is at least one hundred square feet (100 sq. ft.) and at least eight feet (8 ft.) wide;
- (2) A loading berth that is fifty-five feet (55 ft.) deep or greater shall have a platform that is at least two hundred square feet (200 sq. ft.) and at least twelve feet (12 ft.) wide;
- (3) Loading platforms shall have a minimum vertical clearance of ten feet (10 ft.); and
- (4) A loading platform floor shall consist of one (1) horizontal level;
- (d) No loading platform need be provided for loading berths if the required loading berth is increased in depth for the full width thereof, such that the resulting enlarged loading berth is equal in area to the combined area of a required loading berth and a required loading platform;
- (e) The dimensions specified in this section for loading berths and service/delivery spaces are exclusive of access aisles, maneuvering space, and loading platforms;
- (f) All loading berths and service/delivery spaces including access aisles, driveways, and maneuvering areas shall be surfaced and maintained with an all-weather surface; and
- (g) A loading berth or service/delivery space, including access aisles, driveways, and maneuvering areas, shall be maintained and used as a loading berth or service/delivery space for as long as the use exists that the loading berth or service/delivery space is designed to service.

3532.20 Trash rooms and trash receptacles shall meet the following requirements:

- (a) Buildings requiring loading must have a designated trash area either within the building or within a loading berth or within an accessory building or structure immediately adjacent to the loading area or within an enclosed receptacle in a designated trash area within the loading area. All new developments over two thousand square feet (2,000 sq. ft.) of gross floor area, other than buildings with only one (1) or two (2) dwelling units, must clearly show the area for the building’s trash receptacles on the building plans; and
- (b) Trash receptacles external to a building shall be screened and covered.

3532.21 Screening and lighting for loading facilities shall meet the requirements of this subsection:

- (a) All loading berths or service/delivery spaces that are not enclosed within a building shall have screening around the entire perimeter, subject to the standards of §§ 3532.21(c) and (d);
- (b) Screening is not required if the loading area is in a rear yard and separated from all contiguous property by at least twenty-five feet (25 ft.);
- (c) The screening required by § 3532.21(a) shall be a solid masonry wall at least twelve inches (12 in.) thick and seventy-two inches (72 in.) high. The wall shall harmonize with the main structure in architectural character, material, and color;
- (d) Gaps in the screening are allowed only to provide driveways and pedestrian exits or entrances that open directly onto a street or alley. No individual gap may exceed twenty feet (20 ft.) in width;
- (e) Any lighting used to illuminate a loading berth, loading platform, or service/delivery space shall be arranged so that all direct light rays are confined to the surface of the berth, platform, or space; and
- (f) Any loading berths or service/delivery spaces that are not enclosed within a building, if potentially visible from a public right-of-way, shall have, in addition to the wall required by this subsection, a screen of evergreen trees, planted at a distance of no more than fifteen feet (15 ft.) on center, of a species that at maturity would have a typical height of at least fifteen feet (15 ft.).

3532.22

The Board of Zoning Adjustment may grant a special exception from the requirements of this section when providing the number of spaces required is impractical or contrary to other District regulations, subject to the criteria of this subsection:

- (a) The Office of Zoning shall refer any application under this section to the Office of Planning and the District Department of Transportation for review and report.
- (b) The Board of Zoning Adjustment may grant, as a special exception, a full or partial reduction of the number of loading berths or service/delivery spaces required by § 3532.5 if, in addition to meeting the general requirements of § 3104, the applicant demonstrates that:
 - (1) The only means by which a motor vehicle could access the lot is from a public street, and provision of a curb cut or driveway on the street would violate any regulation in this section, or in Chapters 6 or 11 of Title 24 DCMR; or

- (2) For an historic resource, providing the required loading facilities would result in significant architectural or structural difficulty in maintaining the integrity and appearance of the historic resource;
- (c) The Board of Zoning Adjustment may grant, as a special exception, a waiver of the access requirements of § 3532.18 if, in addition to meeting the general requirements of § 3104, the applicant demonstrates that:
 - (1) The lot has unusual topography, grades, shape, size, or dimensions; or
 - (2) Alternate access arrangements would improve site design, landscaping, or traffic patterns or provide safer ingress or egress;
- (d) The Board of Zoning Adjustment may grant, as a special exception, modifications or waivers of the screening requirements of § 3532.21 if, in addition to meeting the general requirements of § 3104, the applicant demonstrates that:
 - (1) Existing protective and screening walls on the lot or on adjacent property are adequate to prevent adverse impacts on adjacent property; or
 - (2) Provision of protective screening walls would result in the removal of healthy trees or other landscaping, or architectural features determined by the Board of Zoning Adjustment to be worthy of protection or to provide equal screening benefits; and
- (e) When granting a special exception under this subsection, the Board of Zoning Adjustment may impose conditions as to screening, lighting, coping, setbacks, fences, location of entrances and exits, widening of abutting alleys, loading management or transportation demand management practices, or any other requirement it deems necessary to protect adjacent or nearby property and promote the public health, safety, and welfare.

3533 – 3539 [RESERVED]

3540 AFFORDABLE HOUSING

3540.1 Affordable housing shall be provided as described in this section. The provisions of Chapter 26 of this title shall not apply.

3540.2 The purposes of this section are to:

- (a) Ensure the provision of a significant amount of affordable housing, including for very low-income households; and
- (b) Ensure that the affordable housing is distributed throughout the WR zone.

3540.3 The FAR, lot occupancy, and height listed in the Development Standards for each WR zone shall serve as the maximum permitted density and building envelopes for buildings and structures, including for the provision of affordable units.

3540.4 For the entire WR zone, no less than four hundred and thirty-two (432) units of affordable housing shall be subject to affordable housing covenants that collectively result in compliance with §§ 3540.5 and 3540.6.

3540.5 Of the four hundred and thirty-two (432) units:

- (a) No less than one hundred and fourteen (114) rental units shall be reserved for and provided at rents affordable to households earning thirty percent (30%) or less of the Area Median Income (AMI);
- (b) No less than one hundred and thirty nine (139) units shall be reserved for and provided at rents or sales prices affordable to households earning fifty percent (50%) of the AMI or less; and
- (c) No less than one hundred and seventy nine (179) units shall be reserved for and provided at rents or sales prices affordable to households earning eighty percent (80%) of the AMI or less.

3540.6 A minimum amount of affordable units shall be provided in each zone, and in each multifamily building, according to the following table. The remaining affordable units may be located anywhere in the WR zone.

| | Column A | Column B |
|------|--|---|
| Zone | Minimum Percentage of Residential Units to be Provided as Affordable Units in the Zone | Of the Units Prescribed in Column A, the Minimum Percentage to be Provided in Each Multifamily Building in the Zone |
| WR-1 | 8% | n/a |
| WR-2 | 8% | 20% |
| WR-3 | 8% | 12.5% |
| WR-4 | 8% | 20% |
| WR-5 | 8% | 25% |
| WR-7 | 8% | 25% |
| WR-8 | 8% | 25% |

- 3540.7 At the expiration of the affordability control period established by its affordable housing covenant, each multifamily building within the WR-2 through WR-8 zones shall devote no less than eight percent (8%) of its units to affordable units, which shall remain affordable in accordance with § 3540.8 for so long as the multifamily building exists.
- 3540.8 At the expiration of the affordability control period established by its affordable housing covenant, each multifamily building within the WR-2 through WR-8 zones shall set aside fifty percent (50%) of affordable units for households earning fifty percent (50%) of the AMI or less and fifty percent (50%) of affordable units shall for households earning eighty percent (80%) of the AMI or less. The first affordable unit that becomes available after the expiration of the affordability control period and each additional odd number unit shall be set aside for households earning fifty percent (50%) of the AMI or less.
- 3540.9 At the expiration of all affordability control periods established by affordable housing covenants recorded against properties in the WR-1 zone, no less than eight percent (8%) of all units within the WR-1 zone shall be devoted to affordable units, which shall remain affordable in accordance with § 3540.10 for so long as the units exists.
- 3540.10 At the expiration of all affordability control periods established by affordable housing covenants recorded against properties in the WR-1 zone, fifty percent (50%) of affordable units within the WR-1 zone shall be set-aside for households earning fifty percent (50%) of the AMI or less and fifty percent (50%) of affordable units shall be set aside for households earning eighty percent (80%) of the AMI or less. The first affordable unit that becomes available after the expiration of the affordability control period and each additional odd number unit shall be set aside for households earning fifty percent (50%) of the AMI or less.
- 3540.11 In the WR zone, each application for a building permit for a residential use shall include in tabular and map format a description of which affordable units have been provided to date and where, which affordable units have yet to be provided and where they are anticipated to be provided, and how the provisions of this section are being met.
- 3540.12 Pursuant to § 3104, the Board of Zoning Adjustment may hear and decide any requests for relief from §§ 3540.5–3540.6, subject to the application demonstrating that the purposes of § 3540.2 would still be met.

3541 GREEN AREA RATIO (WR)

- 3541.1 In the WR-2, WR-3, WR-4, WR-5, WR-7, and WR-8 zones, the GAR requirement is four-tenths (0.4), pursuant to Chapter 34 of this title.

3542 PLANNED UNIT DEVELOPMENTS (WR)

3542.1 A planned unit development (PUD) in the WR zone shall be subject to the following provisions in addition to the provisions of Chapter 24 of this title:

- (a) The minimum area required for a proposed PUD shall be fifteen thousand square feet (15,000 sq. ft.);
- (b) In the WR-1, WR-5, WR-6, WR-7, and WR-8 zones, the height, number of stories, and FAR provided in the relevant zone's development standards table shall serve as the maximum permitted for a PUD; and
- (c) In the WR-2, WR-3, and WR-4 zones, the maximum height and FAR limits for PUDs in the WR zone shall be the following:
 - (1) For the WR-2 zone, the limits on height, number of stories and FAR provided in the development standards table in § 3502 may be increased by no more than ten feet (10 ft.), one (1) story, and twenty percent (20%) FAR;
 - (2) For the WR-3 zone, the limits on height, number of stories and FAR provided in the development standards table in § 3503 may be increased by no more than ten feet (10 ft.), one (1) story, and twenty percent (20%) FAR; and
 - (3) For the WR-4 zone, the limits on height, number of stories and FAR provided in the development standards table in § 3504 may be increased by no more than ten feet (10 ft.), one (1) story, and twenty percent (20%) FAR.

3543 SPECIAL EXCEPTION RELIEF (WR)

3543.1 Except for § 3503.10 or as provided elsewhere in this chapter, relief from any section of this chapter may be heard and decided by the Board of Zoning Adjustment as a special exception. In addition to the general special exception criteria of § 3104, the Board of Zoning Adjustment must find that the request for relief is consistent with the purposes of the WR zone.

3544-3589 [RESERVED]**3590 USE GROUPS**

3590.1 When used in this chapter, the following use categories shall have the following meanings:

- (a) Agriculture, large:

- (1) The on-site cultivation, or maintenance of plants, or the breeding or keeping of animals and livestock intended for personal use or eventual sale or lease off-site. Typical products of an agricultural use include produce, field crops, flowers, ornamental crops, livestock, poultry, honeybees, or other animal husbandry; and
 - (2) Examples include, but are not limited to: farm, truck garden, beekeeping, greenhouse, dairy, or horticultural nursery; and
 - (3) Exceptions: This use group does not include the customary landscaping of yards, residential gardening, or household pets;
- (b) Agricultural, residential:
- (1) The on-site cultivation, or maintenance of plants, or keeping of small domestic animals intended for personal use, sale on-site, or eventual sale off-site. Typical products of a residential agricultural use include produce, garden crops, flowers, and honeybees. This use group does not include the customary landscaping of yards, keeping of household pets, or the breeding or housing of large breed animals; and
 - (2) Examples include, but are not limited to: small-scale truck garden, beekeeping, greenhouse, or community gardens;
- (c) Animal Sales, Care, and Boarding:
- (1) The on-site sale, medical care, or short-term boarding of animals for a fee. These uses may include licensed veterinary practices such as medicine, surgery, or dentistry for animals, or the provision of animal services such as grooming, training, or care-taking;
 - (2) Examples include, but are not limited to: pet shop, veterinary clinic or hospital, pet grooming establishment, dog day care center, animal boarding facility, animal sales establishment, or animal shelter; and
 - (3) Exceptions: This use group does not include uses which would typically fall within the Agriculture use categories or the selling of a litter of a domestic pet;
- (d) Antennas - A structure conducting, transmitting, or receiving communication signals. This use group encompasses the portions of the structure responsible for signal transmission and reception, any associated towers, immediately-related support and stabilizing elements, and rotating

or other directional mechanisms; and examples include, but are not limited to: commercial broadcast antenna, mobile telecommunication antenna, microwave dish, satellite earth station, whip, or yagi antennas;

(e) Arts Design and Creation:

- (1) The on-site design, rehearsal, or creation of visual, auditory, or performance art. This use may encompass work space for artists, artisans, or craftsmen practicing fine arts or applied arts or crafts, and may include the sale of items created on the site;
- (2) Examples include, but are not limited to: artist studio, artisan production including kiln-firing, metal-working, wood-working, furniture making and glass-blowing arts, or photographic studio; and
- (3) Exceptions: This use group does not include uses which would typically fall within the Entertainment, Assembly, and Performing Arts; Educational; or Sexually-based Business Establishment use groups;

(f) Basic Utilities:

- (1) The commercial or governmental generation, transmission, distribution, or storage of energy, water, stormwater, cable, or telecommunication-related information. This use commonly takes the form of infrastructure services which are provided city-wide;
- (2) Examples include, but are not limited to: electrical sub-station, telephone exchange, optical transmission node, electronic equipment facility, sewer plant, water treatment plant, methods and facilities for renewable energy generation, or utility pumping station; and
- (3) Exceptions: This use group does not include uses which would typically fall within the Antennas or Waste-related Services use groups;

(g) Chancery:

- (1) The principal offices of a foreign mission used for diplomatic or related purposes, and annexes to such offices (including ancillary offices and support facilities), including the site and any building on such site that is used for such purposes; and

- (2) Exceptions: This use group does not include uses which would typically fall within the Office or Residential use groups, such as an ambassador's residence or embassy staff residence building;
- (h) Community-based Institutional Facility:
- (1) A use providing court-ordered monitored care to individuals who have a common need for treatment, rehabilitation, assistance, or supervision in their daily living; have been assigned to the facility; or are being detained by the government, other than as a condition of probation;
 - (2) Examples include, but are not limited to: adult rehabilitation home, youth rehabilitation home, or detention or correctional facilities that do not fall within the Large-Scale Government use group; and
 - (3) Exceptions: This use group does not include uses which more typically would fall within the Emergency Shelter or Large-Scale Government use group. This use group also does not include Residential or Medical Care uses that were previously defined as community residence facilities, health care facilities, substance abuser's homes, or youth residential care homes;
- (i) Daytime Care:
- (1) The non-residential licensed care, supervision, counseling, or training, for a fee, of individuals who are not related by blood, adoption, or marriage to the caregiver, and who are present on the site for less than 24 hours per day;
 - (2) Examples include, but are not limited to: an adult day treatment facility, child care centers and programs, pre-schools, nursery schools, before-and-after school programs, or elder care centers and programs; and
 - (3) Exceptions: This use group does not include uses which more typically fall within the Health Care, or Parks and Recreation use groups. This use does not refer to home-based care given by parents, guardians, or relatives of the individuals requiring care which does not require a Certificate of Occupancy;
- (j) Eating and Drinking Establishments:
- (1) The sale of food, alcoholic drinks, or refreshments prepared on the premises and sold to customers for consumption on or off the premises;

- (2) Examples include, but are not limited to: prepared food shop, restaurant, fast food restaurant, or fast food drive-through; within these defined terms, uses may also include but are not limited to bar, café, cafeteria, cocktail lounge, coffee shop, delicatessen, ice cream parlor, or nightclub; and
 - (3) Exceptions: This use group does not include uses which more typically would fall within the Sexually-based Business Establishment use group;
- (k) Education, College/University - An institution of higher educational or academic learning providing facilities for teaching and research, offering courses of general or specialized study leading to a degree, and authorized to grant academic degrees; This use may include accessory athletic and recreational areas, dormitories, cafeterias, ancillary commercial uses, multiple academic and administrative buildings, or sports facilities;
- (l) Education, Private:
- (1) An educational, academic, or institutional use with the primary mission of providing education and academic instruction that provides District or state mandated basic education or educational uses. These uses may include accessory play and athletic areas, dormitories, cafeterias, recreational, or sports facilities; and
 - (2) Exceptions: This use group does not include uses which more typically would fall within the Daytime Care, Public Education, or College/University Education use group. This use group also does not include the home schooling of children in a dwelling by their parent, guardian, or private tutor;
- (m) Education, Public:
- (1) Public or public charter schools at the elementary, middle, junior high, or high school level; these uses may include accessory athletic areas, dormitories, cafeterias, recreational, or sports facilities; and
 - (2) Exceptions: This use group does not include uses which more typically would fall within the Daytime Care, Private Education, or College/University Education use group. This group also does not include the home schooling of children in a dwelling by their parent, guardian, or private tutor;
- (n) Emergency Shelter - A use providing thirty (30) days or less of temporary housing to indigent, needy, homeless, or transient individuals. Emergency

Shelter uses may also provide ancillary services such as counseling, vocational training, or similar social and career assistance;

(o) Entertainment, Assembly, and Performing Arts:

- (1) A use involving facilities designed primarily for public assembly that enables patrons to experience visual, auditory, performance, or literary arts; attend sporting events or conferences; or to participate in active leisure activities. These uses may be characterized by activities and structures that draw large numbers of people to specific events or shows;
- (2) Examples include, but are not limited to: bowling alley, miniature golf, movie theatre, concert hall, museum, or stadium; and
- (3) Exceptions: This use group does not include uses which more typically would fall within the Arts Design and Creation, Sexually-based Business Establishment, or Parks and Recreation use groups;

(p) Firearm Sales:

- (1) A use engaged in the on-site sale, lease, or purchase of firearms or ammunition. This use group has been established to identify those uses which offer sales of goods whose impacts are incompatible with the intended health, safety, and welfare of other uses of land; and
- (2) Examples include, but are not limited to: gun store, ammunition sales, pawn shop carrying guns, or weaponry store;

(q) Government, Large:

- (1) A use involving services owned, managed, or provided by a governmental entity and associated with providing regional or wider services;
- (2) Examples include, but are not limited to: airports, jails, truck dispatch facilities, or police/fire training facilities; and
- (3) Exceptions: This use group does not include uses which more typically would fall within the Motor-Vehicle-related or Transportation Infrastructure use groups;

(r) Government, Local:

- (1) A use involving services owned, managed, or provided by local government and associated with providing neighborhood-scaled services to meet the community needs of the directly adjacent areas;
 - (2) Examples include, but are not limited to: public community centers, police stations, libraries, or fire stations; and
 - (3) Exceptions: This use group does not include large-scale government uses with a regional or larger service area or uses which more typically would fall within the Large-Scale Government, Emergency Shelter, Parks and Recreation, or Motor Vehicle-related use group. It also does not include administrative offices of local government agencies, when those office functions meet the definition of the Office use group;
- (s) Institutional, General:
- (1) A non-governmental use involving the public assembly of people or provision of services for social or cultural purposes and which may include uses of a public, nonprofit, or charitable nature generally providing local service on-site to people of a local community;
 - (2) Examples include, but are not limited to: private clubs, private community centers, private libraries, non-profits, or social service providers; and
 - (3) Exceptions: This use group does not include uses which more typically would fall within the Religious-Based Institutional; Chancery; Education; Entertainment, Assembly, and Performing Arts; Local Government; Service; Office; or Parks and Recreation use groups;
- (t) Institutional – Religious-Based:
- (1) A non-governmental use involving the public assembly of people or provision of services for religious purposes and which may include related services or uses fundamental to the religious mission;
 - (2) Examples include, but are not limited to: churches, synagogues, temples, mosques, other places of worship, and related religious schools; and

- (3) Exceptions: This use group does not include uses which more typically would fall within the General Institutional; Chancery; Education; Entertainment, Assembly, and Performing Arts; Local Government; Service; Office; or Parks and Recreation use groups;
- (u) Lodging:
- (1) A use providing customers with temporary housing for an agreed upon term of less than thirty (30) consecutive days; any use where temporary housing is offered to the public for compensation, and is open to transient rather than permanent guests;
 - (2) Examples include, but are not limited to: hotels, motels, inns, or bed and breakfast establishments; and
 - (3) Exceptions: This use group does not include uses which more typically would fall within the Emergency Shelter or Residential use group;
- (v) Marine:
- (1) A use in which proximity to the waterfront constitutes an integral aspect of its function; or uses which depend upon access to the water for their effectuality. This use group includes activities associated with water and marine-based travel, movement, storage, and related activities;
 - (2) Examples include, but are not limited to: marina, boathouse, boat launch, dock or pier, boat repair facility, water taxi facility, or water facilities; and
 - (3) Exceptions: This use group does not include uses which more typically would fall within the Motor Vehicle-related use group;
- (w) Medical Care:
- (1) A use involving the on-site licensed provision of medical diagnosis, treatment, or prevention of illness or disease of humans. These facilities may provide medical or surgical care to patients or offer overnight care;
 - (2) Examples include, but are not limited to: dentist, doctor, optician, hospitals, clinics, or medical offices. This use group also includes any “healthcare facility” as defined under the definition of Community Based Residential Facility at § 199.1 of this title; and

- (3) Exceptions: This use group does not include uses which more typically would fall within the Community-based Institutional Facility or Emergency Shelter use group;
- (x) Motor Vehicle-related:
- (1) A use engaging primarily in the on-site sale, rental, service, maintenance, or refueling of motor vehicles or their components. These uses include the sale, installation or repair of parts, components, accessories, or fuel for motor vehicles;
 - (2) Examples include, but are not limited to: gasoline service station, auto repair facility, carwash, automobile sales, boat sales, or motorcycle sales; and
 - (3) Exceptions: This use group does not include uses which more typically would fall within the Retail or Parking use group;
- (y) Office:
- (1) A use engaging primarily in on-site administrative, business, professional, research, or laboratory-based activities. These uses are characterized by activities in an office setting that focus on the provision of off-site sale of goods or on-site information-based services, usually by professionals;
 - (2) Examples include, but are not limited to: real estate agency, law firm, accounting firm, advertising agency, stockbrokerage firm, or laboratory; and
 - (3) Exceptions: This use group does not include uses which more typically would fall within the Health Care; Education; Local Government; Retail; Production, Distribution, and Repair; Financial Service; or Chancery use group;
- (z) Parking:
- (1) A use involving the on-site short or long-term storage of motor vehicles, including surface lots or within structures, when such motor vehicle storage is not provided as accessory parking for another use;
 - (2) Examples include, but are not limited to: public parking lot, public parking garage, or private garage; and

- (3) Exceptions: This use group does not include parking that is accessory to another use;
- (aa) Parks and Recreation:
- (1) A use involving publicly accessible passive or active open space or a structure or facility under the jurisdiction of a public agency that is used for community recreation activities;
 - (2) Examples include, but are not limited to: Public plazas, parks, outdoor recreation, community gardens; Areas devoted to recreational activities such as picnicking, boating, fishing, bicycling, tennis, or swimming; Classes and services relating to health and wellness, culture, arts and crafts, or education; and Structures or other recreation facilities such as auditorium, multi-purpose room, gymnasium, meeting space, open space, playground, playing court, golf course, playing field, or swimming pool, with associated accessory uses such as kitchen facilities; and
 - (3) Exceptions: This use group does not include private recreation centers such as a commercial gymnasium, or uses which more typically would fall within the Entertainment, Assembly, and Performing Arts; Arts Design and Creation; Health Care; or Service use group;
- (bb) Production, Distribution, and Repair:
- (1) A use involving the on-site production, distribution, repair, assembly, processing, or sale of materials, products, technology, or goods intended for a wholesale, manufacturing, or industrial application. Uses may include firms that provide centralized services or logistics for retail uses, and wholesale goods establishments commonly selling to businesses in bulk. These uses typically have little contact with the public;
 - (2) Examples include, but are not limited to: manufacturing facility, concrete plant, asphalt plant, material salvage, hauling or terminal yard, chemical storage or distribution, outdoor material storage, acetylene gas manufacturing, fertilizer manufacturing, rock quarrying, warehouse, ground shipping facility, or wholesale sales; and
 - (3) Exceptions: This use group does not include uses which more typically would fall within the Retail, Service, or Waste-related Services use group;

(cc) Residential:

- (1) A use offering habitation on a continuous basis of at least thirty (30) days. The continuous basis is established by tenancy with a minimum term of a month or property ownership. This use group also includes residential facilities that provide housing and supervision for persons with disabilities, which may include twenty-four (24)-hour on-site supervision, lodging, and meals for individuals who require supervision within a structured environment, and which may include specialized services such as medical, psychiatric, nursing, behavioral, vocational, social, or recreational services;
- (2) Examples include, but are not limited to: single dwelling unit, multiple dwelling units, community residence facilities, retirement homes, rooming units, substance abusers' home, youth residential care home, assisted living facility, floating homes, or other residential uses; and
- (3) Exceptions: This use group does not include uses which more typically would fall within the Lodging, Education, or Community-based Institutional Facility use groups;

(dd) Retail:

- (1) A use engaging primarily in the on-site sale of goods, wares, or merchandise directly to the consumer or persons without a resale license. These uses include goods commonly sold to individuals in small quantities for their direct use;
- (2) Examples include, but are not limited to: shop, appliance, computer, drug, jewelry, fabric, department, large format, or grocery stores; clothing or gift boutiques; or pawn and antique shops; and
- (3) Exceptions: This use group does not include wholesale goods commonly sold to businesses in bulk, corner store use, or uses which more typically would fall within the Arts Design and Creation; Eating and Drinking Establishments; Automobile-related; Firearm Sales; Marine; Production, Distribution, and Repair; or Sexually-based Business Establishment use groups;

(ee) Service, Financial:

- (1) A use engaging primarily in the provision of banking, loan, mortgage or other similar financial services;

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- (2) Examples include, but are not limited to: banks, credit unions, or mortgage companies; and
 - (3) Exceptions: This use group does not include uses which more typically would fall within the Office use group;
- (ff) Service, General:
- (1) A use engaging primarily in the contracting of work that does not necessarily result in a tangible commodity. These uses may provide personal services or provide small-scale product repair or services for consumer and business goods on-site. Service uses which provide services off-site are typically Office uses;
 - (2) Examples include, but are not limited to: appliance repair, fitness center, yoga studio, shoe repair, tailor, hair salon and barber, or parcel delivery service; and
 - (3) Exceptions: This use group does not include uses which more typically would fall within the Eating and Drinking Establishments; Entertainment, Assembly, and Performing Arts; Local Government; Parks and Recreation; Animal Care and Boarding; Motor Vehicle-related; Accommodation; Daytime Care Facility; Health Care; Sexually-based Business Establishment; Arts Design and Creation; Marine; or Waste-related Services use groups;
- (gg) Sexually-based Business Establishment:
- (1) A use involving goods, services, or live performances that are characterized by their emphasis on matter depicting, describing, or related to specified sexual activities. Specified sexual activities include, but are not limited to: acts of sexual stimulation or arousal including human genitals in a discernibly turgid state, human masturbation, sexual intercourse, sodomy, or bestiality; or any erotic touching of human genitals, pubic region, buttock, or breast. This use group has been established to identify those uses which offer services or goods whose sexually-oriented impacts are incompatible with the intended health, safety, and welfare of other uses of land; and
 - (2) Examples include, but are not limited to: sexually-themed bookstores, newsstands, theatres, or amusement enterprises;
- (hh) Transportation Infrastructure:

- (1) A use involving structures or conveyances designed for individual mode or multimodal public transportation purposes. These uses may include land or facilities for the movement or storage of transportation system components;
- (2) Examples include, but are not limited to: streetcar or bus passenger depots, transportation rights-of-way, Metro stations, mass transit stations, bus stops, bicycle paths, bus transfer stations, accessways, airports, bicycle facilities, multi-use paths, pedestrian connections, or streets; and
- (3) Exceptions: This use group does not include uses which more typically would fall within the Basic Utilities use group; and

(ii) Waste-related Services:

- (1) A use involving the collection, transportation, recycling, or disposal of refuse either on-site or at a transfer station. This use group may include the collection of sanitary wastes or uses that produce goods or energy from wastes; and
- (2) Examples include, but are not limited to: composting facility, incinerator, solid waste handling facility, or non-intensive recycling facility. Unless otherwise noted, these terms have the same meaning as defined in the Solid Waste Facility Permit Act of 1995, effective February 27, 1996, as amended (D.C. Law 11-94; D.C. Official Code §§ 8-1051 to 8-1063).

3591 USES – RULES FOR INTERPRETATION

3591.1 This Section establishes rules for assigning and codifying use groups and use categories and regulations for the operation of temporary uses.

3591.2 The following rules shall be used to determine a use group:

- (a) Use groups describe activities being performed on-site that have similar functions, physical characteristics, impacts, or operational behaviors;
- (b) All individual uses shall be included in at least one (1) use group. On- and off-site activities associated with a use may cause that use to be included in more than one (1) group;
- (c) A principal use may have one (1) or more accessory uses;
- (d) The Zoning Administrator shall determine the category or categories for a use, based on consistency with § 3590;

- (e) The following may be considered when determining the appropriate group or groups for a use:
 - (1) The description of the activity or activities in relationship to the definition of each use category;
 - (2) The relative amount of site or floor space and equipment devoted to each activity;
 - (3) The relative amounts of sales from each activity;
 - (4) The customer type for each activity;
 - (5) The relative number of employees in each activity;
 - (6) The typical hours of operation;
 - (7) The building and site arrangement;
 - (8) The number and type of vehicles used;
 - (9) The relative number of vehicle trips generated by the activity;
 - (10) How the use is advertised;
 - (11) How the use is licensed;
 - (12) Similarities in function to the examples and exceptions listed for each use group; and
- (f) The activities, functions, physical characteristics, and impacts of a use on a property may not change unless that change has been determined by the Zoning Administrator to be consistent with that use group or a different use group permitted within the applicable zone.

3591.3 When a site contains more than one (1) use and these uses fall within different use groups, each use is subject only to the regulations of the applicable use group.

3591.4 If a use is determined to fall into more than one (1) use group, the use is subject to the regulations for all applicable use groups. If this results in conflicting conditions or criteria, the most stringent conditions shall be met.

3591.5 Accessory uses shall conform to the following rules:

- (a) Any use allowed as a permitted use in a zone shall be allowed as an accessory use within that zone;

- (b) Any use allowed only with conditions in a zone shall be allowed as an accessory use within that zone, subject to all applicable conditions; and
- (c) Accessory uses:
 - (1) Shall be allowed only when associated with permitted or conditionally permitted uses; and
 - (2) Shall meet all of the conditions of the appropriate use group.

3591.6 Temporary uses shall conform to the following rules:

- (a) Any use allowed as a permitted use in a zone shall be allowed as a temporary use within that zone;
- (b) Any use allowed only with conditions in a zone shall be allowed as a temporary use within that zone, subject to all applicable conditions; and
- (c) Temporary uses:
 - (1) Shall have the time period of the allowance established on the Certificate of Occupancy but shall not exceed five (5) years; and
 - (2) Shall not result in the erection of any new permanent structures, although existing permanent structures may be used for a temporary use.

On May 11, 2015, upon the motion of Commissioner Miller, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the petition at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve; Marcie I. Cohen opposed).

On July 27, 2015, upon the motion of Commissioner Miller, as seconded by Chairman Hood, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt; Marcie I. Cohen to adopt by absentee ballot).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on September 4, 2015.

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

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in the 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.)), hereby gives notice of the adoption of emergency and proposed rules that amend Section 307 (West Dupont Circle Moratorium Zone) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR).

In summary, these emergency and proposed rules renew the existing West Dupont Circle Moratorium Zone (WDCMZ) with certain modifications for a period of three (3) years. Specifically, the rules amend Section 307 to maintain the current limit on the number of retailer's Class CN and DN licenses, and remove the previous limitation on all other retailer class licenses in the WDCMZ.

By way of background, the existing moratorium expired on May 17, 2015. Prior to the expiration, on February 23, 2015, the Board received a request from Advisory Neighborhood Commission (ANC) 2B for a one hundred twenty (120) day extension of the existing moratorium. The ANC requested the extension in order to analyze the impact of a potential request for renewal of the moratorium on the peace, order and quiet of the neighborhood.

Earlier this year, the ANC formed a working group tasked with engaging the public and receiving feedback on the future of the moratorium. The working group consisted of current commissioners, one former commissioner, and the ANC's liquor liaison for ANC 2B06. The working group held three public meetings from January through April 2015, and published an on-line questionnaire for additional public comments. The working group voted to allow the existing moratorium to expire across all licenses. This recommendation was not adopted by the full ANC and a resolution to support a modified moratorium was forwarded to the Board on a 4-2-1 vote.

On May 13, 2015, the Board adopted emergency rules to preserve the existing moratorium for one hundred and twenty (120) days in order to maintain the moratorium's status quo while the Board considered the ANC proposal and take testimony from members of the community who had a different view.

On July 22, 2015, the Board held a public hearing on the request of ANC 2B to renew a modified moratorium. ANC 2B was represented by Commissioner Daniel Warwick who testified in support of the renewal of a modified moratorium for a three (3) year period. The ANC resolution proposal retains the cap on retailer class CN licenses at zero (0) and eliminates the cap on all other retailer's class licenses. Furthermore the ANC recommended that it works collaboratively with the Alcoholic Beverage Regulation Administration (ABRA), the Joint Noise Force Task Force, the Metropolitan Police Department (MPD), the Department of Consumer and

Regulatory Affairs (DCRA), the D.C. Zoning Commission, neighbors, businesses, and other stakeholders to codify a city-wide restriction on locating nightclubs next to residential buildings.

Commissioner Warwick testified to the history of West Dupont Circle and noted that his ANC first petitioned the Board for a moratorium on all liquor-selling establishments over twenty (20) years ago. Over the intervening years, the moratorium has renewed, and many of the renewals have loosened the restrictions to fit the changing needs of the neighborhood. By way of example, in 2006 the total number of licenses increased from twenty-nine (29) to thirty (30) and in 2008, the number increased to thirty-four (34). In 2009, the moratorium zone carved out the 1500 block of Connecticut Avenue N.W., and in 2011, the restrictions on restaurants was lifted.

Commissioner Warwick described West Dupont Circle as a thriving, mixed-use historic neighborhood where many businesses and thousands of residents are located. While the amenities of late-night retail and entertainment contribute to the livelihood of the neighborhood, problems also stem from late-night activity. For example, the neighborhood has taverns located next to residential buildings which can be heard in residential units.

Commissioner Warwick noted that not all businesses are appropriate for the neighborhood, and thus the ANC seeks to retain the cap on nightclub licenses. Lifting the moratorium in its entirety, as the working group suggested, would be disruptive to the peace, order and quiet of any mixed-use neighborhood. It would also impair the public safety of the neighborhood for residents and other pedestrians. He further noted that of the six (6) permitted CT/DT licenses located in the moratorium zone, two (2) continue to present problems so that retaining the cap on tavern licenses will not eliminate the concerns.

He explained that the current moratorium limits healthy competition for existing businesses and it restricts new licenses for art galleries, distilleries, breweries, wineries or multi-purpose facilities. The only way for new businesses to enter into the neighborhood is to purchase existing licenses and those may not be available. The ANC is concerned that this type of structure leads to the creation of a secondary market that serves as a barrier to entry for new businesses.

The ANC desires to create and maintain a vibrant mixed-use neighborhood that offers amenities to businesses and residents alike. However, leaving the restrictions on certain licenses in place impairs the ANC's ability to review the merits of new applications on a case by case basis, which may drive good businesses away.

Karyn Siobhan Robinson is a former ANC Commissioner who has lived at the corner of 22nd and O Streets NW since 1991. She also served on the ANC's working group. She supports eliminating the moratorium in its entirety, to include the cap on nightclub licenses, because the existing moratorium has outlived its usefulness.

Specifically, Ms. Robinson addressed the concerns of peace, order and quiet, and noted that noise from night life activity comes with living in the city and is a part of an urban environment. She further noted that urban living is not for everybody. It is her belief that the Board and the neighborhood should not bend to the whims of a small vocal minority. The neighborhood brings

in many different people and businesses, and noise is a part of that life. She acknowledged that streets adjacent to 22nd and P Streets N.W. are where many of the patrons park and congregate, but she is willing to drive around the neighborhood to find available parking.

Ms. Robinson also supports eliminating the cap on nightclubs because market forces make it unrealistic for a nightclub to locate to West Dupont. She also noted that maintaining the moratorium keeps rents artificially high and chokes out viable retailers who can't afford to enter the neighborhood.

She believes that concerns regarding peace, order and quiet, and public safety can be adequately addressed in individual settlement agreements. Furthermore, she points out that ANC 2B and the Board are well equipped and experienced to handle ABC licensed establishments on a case by case basis should there be any concerns regarding their operations.

Mr. Pellegrini testified as a resident of Dumbarton Place located at 1414 22nd Place N.W., and on behalf of the other thirty six (36) residents in his building. He stated that his fellow residents enjoy living in a vibrant neighborhood, but there are a couple of existing establishments that affect their quality of life. The residents are not concerned with routine noise from living in the city nor are they concerned with the noise produced in the interior of the establishments.

Mr. Pellegrini stated that the problems in the neighborhood that concern the residents the most stem from the patrons who congregate outside after closing time. The drinking continues in and outside the parked vehicles, the patrons are disorderly and verbally abusive to the residents, and the encounters can be alarming. Additionally, residents wake up to litter, garbage, broken bottles, used condoms tossed in common areas and the smell of human urination.

Residents spend their weekends cleaning up after the establishments and their patrons. The residents call MPD who try to be responsive, but by the time MPD arrives, the behavior has curtailed or moved onward. He also appreciates that enforcement by ABRA investigators may be difficult. He believes that stricter enforcement of the settlement agreements and employment of MPD Reimbursable Detail would help to mitigate the bad patron behavior. A third measure of enforcement would be monitoring by the United States Park Police.

Additionally, Mr. Pellegrini does not believe that it is necessary to lift the cap on tavern licenses when the existing cap has not been reached. Of the six (6) permitted licenses, only four (4) are in use. There is no logic to compounding the already challenging issue of tavern licenses by allowing more of them to locate in the neighborhood. Moreover, he argues that there is little distinction between nightclubs and taverns, especially those taverns that offer entertainment.

Mr. Pellegrini suggested that the Board take a pragmatic approach and lift the moratorium on all license classes with the exception of taverns and nightclubs. The residents of his condominium building fully support the removal of the cap on CX and off-premises licenses. With this incremental modification, the community and ABRA can continue to work together for better solutions over the next moratorium period to mitigate or minimize the illegal behavior that stems from the bad operators. This compromise solution would be a win-win for the neighborhood and the businesses.

Jessie Vasquez is also a resident of Dumbarton Place Condominium. She testified regarding the noncompliance of the establishments with the terms of their settlement agreements. One establishment in particular is required to have a doorman who is supposed to traverse the area and encourage patrons to disperse once they've left the club. She has observed the doorman's presence but she has not observed that he carries out his duties as set forth in the settlement agreement.

Judith Snyder appeared on behalf of Dupont West Condominium located at 2141 P Street N.W., Jonathan Padget is also a resident of Dupont West, and stated that about 150 to 175 residents live in the condominiums. He listed Westpark Apartments, located at 2130 P Street N.W., with its 200 to 300 residents, and Georgetown Gate Condominiums, located 1511 22nd Street N.W. as nearby residences. He also noted that hotel guests are affected by the disorderly nightlife generated by some of the establishments and their patrons.

Mr. Padget further noted that the residents have difficulty with the patrons' use of the alleyways that serve as a part of the residential space. His balcony overlooks one alleyway and he has witnessed patrons using illegal drugs, urinating and fornicating outside his window. He believes that the taverns contribute to this detrimental behavior and that eliminating the cap on tavern licenses is not the answer.

Indeed, all of the representatives from the condominium associations noted that the tavern licenses are the primary source of problems for the neighborhood. Maintaining the existing cap on these license classes would help to ensure that these problems are not exacerbated. They urged the Board to leave the cap on the six (6) tavern licenses and the prohibition on nightclub licenses.

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

Robert Oaks, President of the Dupont West Condominium (Dupont West) located at 2141 P Street N.W., submitted written comments on behalf of the Board of Directors who voted unanimously to recommend continuation of the West Dupont Circle Moratorium. It strongly urges the Board to do the same. Dupont West is a 95 unit building whose owners and residents appreciate the thriving neighborhood, but are regularly disturbed by the patrons of a few licensed establishments. Dupont West actively supports the settlement agreements and cooperates with MPD, ABRA and other civic organizations to no avail. The taverns in the neighborhood operate in reality as nightclubs. They serve alcohol but not food, offer entertainment at levels that can be heard outside their premises, and release patrons in large rowdy crowds onto the streets in the early morning hours. For these reasons, Dupont West does not support the ANC Resolution to lift the cap on tavern licenses.

Glenn M. Engelmann resides at 1412 Hopkins Street N. W. He requested that the Board leave the existing moratorium in place because the neighborhood is currently vibrant with a good mixture of restaurants and other retail establishments. He credits the moratorium with enabling a

strong business climate while preserving the significant residential character of the neighborhood. At a minimum, Mr. Engelmann asks the Board to maintain the moratorium on prohibiting nightclubs as the ANC proposes.

Skip Perry has resided at 1400 20th Street N.W. for six (6) years. He supports Ms. Robinson and working group's position that the moratorium should expire in its entirety. He believes the vibrancy and attractiveness of the neighborhood has atrophied and continues to do so. There is a noticeable decline in foot traffic and former ABC licensed locations sit empty. Mr. Perry observes that the moratorium has loosened since its inception over the years with no apparent negative impact on the neighborhood. It is his opinion that new businesses should be permitted to apply and then be vetted by ABRA for their appropriateness.

Alan Rueckgauer has been President of the Westpark Tenant Association (WTA) since 2007. He has resided at the Westpark Apartments, located at 2130 P Street N. W. for over 25 years. The Westpark has 250 units containing 300-350 individual residents. The WTA surveyed its members in April 2015 and more than eighty-five percent (85%) of the membership supported maintaining the current moratorium. The unanimous concern is the demonstrated inability of the District to address complaints, public safety issues, and the ongoing problems with bad operators. There are countless altercations, fights and assaults, some with deadly weapons, centered on the corner of 22nd and P Streets N.W. The WTA has been actively engaged with the ANC, MPD and ABRA for many years to address these concerns, yet the noise and bad, if not illegal behavior, continues. For these reasons, the WTA urges the Board to maintain the moratorium on tavern and nightclub licenses.

The Georgetown Gate Condominium located at 1511 22nd Street N.W. offered similar written comments requesting the Board to keep the moratorium on taverns and nightclubs intact. Their members have had their fill of fights, vandalism, rowdy and unsavory behavior, all of which is carried out on public and private property. The Georgetown Gate is concerned that the attitude of the ANC and District officials appears to favor the business interests over the residential interests.

Lastly, residents of Dumbarton Place Condominium supplemented the testimony of Mr. Pellegrini and Ms. Vazquez with written comments. The residents requested the Board to keep the existing moratorium in place for taverns and nightclubs. They raise three points in support of their position: 1) the existing taverns cause disorderly conduct, public safety issues, and excessive noise in the neighborhood; 2) the owners of the taverns have exhibited no interest in being good neighbors; and 3) the ANC's recommendation is inconsistent with the will and desire of the greater residential neighborhood. The residents support allowing the moratorium to expire for restaurants and multi-purpose facilities.

Decision of the Board

The Board took the views of ANC 2B and all other witnesses and written comments into consideration. The Board determined that the ANC proposal to lift the moratorium on all license classes with the exception of CN/DN licenses constitutes a reasonable, measured, and appropriate solution for the West Dupont neighborhood.

In reaching its decision, the Board gave great weight to the written recommendations of ANC 2B as required by Section 13(d)(3) of the Advisory Neighborhood Commissions Act of 1975, effective October 10, 1975 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)(3) (200612 Repl. & 20142 Supp.), and D.C. Official Code § 25-609 (20012 Repl. & 2014 Supp. ed.)). After evaluating all of the testimony and comments, the Board finds that ANC 2B's proposal is appropriate. Specifically, the Board agrees that maintaining the current cap on nightclub licenses is warranted to ensure that problems in the neighborhood are not exacerbated.

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 (b)(2) and (b)(3) (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. & 2015 Supp.); see also D.C. Official Code § 25-351(a) (2012 Repl. & 20145 Supp.).

With regard to peace, order and quiet, the testimony presented at the hearing as well as the proposal submitted by ANC 2B revealed that there are significant problems in the West Dupont neighborhood with regard to peace, order, and quiet, particularly with regard to late night noise, litter, and public urination.

Additionally, the Board concluded that issues with vehicular and pedestrian safety continue to exist in the WDMZ. Specifically, the testimony of Mr. Pellegrini revealed that patrons are drinking inside and outside of parked vehicles and congregating outside the establishment after closing time. Thus, the Board concluded that maintaining a modified moratorium is in the public interest as determined by the appropriateness standards set forth in D.C. Official Code §§ 25-313 (b)(2) and (b)(3) (2012 Repl. & 2015 Supp.).

As noted above, the Board agrees with and adopts the ANC proposal. Specifically, the Board agrees to: (1) renew a modified moratorium; (2) lift the restrictions on all license classes with the exception of the number of Retailer Class CN/DN licenses; (3) retain the existing language pertaining to the transfer of ownership; (4) retain the prohibition on the transfer of Retailer Class CN/DN from outside the moratorium zone to inside the moratorium zone; and (5) retain the prohibition restricting the change of license class to all CN/DN licenses.

The Board rejects modifications to the ANC proposal suggested by the various condominium residents regarding retaining the cap on tavern licenses. The Board believes that there are enough safeguards in place to protect the neighborhood as discussed more fully below. The Board also notes that the current cap on tavern licenses has not been reached so clearly the demand to locate new taverns in the neighborhood may be overestimated.

While it is sympathetic to their concerns about the social ills that accompany a vibrant nightlife, the Board would encourage the condominium residents to participate fully in the protest process

when the tavern licenses are scheduled for renewal in 2016. Additionally, the Board would encourage the neighborhood to utilize the ABRA hotline in the evenings and early morning hours. The agency has recently deployed additional investigators whose duty hours now cover seven nights of the week. Lastly, the residents are encouraged to access the ABRA electronic complaint form on the agency website anytime they witness a breach in the establishments' settlement agreements. The Board assures the community that complaints submitted telephonically or electronically will be investigated.

The Board also believes that limiting the modified moratorium to three years will allow the Board, the ANC, and the community to assess the effectiveness of the proposed changes. Additionally, this timeframe allows the community the greatest degree of flexibility to adapt and adjust the moratorium to respond to the changing needs of the 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.

In removing the cap on tavern licenses, the Board makes clear that it will not tolerate tavern licensees who operate in such a manner that their operations create a nightclub atmosphere. It cautions all licensees to understand that West Dupont is a unique neighborhood. As such, the Board will give great scrutiny to any licensing 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 recent expansion of the Civil Penalty Schedule 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 civil penalty regulations 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.

The Board 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 efforts to solicit the community members' perspectives on positive steps to transform the West Dupont'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 West Dupont moratorium that allows for responsible growth is warranted.

The statements set forth above reflect the written reasons for the Board's decision as required by 23 DCMR § 303.1.

Emergency rulemakings are used only for the immediate preservation of the public peace, health, safety, welfare, or morals, pursuant to 1 DCMR 311.4(e). The existing WDMZ expires on September 13, 2015, requiring the Board to make a determination regarding the future of the WDMZ. The emergency action is necessary for the preservation of the health, safety and welfare of the District residents in order to ensure that the prohibitions provided in the modified moratorium are maintained.

These emergency and proposed rules were adopted by the Board on August 12, 2015, by a six (6) to zero (0) vote and became effective on that date. The rules will remain in effect for up to one hundred twenty (120) days, expiring December 12, 2015, unless earlier superseded by proposed and final rulemakings or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

The Board gives notice of its intent to adopt these rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Pursuant to D.C. Official Code § 25-211(b)(2) (2012 Repl. & 2015 Supp.), these proposed rules are also being transmitted to the Council of the District of Columbia, and the final rules may not become effective until their approval by Council resolution during the ninety (90) day period of Council review.

Chapter 3, LIMITATIONS ON LICENSES, of Title 23 DCMR, ALCOHOLIC BEVERAGES, is amended as follows:

Section 307 is amended to read as follows:

307 WEST DUPONT CIRCLE MORATORIUM ZONE

307.1 A limit shall exist on the number of retailer's licenses issued in the area that extends approximately six hundred feet (600 ft.) in all directions from the intersection of 21st and P Streets, N.W., Washington, D.C., as follows: Class CN or DN - Zero (0). This area shall be known as the West Dupont Circle Moratorium Zone.

307.2 The West Dupont Circle Moratorium Zone is more specifically described as the area bounded by a line beginning at 22nd Street and Florida Avenue, N.W.; continuing north on Florida Avenue, N.W., to R Street, N.W.; continuing east on R Street, N.W., to 21st Street, N.W.; continuing south on 21st Street, N.W., to Hillyer Place, N.W.; continuing east on Hillyer Place, N.W., to 20th Street, N.W.; continuing south on 20th Street, N.W., to Q Street, N.W.; continuing east on Q Street, N.W., to Connecticut Avenue, N.W.; continuing southeast on Connecticut Avenue, N.W., to Dupont Circle; continuing southwest around Dupont Circle to

New Hampshire Avenue, N.W.; continuing southwest on New Hampshire Avenue, N.W., to N Street, N.W.; continuing west on N Street, N.W., to 22nd Street, N.W.; and continuing north on 22nd Street, N.W., to Florida Avenue, N.W. (the starting point).

- 307.3 All hotels, whether present or future, shall be exempt from the West Dupont Circle Moratorium Zone. The 1500 block of Connecticut Avenue, N.W., shall be exempt from the West Dupont Circle Moratorium Zone. Establishments located in, or to be located in, the New Hampshire side of One Dupont Circle, N.W., shall be exempt from the West Dupont Circle Moratorium Zone.
- 307.4 Nothing in this section shall prohibit the Board from approving the transfer of ownership of a retailer's license Class A, B, CR, CT, CX, DR, DT, or DX located within the West Dupont Circle Moratorium Zone, subject to the requirements of the Act and this title.
- 307.5 Nothing in this section shall prohibit the Board from approving the transfer of a license from a location within the West Dupont Circle Moratorium Zone to a new location within the West Dupont Circle Moratorium Zone.
- 307.6 A CN/DN license holder outside the West Dupont Circle Moratorium Zone shall not be permitted to transfer its license to a location within the West Dupont Circle Moratorium Zone.
- 307.7 Subject to the limitation set forth in Subsection 307.8, nothing in this section shall prohibit the filing of a license application or a valid protest of any transfer or change of license class.
- 307.8 No licensee in the West Dupont Circle Moratorium Zone shall be permitted to request a change of license class to CN, or DN.
- 307.9 A current holder of a retailer's license Class A, B, C, or D within the West Dupont Moratorium Zone shall not be permitted to apply to the Board for expansion of service or sale of alcoholic beverages into any adjoining or adjacent space, property, or lot, unless:
- (a) the prior owner or occupant has held within the last five (5) years a retailer's license Class A, B, C, or D; or
 - (b) the applicant is a Class CR or DR licensee and the prior owner or occupant has held during the last three (3) years, and continues to hold at the time of application, a valid restaurant license from the Department of Consumer and Regulatory Affairs.
- 307.10 The number of substantial change applications approved by the Board for expansion of service or sale of alcoholic beverages into an adjoining or adjacent

space, property, or lot, as allowed under Subsection 307.9, shall not exceed three (3) during the three (3) year period of the West Dupont Circle Moratorium Zone.

307.11 Nothing in this section shall prohibit holders of a retailer's license Class C or D from applying for outdoor seating in public space.

307.12 This section shall expire three (3) years after the date of publication of the notice of final rulemaking.

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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-202
August 26, 2015

SUBJECT: Appointment – Undergrounding Project Consumer Education Task Force


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as the 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), (11) (2014 Repl.), and pursuant to sections IV and V of Mayor's Order 2015-162, dated June 11, 2015, establishing the Undergrounding Project Consumer Education Task Force, it is hereby **ORDERED** that:

1. **OLIVIA DEDNER** is appointed as a member of the Undergrounding Project Consumer Education Task Force ("**Task Force**"), as the designee of the City Administrator, replacing Barry Kreiswirth, to serve throughout the execution of the Triennial Underground Infrastructure Improvement Projects Plan, at the pleasure of the Mayor.
2. **OLIVIA DEDNER** shall serve as chairperson of the Task Force.
3. **PHYLLIS LOVE**, who was appointed to the Task Force pursuant to Mayor's Order 2015-166, dated June 16, 2015, shall serve as vice chairperson of the Task Force.
4. This Order supersedes paragraphs 1 and 15 of Mayor's Order 2015-166, dated June 16, 2015.
5. **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 ISSUANCE SYSTEM

Mayor's Order 2015-203
August 26, 2015

SUBJECT: Reappointment and Appointments — Humanities Council of Washington, D.C.

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 in accordance with the National Foundation on the Arts and Humanities Act of 1965, Pub. L. No 89-289, 79 Stat. 845 (1965), it is hereby **ORDERED** that:

1. **CHRISTINE M. WARNKE** is reappointed as a member of the Humanities Council of Washington, D.C., and shall serve in that capacity for a term of three years, to end on June 1, 2018.
2. **MARJAN SHALLAL** is appointed as a member of the Humanities Council of Washington, D.C., replacing Myra L. Dandridge, and shall serve in that capacity for a term of three years, to end on June 1, 2018.
3. **ROBERT PERRY** is appointed as a member of the Humanities Council of Washington, D.C., replacing Amanda Miller-Littlejohn, and shall serve in that capacity for a term of three years, to end on June 1, 2018.
4. **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 ISSUANCE SYSTEM

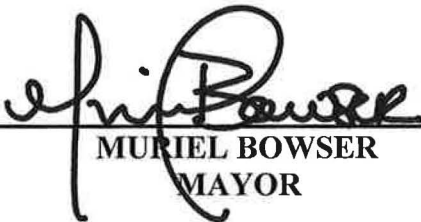
Mayor's Order 2015-204
August 26, 2015

SUBJECT: Appointment — District of Columbia Statewide Independent Living Council

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(2) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), and in accordance with Mayor's Order 93-148, dated September 29, 1993, it is hereby **ORDERED** that:

1. **ANDREW P. REESE** is appointed, as a representative from the Rehabilitation Services Administration, as an ex officio member of the Statewide Independent Living Council, replacing Roy Albert, and shall serve at the pleasure of the Mayor for a term ending November 5, 2017.
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 ISSUANCE SYSTEM


Mayor's Order 2015-205
August 28, 2015

SUBJECT: Delegation of Authority to the Deputy Mayor for Planning and Economic Development Under D.C. Official Code § 47-4664 (the Creative and Open Space Modernization Emergency Amendment Act of 2015) and any substantially similar successor emergency and permanent legislation

ORIGINATION AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by sections 422(6) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, Pub. L. 93-198; 87 Stat. 790, D.C. Official Code, §§ 1-204.22(6) and (11) (2014 Repl.), and in accordance with D.C. Official Code § 47-4664, as added by the Creative and Open Space Modernization Emergency Amendment Act of 2015, effective July 27, 2015 (D.C. Act 21-127; 62 DCR 10201), and any substantially similar successor emergency and permanent legislation, it is hereby **ORDERED** that:

1. The Deputy Mayor for Planning and Economic Development (“**DMPED**”) is delegated the authority vested in the Mayor pursuant to D.C. Official Code § 47-4664.
2. The authority delegated by the Mayor to DMPED herein may be further delegated to subordinates under the personnel authority of DMPED.
3. **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 ISSUANCE SYSTEM

Mayor's Order 2015-206
August 31, 2015

SUBJECT: Reappointment – District of Columbia Water and Sewer 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, 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 204(a)(3)(B) of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996, D.C. Law 11-111, D.C. Official Code § 34-2202.04(a)(3)(B) (2012 Repl.), it is hereby **ORDERED** that:

1. **DAVID LAKE** is reappointed, as an alternate Board member representing Montgomery County, Maryland, to the District of Columbia Water and Sewer Authority Board of Directors, pursuant to the recommendation of Isiah Leggett, Montgomery County, Maryland, County Executive, dated June 9, 2015, for a full term to end May 31, 2019, or until a successor is appointed.
2. **EFFECTIVE DATE:** This Order shall become effective *nunc pro tunc* to June 9, 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 2015-207
August 31, 2015

SUBJECT: Reappointment – District of Columbia Water and Sewer 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, 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 204(a)(3)(B) of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996, D.C. Law 11-111, D.C. Official Code § 34-2202.04(a)(3)(B) (2012 Repl.), it is hereby **ORDERED** that:

1. **ELISABETH FELDT** is reappointed, as a principal Board member representing Montgomery County, Maryland, to the District of Columbia Water and Sewer Authority Board of Directors, pursuant to the recommendation of Isiah Leggett, Montgomery County, Maryland, County Executive, dated June 9, 2015, for a full term to end May 31, 2019, or until a successor is appointed.
2. **EFFECTIVE DATE:** This Order shall become effective *nunc pro tunc* to June 9, 2015.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, SEPTEMBER 9, 2015
2000 14TH STREET, N.W., SUITE 400S
WASHINGTON, D.C. 20009

Ruthanne Miller, Chairperson
Members: Nick Alberti, Donald Brooks, Herman Jones
Mike Silverstein, Hector Rodriguez, James Short

Protest Hearing (Status) 9:30 AM
Case # 15-PRO-00067; Suns Cinema, Inc., t/a Suns Cinema, 3107 Mt. Pleasant Street NW, License #98888, Retailer CT, ANC 1D
New Application

Show Cause Hearing (Status) 9:30 AM
Case # 15-CMP-00221; Daci Enterprises, LLC, t/a Dacha Beer Garden, 1600 7th Street NW, License #92773, Retailer DT, ANC 6E
Substantial Change in Operation Without Board's Approval, Violation of Settlement Agreement, Substantial Change in Operation (No Summer Garden Endorsement)

Show Cause Hearing (Status) 9:30 AM
Case # 15-CMP-00222; Daci Enterprises, LLC, t/a Dacha Beer Garden, 1600 7th Street NW, License #92773, Retailer DT , ANC 6E
Substantial Change in Operation Without Board's Approval, Violation of Settlement Agreement, Substantial Change in Operation (No Summer Garden Endorsement)

Show Cause Hearing (Status) 9:30 AM
Case # 15-CMP-00223; Daci Enterprises, LLC, t/a Dacha Beer Garden, 1600 7th Street NW, License #92773, Retailer DT, ANC 6E
Substantial Change in Operation Without Board's Approval, Violation of Settlement Agreement, Substantial Change in Operation (No Summer Garden Endorsement)

Board's Calendar
September 9, 2015

Show Cause Hearing (Status) 9:30 AM

Case # 15-CMP-00249; Daci Enterprises, LLC, t/a Dacha Beer Garden, 1600
7th Street NW, License #92773, Retailer DT, ANC 6E

**Substantial Change in Operation Without Board's Approval, Violation of
Settlement Agreement, Substantial Change in Operation (No Summer
Garden Endorsement)**

Show Cause Hearing (Status) 9:30 AM

Case # 15-CMP-00251; Daci Enterprises, LLC, t/a Dacha Beer Garden, 1600
7th Street NW, License #92773, Retailer DT, ANC 6E

**Substantial Change in Operation Without Board's Approval, Violation of
Settlement Agreement, Substantial Change in Operation (No Summer
Garden Endorsement)**

Show Cause Hearing (Status) 9:30 AM

Case # 15-CMP-00250; Daci Enterprises, LLC, t/a Dacha Beer Garden, 1600
7th Street NW, License #92773, Retailer DT, ANC 6E

**Substantial Change in Operation Without Board's Approval, Violation of
Settlement Agreement, Substantial Change in Operation (No Summer
Garden Endorsement)**

Show Cause Hearing (Status) 9:30 AM

Case # 15-CMP-00160; Barcelona 14th Street, LLC, t/a Barcelona Wine Bar
1622 14th Street NW, License #89785, Retailer CR, ANC 2F

**Substantial Change in Operation (Change of Hours of Operation of your
Summer Garden)**

Show Cause Hearing (Status) 9:30 AM

Case # 15-AUD-00047; Thirteenth Step, LLC, t/a Kitty O' Sheas DC, 4624
Wisconsin Ave NW, License #90464, Retailer CR, ANC 3E

Failed to File Quarterly Statements (4th Quarter 2014)

Show Cause Hearing (Status) 9:30 AM

Case # 15-AUD-00050; T & L Investment Group, LLC, t/a Panda Gourmet
2700 New York Ave NE, License #86961, Retailer CR, ANC 5C

Failed to File Quarterly Statements (4th Quarter 2014)

Show Cause Hearing (Status) 9:30 AM

Case # 15-AUD-00048; Paul Penn, LLC, t/a Paul Bakery, 801 Pennsylvania
Ave NW, License #86639, Retailer CR, ANC 2C

Failed to File Quarterly Statements (4th Quarter 2014)

Board's Calendar
September 9, 2015

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

Case # 15-CMP-00217; Brentwood Liquors, t/a Brentwood Liquors, 1319
Rhode Island Ave NE, License #60622, Retailer A, ANC 5C

Sold Go-Cups

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

Case # 15-AUD-00060; Nispero, LLC, t/a El Nuevo Migueleno, 1721
Columbia Road NW, License #75403, Retailer CR, ANC 1C

Failed to File Quarterly Statements (4th Quarter 2014)

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

Case # 15-CMP-00073; AAK Investments, Inc., t/a Pasta Italiana, 2623
Connecticut Ave NW, License #60483, Retailer CR, ANC 3C

**Failed to File Quarterly Statements (3rd Quarter 2014), Failed to Post
License Conspicuously in the Establishment**

Fact Finding Hearing* **9:30 AM**

Neighborhood Restaurant Group XIX, LLC, t/a To Be Determined, 1206
Wisconsin Ave NW, License #95913, Retailer CT, ANC 2E

Request to Extend Safekeeping

Show Cause Hearing* **10:00 AM**

Case # 14-CMP-00597; Cava Mezze Grill Tenleytown, LLC, t/a Cava Mezze
Grill, 4237 Wisconsin Ave NW, License #90698, Retailer CR, ANC 3E

No ABC Manager on Duty

Show Cause Hearing* **11:00 AM**

Case # 15-251-00033; New York Avenue Beach Bar, LLC, t/a Halftime Sports
Bar, 1427 H Street NE, License #94107, Retailer CT, ANC 6A

Possession of a Firearm

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

Protest Hearing* **1:30 AM**

Case # 15-PRO-00062; Fast Trip, LLC, t/a Bistro on U Street, 926 U Street
NW, License #98081, Retailer CT, ANC 1B

Application for a New License

Board’s Calendar
September 9, 2015

Show Cause Hearing* 1:30 PM

Case # 14-CMP-00706; Neighborhood Restaurant Group XV, LLC, t/a Red Apron Butchery/The Partisan, 709 D Street NW, License #90742, Retailer CR ANC 2C

Failed to Take Steps Necessary to Ensure Property is Free of Litter

Show Cause Hearing* 2:30 PM

Case # 15-CMP-00059; Neighborhood Restaurant Group XV, LLC, t/a Red Apron Butchery/The Partisan, 709 D Street NW, License #90742, Retailer CR ANC 2C

Failed to Take Steps Necessary to Ensure Property is Free of Litter

Show Cause Hearing* 3:30 PM

Case # 15-CMP-00056; Yonas, Inc., t/a Corner Market, 1447 Howard Road SE License #86200, Retailer A, ANC 8A

Failed to Take Steps Necessary to Ensure Property is Free of Litter

Protest Hearing* 4:30 PM

Case # 15-PRO-00063; All Souls, LLC, t/a All Souls,725 T Street NW License #88179, Retailer CT,ANC 1B

Substantial Change (Change of Hours and to Add a Sidewalk Café Endorsement)

Protest Hearing* 4:30 PM

Case # 15-PRO-00042; Jumbo Liquors, Inc., t/a Jumbo Liquors, 1122 H Street NE, License #42, Retailer A, ANC 6A

Application to Renew the License

***The Board will hold a closed meeting for purposes of deliberating these hearings pursuant to D.C. Official Code §2-574(b)(13).**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
CANCELLATION AGENDA

WEDNESDAY, SEPTEMBER 9, 2015
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

The Board will be cancelling the following licenses for the reasons outlined below:

[Safekeeping] ABRA-093591 – **Dansby and Cotino** – Retailer – B – 101 15TH STREET NE
[The Licensee has not paid annual fees since 2012.]

[Safekeeping] ABRA-079224– **Muse Nightclub & Lounge** – Retailer – C – Nightclub –
717 6th STRETT NW
[The Licensee has not paid annual fees since 2013.]

ABRA-089674 – **Hill Country Summer Barbecue at the National Building Museum** –
Retailer – C – Tavern – 401 F STREET NW
[The Licensee has requested cancellation of license.]

ABRA-086065 – **To Be Determined (Formerly The Attic)** – Retailer – C – Restaurant – 1841
COLUMBIA ROAD NW
[The Licensee has requested cancellation of license.]

ABRA-002109 – **Kusa Market** – Retailer – B – Grocery – 3108 GEORGIA AVENUE NW
[The licensee has requested cancellation of the license affective September 30, 2015.]

ABRA-087030 – **Mova** – Retailer – C – Restaurant – 2204 14th STREET NW
[The Establishment appears to have ceased operations. A letter, dated 8/11/2015, requesting
that the Licensee respond to put the license in Safekeeping, was returned as undeliverable on
August 24, 2015.]

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

**NOTICE OF MEETING
INVESTIGATIVE AGENDA**

**WEDNESDAY, SEPTEMBER 9, 2015
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

On September 9, 2015 at 4:00 pm, the Alcoholic Beverage Control Board will hold a closed meeting regarding the matters identified below. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed “to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations.”

1. Case#15-251-00144 Green Island Cafe/Heaven & Hell (The), 2327 18TH ST NW Retailer C Tavern, License#: ABRA-074503

2. Case#15-CC-00051 Giant #384, 1525 ALABAMA AVE SE Retailer B Retail - Grocery, License#: ABRA-077233

3. Case#15-CC-00082 Etete Ethiopian Cuisine, 1942 9TH ST NW Retailer C Tavern, License#: ABRA-070728

4. Case#14-CC-00167 Buca Di Beppo, 1825 CONNECTICUT AVE NW Retailer C Restaurant, License#: ABRA-060461

5. Case#15-CC-00071 Tara Thai, 4849 MASSACHUSETTS AVE NW Retailer C Restaurant, License#: ABRA-078941

6. Case#15-CC-00079 B Cafe/Brookland Cafe, 3740 12TH ST NE Retailer C Restaurant, License#: ABRA-083121

7. Case#15-CC-00088 The Hamilton, 600 14TH ST NW Retailer C Multipurpose, License#: ABRA-086010

8. Case#15-CMP-00463 Po Boy Jim, 709 H ST NE Retailer C Restaurant, License#: ABRA-087903

9. Case#15-CC-00089 Fuel Pizza & Wings, 600 F ST NW Retailer C Restaurant, License#: ABRA-088727

10. Case#15-CC-00077 Watershed, 1225 1st ST NE Retailer C Restaurant, License#: ABRA-089123

11. Case#15-CC-00030 Lyman's, 3720 14TH ST NW Retailer C Tavern, License#: ABRA-090509

12. Case#15-CMP-00440 Flash, 645 FLORIDA AVE NW Retailer C Tavern, License#: ABRA-090823

13. Case#15-CMP-00441 Flash, 645 FLORIDA AVE NW Retailer C Tavern, License#: ABRA-090823

14. Case#15-CMP-00439 DACHA BEER GARDEN, 1600 7TH ST NW Retailer D Tavern, License#: ABRA-092773

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LEGAL AGENDA

WEDNESDAY, SEPTEMBER 9, 2015 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review of Motion for Reconsideration of the Board's Order Granting Protestant's Motion for Reinstatement, dated August 17, 2015, submitted by *Suns Cinema*, 3107 Mt. Pleasant Street, N.W., Retailer CT, License No.: 098888.* *No response filed by Protestants.*

2. Review of Appeal of Petition to Unilaterally Amend a Settlement Agreement Decision, dated August 3, 2015, submitted by Lee's Mini Market. *Lee's Mini Market*, 3853 Alabama Avenue, S.E., Retailer B, License No.: 084939.

3. Review of Second Amendment to Settlement Agreement between ANC 1C and Ventnor Sports Cafe, dated August 5, 2015. *Ventnor Sports Cafe*, 2411 18th Street, N.W., Retailer CR, License No.: 072529.

4. Review of Settlement Agreement between ANC 6A and Imm on H, dated July 6, 2015. *Imm on H*, 1360 H Street, N.E., Retailer CR, License No.: 099569.

5. Review of Settlement Agreement between ANC 6D and Finished Business and Celebrity, dated May 11, 2015. *Finished Business and Celebrity*, 1300 Maine Avenue, S.W., Retailer CX, License No.: 099365.

6. Review of Request for Off-Site Storage, dated July 23, 2015. *Table*, 903 North Street, N.W., Retailer DR, License No.: 089395.

7. Review of Request for Off-Site Storage, dated August 7, 2015. *Boundary Stone Public House*, 116 Rhode Island Avenue, N.W., Retailer CT, License No.: 083980.

* In accordance with D.C. Official Code §2-574(b) Open Meetings Act, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, SEPTEMBER 9, 2015 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for Safekeeping of License – Original Request. ANC 1C. SMD 1C07. Outstanding Fines/Citations/Enforcement Matters: 5/1/2014, Case #14-CMP-00286, Quarterly Statement, Citation #4094, \$250 fine; 1/1/2014, Case #14-CMP-00084, After-hours. Referred to staff for settlement on 3/19/2014, Licensee requested a hearing on 4/24/2014. No conflict with Settlement Agreement. **Dahlak Restaurant**, 1771 U Street NW, Retailer CR, License No. 074433.

2. Review Request to Extend Safekeeping Status of License – Third Request. Original Safekeeping Date: 9/1/2006. ANC 2E. SMD 2E05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. **Machu Picchu Restaurant**, 3263 M Street NW, Retailer CR, License No. 008309.

3. Review Request to Extend Safekeeping Status of License – Third Request. Original Safekeeping Date: 12/5/2013. ANC 6D. SMD 6D01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **L'Enfant Plaza Hotel**, 480 L'Enfant Plaza SW, Retailer CH, License No. 093846.

4. Review Request to Extend Safekeeping Status of License – Second Request. Original Safekeeping Date: 9/10/2008. ANC 1C. SMD 1C03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **To Be Determined (Queen of the Moon, Inc.)**, 1815 Columbia Road NW (Formerly), Retailer A Liquor Store, License No. 083118.

5. Review Request to Extend Safekeeping Status of License – First Request. Original Safekeeping Date: 1/7/2015. ANC 1B. SMD 1B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. **Duffy's Irish Pub**, 2106 Vermont Avenue NW, Retailer CT, License No. 072539.

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6. Review Application for Class Change from Retailer D Restaurant to Retailer C Restaurant. ANC 6C. SMD 6C04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Toscana Café*, 601 2nd Street NE, Retailer DR, License No. 097558.
-
7. Review Request for Change of Hours. ***Approved Hours of Operation, Alcoholic Beverage Sales and Consumption, and Live Entertainment for Premises:*** Sunday-Thursday 5pm to 2am, Friday- Saturday 5pm to 3am. ***Approved Hours of Operation and Alcoholic Beverage Sales and Consumption for Sidewalk Cafe:*** Sunday-Thursday 5pm to 1am, Saturday-Sunday 5pm to 2am. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption for Premises:*** Sunday -Thursday 11am to 2am, Friday-Saturday 11am to 3am. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption for Sidewalk Cafe:*** Sunday -Thursday 11am to 1am, Friday-Saturday 11am to 2am. ANC 1C. SMD 1C07. Pending Enforcement Matter: 3/8/2015, Case #15-251-00080, Simple Assault, Security Plan, Settlement Agreement, the Board requested a Show Cause Hearing on 5/20/2015. No outstanding fines/citations. No conflict with Settlement Agreement. *Green Island Café/Heaven & Hell*, 2327 18th Street NW, Retailer CT, License No. 074503.
-
8. Review Request for Change of Hours. ***Approved Hours of Operation and Alcoholic Beverage Sales and Consumption:*** Sunday -Thursday 10am to 2am, Friday-Saturday 10am to 3am. ***Approved Hours of Live Entertainment:*** Sunday-Thursday 6pm to 2am, Friday-Saturday 6pm to 3am. ***Proposed Hours of Operation:*** Sunday-Saturday 12am to 12am (24-hour operations). ANC 1B. SMD 1B10. Pending Enforcement Matter/Citation/Fine: 10/4/2014, Case #14-CMP-00674, No ABC Manager on Duty, Citation #5010, \$500 fine. No Settlement Agreement. *Nati Hookah Bar*, 2839 Georgia Avenue NW, Retailer CT, License No. 087508.
-
9. Review Request for Change of Hours. ***Approved Hours of Operation for Premises:*** Sunday-Saturday 12am to 12am (24-hour operations). ***Approved Hours of Alcoholic Beverage Sales and Consumption for Premises:*** Sunday 10:30am to 2am, Monday-Thursday 11:30am to 2am, Friday 11:30am to 2:30am, Saturday 11am to 2:30am. ***Approved Hours of Live Entertainment for Premises and Summer Garden:*** Sunday-Saturday 6pm to 1am. ***Approved Hours of Operation and Alcoholic Beverage Sales and Consumption for Summer Garden:*** Sunday 10:30am to 1am, Monday-Friday 11:30am to 1am, Saturday 11am to 1am. ***Proposed Hours of Alcoholic Beverage Sales and Consumption for Premises:*** Sunday 10:30am to 2am, Monday-Thursday 11:30am to 2am, Friday 11:30am to 2:30am, Saturday 10:30am to 2:30am. ***Proposed Hours of Alcoholic Beverage Sales and Consumption for Summer Garden:*** Sunday 10:30am to 1am, Monday-Friday 11:30am to 1am, Saturday 10:30am to 1am. ANC 2B. SMD 2B05. No

outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **Hotel Tabard Inn**, 1739 N Street NW, Retailer CH, License No. 001445.

10. Review Request for Change of Hours. **Approved Hours of Operation:** Wednesday-Monday, 10am to 10pm, Tuesday 7am to 10pm. **Approved Hours of Alcoholic Beverage Sales and Consumption:** Sunday-Saturday 10am to 10pm. **Proposed Hours of Operation:** Sunday-Wednesday 7am to 10:30pm, Thursday-Saturday 7am to 11:00pm. **Proposed Hours of Alcoholic Beverage Sales and Consumption:** Sunday-Wednesday 10am to 10:30pm, Thursday-Saturday 10am to 11:00pm. ANC 2E. SMD 2E06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. **After Peacock Room**, 2622 P Street NW, Retailer CR, License No. 095964.

11. Review Request for Change of Hours. **Approved Hours of Operation and Alcoholic Beverage Sales and Consumption:** Monday-Thursday 11am to 9:30pm, Friday-Saturday 11am to 10:30pm. **Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption:** Sunday-Saturday 11am to 11pm. ANC 6C. SMD 6C03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **Kenny's Smokehouse**, 732 Maryland Avenue NE, Retailer CR, License No. 099385.

12. Review Request for Change of Hours. **Approved Hours of Operation and Alcoholic Beverage Sales and Consumption for Premises and Sidewalk Cafe:** Sunday-Saturday 11am to 11pm. **Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption for Premises and Sidewalk Cafe:** Sunday-Saturday 11am to 2am. ANC 6E. SMD 6E05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **Texas de Brazil**, 455 Massachusetts Avenue NW, Retailer CR, License No. 098330.

13. Review Request for Change of Hours. **Approved Hours of Operation and Alcoholic Beverage Sales and Consumption:** Sunday-Thursday 10:20am to 11:00pm, Friday-Saturday 10:20am to 12am. **Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption:** Sunday-Thursday 10:20am to 2am, Friday-Saturday 10:20am to 3am. ANC 2C. SMD 2C01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **Chinatown Garden**, 618 H Street NW, Retailer CR, License No. 025796.

14. Review Application for Summer Garden with seating for 40 patrons. ANC 1C. SMD 1C07. Pending Enforcement Matter: 3/8/2015, Case #15-251-00080, Simple Assault, Security Plan, Settlement Agreement, the Board requested a Show Cause Hearing on 5/20/2015. No

outstanding fines/citations. No conflict with Settlement Agreement. *Green Island Café/Heaven & Hell*, 2327 18th Street NW, Retailer CT, License No. 074503.

15. Review Application for Entertainment Endorsement. Entertainment to Include Dancing, Karaoke, and a DJ. ANC 1D. SMD 1D04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Marleny's Restaurant*, 3201 Mt. Pleasant Street NW, Retailer CR, License No. 077454.

16. Review Application for Entertainment Endorsement. Entertainment to Include a live Drag Show with DJ. ANC 2B. SMD 2B04. Pending Enforcement Matters/Fines/Citations: 6/25/2015, Case #15-CMP-00411, Substantial Change must be approved, Settlement Agreement, Cover Charge, Entertainment Endorsement; 4/30/2015: Case #15-CMP-00284, No ABC Manager on Duty, Citation #5145, \$250 fine. No conflict with Settlement Agreement. *Divino Grill*, 1633 17th Street NW, Retailer CR, License No. 093308.

17. Review Application for Entertainment Endorsement. Entertainment to Include occasional DJ or Live Band. ANC 1B. SMD 1B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Dunya Restaurant & Lounge*, 801 Florida Avenue NW, Retailer CT, License No. 091607.

18. Review Request to add Cover Charge to Existing Entertainment Endorsement. ANC 6C. SMD 6C02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *The Liaison Capitol Hill*, 415 New Jersey Avenue NW, Retailer CH, License No. 079236.

19. Review Architectural Floor Plan for New Full-Service Grocery Store. ANC 2E. SMD 2E05. *Dean & DeLuca*, 3276 M Street NW, Retailer B Grocery, License No. 018083. (Referred to Licensing on 8/5/2015.)

20. Review Application for Manager's License. *Nicholas J. Goldman*-ABRA 100135.

21. Review Request for Reinstatement of Cancelled Solicitor's License. Renewal and Late Fees have been rendered to ABRA. *Joseph A. Englert*-ABRA 095959.
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***In accordance with D.C. Official Code §2-574(b) of the Open Meetings Amendment Act, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend.**

BRIDGES PUBLIC CHARTER SCHOOL**PARTICIPATION IN THE NATIONAL SCHOOL LUNCH PROGRAM**

Bridges Public Charter School notifies the public its participation in the National School Program (NSLP) for the school year 2015 2016. Bridges Public Charter School has participated in the NSLP for 8 consecutive years. Bridges Public Charter School follows the rules and regulations outlined below:

“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 if 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, D.C. 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: 810 1st Street NE, 9th Floor, Washington, DC 20002 • Phone: (202) 727-6436 TTY: 711 • osse.dc.gov

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) 727-4559 or ohr@dc.gov.”

**CHILD SUPPORT SERVICES DIVISION
DISTRICT OF COLUMBIA CHILD SUPPORT GUIDELINE COMMISSION**

NOTICE OF A PUBLIC MEETING

The District of Columbia's Child Support Guideline Commission's meeting

Wednesday, September 30, 2015, at 8:30 A.M.
D.C. Office of the Attorney General, Child Support Services Division
441 4th Street, NW
11th Floor Conference Room
Washington, D.C. 20001

The District of Columbia Child Support Guidelines Commission (Commission) announces meeting in which it will discuss proposed changes to the District's Child Support Guideline (Guideline). The Commission's mission is to review the Guideline annually and to provide the Mayor with recommendations for improving the efficiency and effectiveness of the Guideline. In order to achieve its objective, and to ensure the recommendations the Commission provides to the Mayor take into account the public's concerns, it invites the public to attend its meeting.

Persons wishing to review the Child Support Guideline prior to the public meeting, may access it online by visiting the District of Columbia's website at www.dc.gov.

Individuals who wish to attend should contact: Cory Chandler, Chairperson, Child Support Guideline Commission, at 202-724-7835, or by e-mail at cory.chandler@dc.gov by Monday, September 28, 2015. E-mail submissions should include the full name, title, and affiliation, if applicable, of the person(s) wishing to attend. Persons wishing to comment should send nine (9) copies of their written commentary to the Office of the Attorney General for the District of Columbia at the address below.

Individuals who wish to submit their comments as part of the official record should send copies of written statements no later than 4:00 p.m., Tuesday, September 29, 2015 to:

Cory Chandler, Deputy Attorney General
Office of the Attorney General for the District of Columbia
Family Services Division
200 I Street, S.E.
4th Floor
Washington, D.C. 20003

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

**Board of Accountancy
1100 4th Street SW, Room E300
Washington, DC 20024**

AGENDA

**September 11, 2015
9:00 A.M.**

- 1) Meeting Call to Order
- 2) Attendance
- 3) Comments from the Public
- 4) Minutes: Review
- 5) Old Business
- 6) New Business
- 7) Pursuant to § 2-575(4) (a), (9) and (13) the Board will enter executive session to receive advice from counsel, review application(s) for licensure and discuss disciplinary matters.
- 8) Action on applications discussed in executive session
- 9) Adjournment

Next Scheduled Meeting – October 2, 2015
Location: 1100 4th Street SW, Conference Room E300

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**District of Columbia Board of Architecture and Interior Design
1100 4th Street, S.W., Room 300B
Washington, D.C. 20024**

**AGENDA
September 11, 2015**

1. Call to Order - 9:30 a.m.
2. Motion - Executive Session (Closed to the Public) – 9:30 am-
 - A. Complaints
 - B. Revision – Proposed Legislation
 - C. Review – Applications for Licensure
 - D. Legal Counsel Report
3. Attendance (Start of Public Session)
4. Comments from the Public
5. Minutes - Draft, July 24, 2015
6. Vote – Review of Applications
7. Vote - Review of Complaints/Legal Matters
8. Review and Vote – Revision to Proposed Legislation
9. Review of Interior Design Continuing Education Provider Submissions
10. Old Business
11. New Business
 - A. NCARB Activities – IDP Experience Portfolio Documentation Method
Member Board Comment Period through September 29
 - B. NCIDQ Activities
 - C. Calendar – 2015
 - D. Status – Board of Ethics and Government Accountability (BEGA Training)

12. Review of Correspondence

13. Adjourn

9. Adjourn

Next Scheduled Regular Meeting, October 23, 2015

1100 4th Street, SW, Room 300B, Washington, DC 20024

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

DISTRICT OF COLUMBIA - BOARD OF BARBER AND COSMETOLOGY

1100 4th Street SW, Room E-300, Washington DC 20024

Monday, September 28, 2015

AGENDA

- | | |
|--|---------------------|
| 1. Call to Order | 10:00 am |
| 2. Attendance – Board Members and Staff | |
| 3. Comments from the Public | 10:05 am – 10:15 am |
| 4. Acceptance of <i>June 2015</i> Meeting Minutes | 10:15 am – 10:20 am |
| 5. Correspondence | 10:20 am – 10:30 am |
| 6. OLD BUSINESS | 10:30 am – 10:45 am |
| 7. NEW BUSINESS | 10:45 am – 11:00am |
| 8. Board COMMITTEES - Reports and/or Updates | 11:00 am – 11:30 am |
| 9. EXECUTIVE SESSION (CLOSED TO PUBLIC) | 11:30 am – 11:50 am |
| 10. FINAL Recommendations | 11:50 am – 12:00 pm |

ADJOURN

Next DC Board of Barber and Cosmetology Meeting – Monday, September 28, 2015

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**Board of Funeral Directors
1100 4th Street SW, Room E300
Washington, DC 20024**

MEETING AGENDA

**September 3, 2015
11:00 A.M.**

1. Call to Order – 11:00 a.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Draft Minutes, July 2, 2015
7. Executive Session (Closed to the Public)
8. Old Business
9. New Business
10. Adjourn
11. Next Scheduled Board Meeting – October 1, 2015 at 11:00 a.m.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**District of Columbia Board of Industrial Trades
1100 4th Street, S.W., Room 300
Washington, D.C. 20024**

**AGENDA
September 15, 2015**

1. Call to Order – 1:00 p.m.
2. Executive Session (Closed to the Public) – 1:00 p.m. -1:30 p.m.
 - A. Review-Application(s) for Licensure
3. Attendance (Start of Public Session) – 1:30 p.m.
4. Comments from the Public
5. Minutes
6. Recommendations
 - A. Review-Application(s) for Licensure
7. Old Business
8. New Business
9. Adjourn

Next Scheduled Regular Meeting, October 20, 2015
1100 4th Street, SW, Room 300B, Washington, DC 20024

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

**Board of Professional Engineering
1100 4th Street SW, Room 300
Washington, DC 20024**

AGENDA

**September 24, 2015
9:30 A.M.**

- 1) Meeting Call to Order
- 2) Attendees
- 3) Comments from the Public
- 4) Minutes: Review draft of 27 August 2015
- 5) Old Business
- 6) New Business
- 7) Executive Session
 - a) Pursuant to § 2-575(13) the Board will enter executive session to review application(s) for licensure
 - b) Pursuant to § 2-575(9) the Board will enter executive session to discuss a possible disciplinary action
- 8) Application Committee Report
- 9) Adjournment

Next Scheduled Meeting – Thursday, October 22, 2015
Location: 1100 4th Street SW, Conference Room 300

**D.C. DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUSINESS AND PROFESSIONAL LICENSING ADMINISTRATION**

BOARDS AND COMMISSIONS

September 2015 Meeting Schedule

| CONTACT PERSON | BOARDS AND COMMISSIONS | DATE | TIME/ LOCATION |
|-----------------------|--|-------------|-----------------------|
| Cynthia Briggs | Board of Accountancy | 11 | 8:30 am-12:00pm |
| Patrice Richardson | Board of Appraisers | 16 | 8:30 am-4:00 pm |
| Leon Lewis | Board Architects and Interior Designers | 11 | 8:30 am-1:00 pm |
| Cynthia Briggs | Board of Barber and Cosmetology | 28 | 10:00 am-2:00 pm |
| Sheldon Brown | Boxing and Wrestling Commission | 15 | 7:00-pm-8:30 pm |
| Kevin Cyrus | Board of Funeral Directors | 3 | 9:30am-2:00 pm |
| Lori Fowler | Board of Professional Engineering | 24 | 9:30am-1:30 pm |
| Leon Lewis | Real Estate Commission | 8 | 8:30 am-1:00 pm |
| Pamela Hall | Board of Industrial Trades | 15 | 1:00 pm-4:00 pm |
| | Asbestos Electrical Elevators Plumbing Refrigeration/Air Conditioning Steam and Other Operating Engineers | | |

Dates and Times are subject to change. All meetings are held at 1100 4th St., SW, Suite E-300 A-B Washington, DC 20024. For further information on this schedule, please contact the front desk at 202-442-4320.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

D.C. BOXING AND WRESTLING COMMISSION

1100 4th Street SW-Suite E500, SW

Washington, DC. 20024

SEPTEMBER 15, 2015

7:00 P.M.

Website: http://www.pearsonvue.com/dc/boxing_wrestling/

AGENDA

CALL TO ORDER & ROLL CALL

COMMENTS FROM THE PUBLIC & GUEST INTRODUCTIONS

1. July 18, 2015 Pro-Boxing Event: Gene Molovinsky-Keystone Boxing
2. August 22, 2015 Pro-Boxing Event: Tony Jeter Promotions
3. August 28, 2015 Pro-Boxing Event: Marshall Kaufman-King Boxing

REVIEW OF MINUTES

- Approval of Minutes

UPCOMING EVENT

1. September 12, 2015 Dr. McKnight Amateur Boxing/Kickboxing Invitational & MMA Exhibition Event.
2. October 17, 2015 Pro-Boxing Event: Cologne Hunter, Venue TBD
3. October 22, 2015 Pro-Boxing Event: Ollie Dunlap-Mini Fight Night: Mayflower Hotel.
4. November 5, 2015 Pro-Boxing Event: Ollie Dunlap-Fight For Children-Fight Night: Washington Hilton Hotel.

OLD BUSINESS

1. Association of Boxing Commission Conference
2. 5th Annual Dr. Arnold W. McKnight Amateur Event
- 3.

NEW BUSINESS

1. Officials Insurance
2. Upcoming Amateur Events
- 3.

ADJORNMENT

NEXT REGULAR SCHEDULED MEETING IS OCTOBER 20, 2015

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**District of Columbia Real Estate Appraisers
1100 4th Street SW, Room 300 B
Washington, DC 20024**

AGENDA

**September 16, 2015
10:00 A.M.**

10:00 A.M.

1. Call to Order – 10:00 a.m.
2. Attendance (Start of Public Session) – 10:30 a.m.
3. Executive Session (Closed to the Public) – 10:00 – 10:30 a.m.
 - a) Application Review
 - b) Complaint and Legal Review
 - c) Legal Recommendations
 - d) Legal Counsel Report
4. Comments from the Public –
5. Minutes – Draft, July 22, 2015
6. Recommendations
 - a) Applications for Licensure
 - b) Complaint(s)
 - c) Education Report
 - d) Budget Report
 - e) 2015 Calendar
 - f) Correspondence
7. Old Business
8. New Business
9. Adjourn

Next Scheduled Regular Meeting, October 21, 2015
1100 4th Street, SW, Room 300B, Washington, DC 20024

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**District of Columbia Real Estate Commission
1100 4th Street, S.W., Room 300B
Washington, D.C. 20024**

**AGENDA
September 8, 2015**

1. Call to Order - 9:30 a.m.
 2. Executive Session (Closed to the Public) – 9:30 am-10:30 am
 - A. Legal Committee Recommendations
 - B. Review – Applications for Licensure
 - C. Legal Counsel Report
 3. Attendance (Start of Public Session) – 10:30 a.m.
 4. Comments from the Public
 5. Minutes - Draft, July14, 2015
 6. Recommendations
 - A. Review - Applications for Licensure
 - B. Legal Committee Report
 - C. Education Committee Report
 - D. Budget Report
 - E. 2015 Calendar
 - F. Correspondence
 7. Old Business
 8. New Business
 9. Adjourn
- Next Scheduled Regular Meeting, October 13, 2015
1100 4th Street, SW, Room 300B, Washington, DC 20024

GOVERNMENT OF THE DISTRICT OF COLUMBIA

DEPARTMENT ON DISABILITY SERVICES

NOTICE OF BI-MONTHLY PUBLIC MEETINGS

D.C. State Rehabilitation Council to Hold Bi-Monthly Public Meetings

**Department on Disability Services
Rehabilitation Services Administration
1125 15th Street, NW
Conference Room 2B
Washington, DC 20005**

The D.C. State Rehabilitation Council (SRC) will hold public meetings regarding the operation of the D.C. State Vocational Rehabilitation Program, as mandated by the Rehabilitation Act of 1973, as amended. The following public meetings are to be conducted from 9:30 am – 11:30 am.

| Dates | Location |
|-----------------------------|-----------------------------|
| Thursday, October 08, 2015 | 2B Conference Training Room |
| Thursday, November 12, 2015 | 2B Conference Training Room |

Individuals who wish to attend should RSVP at least seven (7) days prior to the public meeting by contacting Darnise Henry Bush by calling 202-442-8432 or email to darnise.bush@dc.gov.

If you require reasonable accommodations for attendance, please call 202-442-8432 at least two (2) weeks before the public meeting to ensure appropriate accommodations.

Please note that the SRC published a prior Notice of Bi-Monthly Public Meetings for 2015 in the *D.C. Register* on February 20, 2015. The meeting previously scheduled for September 10, 2015, has been cancelled, and another meeting has been scheduled for October 8, 2015, as indicated above.

EAGLE ACADEMY PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Reading Specialist****Project Summary**

Eagle Academy is seeking a reading specialist to oversee student literacy achievement through intervention. Consultant will provide support in the implementation of a successful, rigorous, and data-driven Response to Intervention program.

Specific Responsibilities:

1. Specialized knowledge of assessment and diagnosis that is vital for developing, implementing, and evaluating the literacy program in general, and in designing instruction for individual students
2. Provide leadership as a resource to other educators, parents and the community

Qualifications for contract and staffing should be submitted with proposal.

Date and Location Submittal is Due: Friday, September 11, 2015 by 5:00 p.m.

For submittal requirements, send request to the attention of Mayra Martinez

mmartinez@eagleacademypcs.org

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FUNDING AVAILABILITY

FISCAL YEAR 2016
DC COMMUNITY SCHOOLS INCENTIVE INITIATIVE GRANTS
(DC CSII2016-1 & DC CSII2016-2)Extension of Application Deadline to
4:00 PM on September 18, 2015

The Office of the State Superintendent of Education (OSSE) - Elementary, Secondary and Specialized Education Division (ESSE) is soliciting grant applications for the District of Columbia Community Schools Incentive Initiative. The purpose of this grant is to establish two (2) community schools in the District of Columbia, as defined by the Community Schools Incentive Act of 2012.¹ The overall goal of the Community Schools Incentive Initiative Grants is to provide resources that will enable eligible consortia to create and enhance community-based partnerships and develop a framework for continued funding as well as ongoing evaluation of program success.

(NOTE: CSII2016-2: Community Schools Incentive Initiative Grant – Special focus: Supporting homeless student population. The purpose of the grant is also to enhance community-based partnerships to support the District of Columbia homeless student population.)

Eligibility: The Office of the State Superintendent will make these grants available through a competitive process to eligible consortia. As defined by the Community Schools Incentive Act of 2012, an “eligible consortium” is a partnership established between a local education agency (LEA) in DC and one or more community partners for the purposes of establishing, operating, and sustaining a community school. See D.C. Official Code § 38-754.02(3). An eligible consortium must demonstrate the ability to provide additional eligible services that did not exist before the establishment of the eligible consortium. See D.C. Official Code § 38-754.03.

Length of Award: This is a multiyear grant program. Successful applicants shall be eligible for three years of grant funding subject to available appropriations.

Available Funding for Award: The total funding available for Fiscal Year 2016 is \$350,000. An eligible consortium may apply for an award amount up to \$175,000 and shall be eligible to receive up to an additional \$175,000 for two additional years, subject to available appropriations.

Anticipated Number of Awards: OSSE has funding available for a maximum of (2) awards. One grant will be awarded to a successful applicant for the CSII2016-1 Community School

¹ As defined by the Community Schools Incentive Act of 2012, a “community school” is a public and private partnership to coordinate educational, developmental, family, health, and after-school-care programs during school and non-school hours for students, families, and local communities at a public school or public charter school with the objectives of improving academic achievement, reducing absenteeism, building stronger relationships between students, parents, and communities, and improving the skills, capacity, and well-being of the surrounding community residents. D.C. Official Code § 38-754.02(2).

Incentive Initiative Grant and one grant will be awarded to a successful applicant for the CSII2016-2 Community School Incentive Initiative Grant – Special Focus: Supporting Homeless Student Population.

An external review panel or panels will be convened to review, score, and rank each application. The review panel(s) will be composed of neutral, qualified, professional individuals selected for their expertise, knowledge or related experiences. The application will be scored against a rubric and application will have multiple reviewers to ensure accurate scoring. Upon completion of its review, the panel(s) shall make recommendations for awards based on the scoring rubric(s). OSSE's Division of Elementary, Secondary, and Specialized Education will make all final award decisions.

For additional information regarding this grant competition, please contact:

Yuliana Del Arroyo,
Director of Special Programs
Office of the State Superintendent of Education
Elementary, Secondary, and Specialized Education Division
Phone: (202) 741-0478
E-mail: yuliana.delarroyo@dc.gov

The RFA and applications will be available on www.osse.dc.gov, or by contacting Yuliana Del Arroyo at Yuliana.Delarroyo@dc.gov.

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FUNDING AVAILABILITY

GRANT FOR

Wildlife Rehabilitation Services

The Department of Energy and Environment (DOEE) is seeking eligible entities, as defined below, to provide wildlife rehabilitation services in the District of Columbia for sick, injured, and orphaned native and naturalized wild animals. The amount available for the project in this RFA is approximately \$200,000.00. This amount is subject to continuing availability of funding and approval by the appropriate agencies.

Beginning 9/4/2015, the full text of the Request for Applications (RFA) will be available online at DOEE's website. It will also be available for pickup. A person may obtain a copy of this RFA by any of the following means:

Download from DOEE's website, www.doe.dc.gov. Select "Resources" tab. Cursor over the pull-down list; select "Grants and Funding;" then, on the new page, cursor down to the announcement for this RFA. Click on "Read More," then download and related information from the "attachments" section.

Email a request to 2016wildlifeRFA.grants@dc.gov with "Request copy of RFA 2015-1515-FWD" in the subject line;

Pick up a copy in person from the DOEE reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. Call Joanne Goodwin at (202) 535-1798 to make an appointment and mention this RFA by name; or

Write DOEE at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Joanne Goodwin RE:2015-1515-FWD" on the outside of the letter.

The deadline for application submissions is 10/5/2015, at 4:30 p.m. Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to .

Eligibility: All the checked institutions below may apply for these grants:

-Nonprofit organizations with IRS 501(c)(3) determination;

-Faith-based organizations;

-Government agencies

-Universities/educational institutions; and

-Private Enterprises.

For additional information regarding this RFA, please contact DOEE as instructed in the RFA document, at joanne.goodwin@dc.gov.

DEPARTMENT OF HEALTH
HEALTH REGULATION AND LICENSING ADMINISTRATION

NOTICE OF MEETING

Board of Chiropractic
September 8, 2015

On September 8, 2015 at 1:00 pm, the Board of Chiropractic will hold a meeting to consider and discuss a range of matters impacting competency and safety in the practice of medicine.

In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed from 1:00 pm until 2:30 pm to plan, discuss, or hear reports concerning licensing issues ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The meeting will be open to the public from 2:30 pm to 3:30 pm to discuss various agenda items and any comments and/or concerns from the public. After which the Board will reconvene in closed session to continue its deliberations until 4:30 pm.

The meeting location is 899 North Capitol Street NE, 2nd Floor, Washington, DC 20002.

Meeting times and/or locations are subject to change – please visit the Board of Chiropractic website www.doh.dc.gov/boc and select BOC Calendars and Agendas to view the agenda and any changes that may have occurred.

Interim Executive Director for the Board – Robin Jenkins, (202) 442-8336.

**DISTRICT OF COLUMBIA DEPARTMENT OF HEALTH (DOH)
COMMUNITY HEALTH ADMINISTRATION (CHA)**

NOTICE OF FUNDING AVAILABILITY (NOFA)

Request for Applications # CHA_TPP091815

Teen Pregnancy Prevention

The Government of the District of Columbia, Department of Health Community Health Administration (CHA) is soliciting applications from qualified applicants to implement initiatives to support teenage pregnancy prevention initiatives. Qualified applicants will develop and implement programs to increase the availability of adolescent friendly health services, create community-clinical linkages for adolescent health services and increase the use of long acting reversible contraceptives among adolescents.

Up to \$800,000 will be available for up to five (5) awards. Funds are available for a program period of one year (11 months) beginning November 1, 2015 and ending September 30, 2016, subject to the availability of funds. This funding is made available under the District of Columbia Fiscal Year 2016 Budget Support Act of 2015. Grant awards are made annually with up to four (4) option years contingent on demonstrated progress by the recipient on achieving performance objectives and the continued availability of funds.

Organizations and entities eligible to apply for funding under this announcement include not-for-profit, public and private organizations located and licensed to conduct business within the District of Columbia and experienced in providing adolescent reproductive, primary and preventive services for populations at high risk for teen pregnancy.

The release date for CHA_TPP091815 is Friday, September 18, 2015 and the deadline for submission of applications is Friday, October 16, 2015 at 4:30 pm. CHA will have a limited number of copies of the complete RFA available for pick up at **899 N. Capitol Street, NE, 3rd Floor reception area. Applicants can download a copy from the DC Grants Clearinghouse website at www.opgs.dc.gov.

The Pre-Application conference will be held at 899 N. Capitol Street, NE, 3rd Floor Conference Room 306, Washington, DC 20002, on **Friday, September 25, 2015**, from 1:00pm – 3:00 pm.

If you have any questions please contact Kristal Dail at kristal.dail@dc.gov or at (202) 442-9381.

**CHA is located in a secured building. Government issued identification must be presented for entrance.

**OFFICE OF THE DEPUTY MAYOR FOR
PLANNING AND ECONOMIC DEVELOPMENT**

**NOTICE OF PUBLICATION:
SOLICITATION FOR DEVELOPMENT
FOR PARCEL 42**

The Government of the District of Columbia (the “District”), through the Office of the Deputy Mayor for Planning and Economic Development (“DMPED”), is requesting responses through a Request for Proposals (“RFP”) from qualified real estate development teams (“Developers”) for the disposition and development of the following site:

- **Parcel 42, Square 0442 Lots 0106 and 0803;**
 - RFP
 - Issuance Date: September 4, 2015

DMPED invites Developers to respond to this RFP for the redevelopment of Parcel 42 in the Shaw neighborhood of Northwest, Washington, D.C. A Pre-Response Conference and Site Visits will be held on September 9, 2015 at 3:45pm at the Watha T. Daniel/Shaw Neighborhood Library, Basement Level. More information will be available in the RFP publication.

For more information and project updates, please visit www.dmped.dc.gov.

**OFFICE OF THE DEPUTY MAYOR FOR
PLANNING AND ECONOMIC DEVELOPMENT**

MEETING NOTICE AND AGENDA

Pursuant to D.C. Official Code § 10-1906, the Walter Reed Local Redevelopment Authority and Community Advisory Committee will hold a public meeting at the following time and location:

**September, 14th 2015
6:30pm – 8:00pm**

**Fort Stevens Recreation Center
Multipurpose Room #150
1327 Van Buren Street, N.W., D.C. 20012**

MEETING AGENDA

- I. Opening Remarks
- II. LRA Project Overview and Update
- III. Zoning Update
- IV. Public Library
- V. Building 18-Engine Company 22 Relocation
- VI. Master Development Team overview and update
 - a. Abrams Hall Senior Building Letter of Support
 - b. Historic Preservation Review Board Concept Plan
- VII. Questions

For questions, please contact Randall Clarke, Walter Reed Local Redevelopment Authority Director at 202-727-6365 or email randall.clarke@dc.gov.

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA
RECOMMENDATIONS FOR APPOINTMENTS AS NOTARIES PUBLIC

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after October 1, 2015.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4th Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on September 4, 2015. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

D.C. Office of the Secretary
Recommendations for appointments as Notaries Public

Effective: October 1, 2015

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|----------------|---------------|--|-------|
| Acosta Morillo | Grismarly M. | Wells Fargo Bank, NA 490 L Street, NW | 20001 |
| Almaguer | Ryan | Hughes & Bentzen, PLLC 1100 Connecticut Avenue, NW, Suite 340 | 20036 |
| Apel | Angela | Sutton Towers Condominiums 3101 New Mexico Avenue, NW | 20016 |
| Arnaout | Muhammad | Wells Fargo Bank, N.A. 2901 M Street, NW | 20007 |
| Bekishov | Aziz | The UPS Store 0740 1718 M Street, NW | 20008 |
| Birk | Elizabeth M. | Winston & Strawn LLP 1700 K Street, NW | 20006 |
| Blaylock | Cameron R. | Suntrust Bank 2250 M Street, NW | 20037 |
| Boucher | Mary Claire | Akridge 601 13th Street, NW | 20005 |
| Brandus | Kate | Sol Systems 1718 Connecticut Avenue, NW, Suite 300 | 20009 |
| Briscoe | Glenda M. | Wells Fargo Bank, NA 1300 I Street, NW, 12th Floor, West Tower | 20005 |
| Briscoe | Peytrienne T. | NARAL Pro-Choice America and NARAL Pro Choice America Foundation 1156 15th Street, NW, Suite 700 | 20005 |
| Brooks | Kelly F. | Reisman Karron Greene LLP 1700 K Street, NW, Suite 200 | 20006 |
| Brooks | Sonja | Forrest Hills of DC 4901 Connecticut Avenue, NW | 20008 |
| Brown | Patricia | Federal Bureau of Investigation 604 4th Street, NW | 20535 |

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Recommendations for appointments as Notaries Public****Effective: October 1, 2015****Page 3**

| | | | |
|-------------------|---------------|---|-------|
| Budd | Michelle | International Alliance for Responsible Drinking 1225 19th Street, NW | 20036 |
| Burwell | Donna M. | Winston & Strawn LLP 1700 K Street, NW | 20006 |
| Callaway | Christine Ann | Certified Financial Planner Board of Standards, Inc 1425 K Street NW, Suite 800 | 20005 |
| Carpenter | Dawn M. | Self 3132 P Street, NW | 20007 |
| Chan | Peter | Chatel Real Estate, Inc. 1929 18th Street, NW | 20009 |
| Chance | Sharon T. | Self 4718 Blaine Street, NE | 20019 |
| Coffman | Amber | Palantir Technologies 1025 Thomas Jefferson Avenue, NW | 20007 |
| Contreras-Andrade | Tony | TD Bank NA 801 17th Street, NW | 20006 |
| Counts | Rachel J. | TD Bank NA 901 7th Street, NW | 20001 |
| Crowe | Tenisha | Self 700 12th Street, SE, Apartment 309 | 20003 |
| Daley | Kerema | Children's National Health Systems 2233 Wisconsin Avenue, NW, Suite 317 | 20007 |
| Dey | Ellen | PRP LLC 1700 K Street, NW, Suite 720 | 20006 |
| Drake | Tamica S. | Hoya Federal Credit Union 3700 Reservoir Road, NW | 20007 |
| Ebron | Timothy | Stewart Title Group 11 Dupont Circle, NW, Suite 750 | 20036 |

D.C. Office of the Secretary
Recommendations for appointments as Notaries PublicEffective: October 1, 2015
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|-------------|-------------------|--|-------|
| Elnaggar | Ahmed | Parcel Plus 3509 Connecticut Avenue, NW | 20008 |
| Evans Jr. | Mitchell L. | Wells Fargo Bank, NA 1447 P Street, NW | 20005 |
| Fallen | Melinda D. | Liberty Tax Services 1629 Benning Road, NE | 20002 |
| Flores | Lisa | American University, Washington College of Law 4801 Massachusetts Avenue, NW | 20016 |
| Fuchs | Catherine | Antonoplos & Associates, PLLC 1725 DeSales Street, NW | 20036 |
| Gardner | Veronica P. | Sughrue Mion PLLC 2100 Pennsylvania Avenue, NW | 20037 |
| Geneus | Chantal M. | U.S. House of Representatives 1718 Longworth Building | 20515 |
| Gipson | Erin Leslie | Palantir Technologies 1025 Thomas Jefferson, NW, Suite 600 | 20007 |
| Gonzales | Veronica | Universal Services Administrative Company 2000 L Street, NW, Suite 200 | 20036 |
| Gutierrez | Bianca | Capital Area Immigrants Rights Coalition 1612 K Street, NW, Suite 204 | 20006 |
| Hawkins | Merlene S. | Government National Mortgage Association 550 12th Street, SW, 3rd Floor | 20024 |
| Hernandez | Adina | Safe Shores District of Columbia Children's Advocacy Center 429 O Street, NW | 20001 |
| Hogen-Heath | Elizabeth Charity | Monsanto Company 1300 I Street, NW, Suite 450E | 20005 |
| Horne | Diedra N. | Self 3128 E Street, SE, Apartment 1 | 20019 |

D.C. Office of the Secretary
Recommendations for appointments as Notaries Public

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|---------|---------------|--|-------|
| Hu | Justine | IM A PIZZA LLC DBA & pizza 229 1/2 Pennsylvania Avenue, SE | 20009 |
| Hudson | Lavina A. | Sughrue Mion PLLC 2100 Pennsylvania Avenue, NW | 20037 |
| Irwin | Tyler Cotrone | MacAndrews & Forbes Incorporated 900 7th Street, NW, Suite 970 | 20001 |
| Jack | Tyrone | American Enterprise Institute 1150 17th Street, NW, Suite 103 | 20036 |
| Jackson | Janelle A. | Fish & Richardson, PC 1425 K Street, NW, 11th Floor | 20005 |
| Jones | Jonathan | Bank Fund Staff Federal Credit Union 2121 Pennsylvania Avenue, NW | 20433 |
| Kaan | Alexandria | Ace Federal 1625 I Street, Suite 790 | 20006 |
| Kanaan | Lina | Monument Capital Group 1155 F Street, NW, Suite 850 | 20004 |
| Karst | Thomas | One Source Process 1801 18th Street, NW, 2nd Floor | 20009 |
| Kenton | Mary Ann | Self 4374 Varnum Place, NE | 20017 |
| Konopka | Arthur F. | Konopka Settlements, LLC 1120 20th Street, NW, Suite 300S | 20036 |
| Kuchmy | Lorraine M. | The Livingston Group, LLP 499 South Capital Street, SW, Suite 600 | 20003 |
| Lee | Sarah N. | Office of Bar Counsel 515 5th Street, NW, Building A, Room 117 | 20001 |
| Low | Rebecca D. | The Linda Low Team 1827 Park Road, NW | 20010 |

D.C. Office of the Secretary
Recommendations for appointments as Notaries Public

Effective: October 1, 2015

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|-----------|---------------|---|-------|
| Markovitz | Heidi | Self 3001 Veazey Terrace, NW, Apartment 811 | 20008 |
| Mason | Shonita | District Title 1150 Connecticut Avenue, NW, Suite 201 | 20036 |
| Mayo | Benjamin R. | Skadden Arps Slate Meagher & Flom, LLP 1440 New York Avenue, NW | 20005 |
| McCain | Billie | Federation for American Immigration Reform 25 Massachusetts Avenue, NW, Suite 330 | 20001 |
| McCall | Alyssa Louise | H Street Community Development Corporation 900 2nd Street, NE | 20002 |
| McGuire | Kathi | Whiteford Taylor & Preston, LLP 1800 M Street, NW, Room 450 | 20036 |
| Mullen | Gail | Squire Patton Boggs LLP 2550 M Street, NW | 20037 |
| Nibali | Samantha | Humphries & Partners, PLLC 1029 Vermont Avenue, NW, Suite 800 | 20005 |
| Orvets | Michael L. | Danaher Corporation 2200 Pennsylvania Avenue, NW, Suite 800W | 20037 |
| Osburn | Renee | Whiteford Taylor & Preston, LLP 1800 M Street, NW, Room 450 | 20036 |
| Pagano | Andrew | Capital Reporting Company 1821 Jefferson Place, NW | 20036 |
| Parker | Edith L.B. | Paul, Weiss, Rifkind, Wharton & Garrison LLP 2001 K Street, NW | 20006 |
| Peters | Judith B. | The Washington Post 1150 15th Street, NW | 20071 |

D.C. Office of the Secretary
Recommendations for appointments as Notaries PublicEffective: October 1, 2015
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|---------------|-----------------|--|-------|
| Petrosillo | Anthony Peter | Carr Workplaces 1455 Pennsylvania Avenue, NW, Suite 800 | 20004 |
| Phetteplace | Janet M. | United Food & Commercial Workers International Union 1775 K Street, NW | 20006 |
| Praszczalek | Arletta Adriana | ACCE 1152 15th Street, NW, Suite 400 | 20005 |
| Privott | Natalie | Monsanto Company 1300 Eye Street, NW, Suite 450, East | 20005 |
| Ramirez-Ortiz | Kathleen | Wells Fargo Bank, NA 444 North Capitol Street, NW | 20001 |
| Rasciner | Heidi L. | Cleary Gottlieb Steen & Hamilton LLP 2000 Pennsylvania Avenue, NW | 20006 |
| Refice | Ronald C. | Republican National Distributing Company 4235 Sheriff Road, NE | 20019 |
| Reyes | Diana | Wells Fargo Bank, NA 1300 Connecticut Avenue, NW | 20036 |
| Ross | Zalma A. | ZAR Acquisitions, LLC 5542 Bass Place, SE | 20019 |
| Ruben | Stephen D. | Gold Spot Pack and Services 712 H Street, NE | 20002 |
| Ruben | Scott K. | Gold Spot Pack and Services 712 H Street, NE | 20002 |
| Rudolph | Kelsie | Alaska Wilderness League 122 C Street, NW, Suite 240 | 20001 |
| Salgado | Wendy | Mauck, Zantzing & Associates, Inc. 5141 MacArthur Boulevard, NW | 20016 |
| Schill | Margaret Anna | Balfour Beatty Construction, DC, LLC 222 Massachusetts Avenue, NW | 20001 |

**D.C. Office of the Secretary
Recommendations for appointments as Notaries Public**

**Effective: October 1, 2015
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|---------------|---------------|--|-------|
| Shaw | Renelda | Federal Bureau of Investigation 601 4th Street, NW | 20535 |
| Silva | Michelle M. | Department of Transportation/ Federal Railroad Administration 1200 New Jersey Avenue, SE | 20590 |
| Simmons | Simone Sophia | Self (Dual) 1301 7th Street, NW, Apt. #805 | 20001 |
| Smith | Carla | Republic Properties Corporation 1280 Maryland Avenue, SW | 20024 |
| Smith | Donna A. | Washington Real Estate Investment Trust 1775 Eye Street, NW, Suite 1000 | 20006 |
| Speight | Teresa | Akridge 601 13th Street, NW | 20005 |
| Stewart | Deborah A. | Pardo & Drazin, LLC 4400 Jenifer Street, NW, Suite 2 | 20015 |
| Stewart-Fogg | Latoya | Kenesis Management Company LLC 733 10th Street, NW, Suite 3001 | 20001 |
| Stone | Steven | Rubin Winston Diercks Harris & Cooke LLP 1201 Connecticut Avenue, NW, Suite 200 | 20036 |
| Stovall | Martha M. | Venable LLP 575 7th Street, NW | 20004 |
| Talley-Thomas | Shane | Wells Fargo Bank, NA 4302 Connecticut Avenue, NW | 20008 |
| Taylor | Jacquelyn R. | Akridge Management Company 601 13th Street, NW, Suite 300 North | 20005 |
| Thornton | David C. | Washington First Bank 1146 19th Street, NW | 20036 |
| Tibbs | Paul | Self 1805 Maryland Avenue, NE, #2 | 20002 |

**D.C. Office of the Secretary
Recommendations for appointments as Notaries Public****Effective: October 1, 2015****Page 9**

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|------------|-------------|---|-------|
| Valoris | Carol Susan | Obey Sholom - The National Synagogue 1600 Jonquil Street, NW | 20012 |
| Wagner | Mark C. | Sedgwick LLP 2900 K Street, NW, Suite 500 | 20007 |
| Walls | Jennifer | NASA Federal Credit Union 300 E Street, SE | 20024 |
| Watson | Natalie | Ernst & Young 1101 New York Avenue, NW | 20005 |
| Westervelt | Donna L. | The Estate Planning & Elder Law Firm, PC 1020 19th Street, NW | 20036 |
| Wilkinson | Kendal M. | Antonoplos & Associates 1725 DeSales Street, NW, Suite 600 | 20036 |
| Wilson | Carrie | The George Washington University 2100 Pennsylvania Avenue, Suite 250 | 20052 |
| Wilson | James K. | Fidelity Investments 1900 K Street, NW, Suite 110 | 20006 |
| Wise | Abigail L. | Reisman Karron Greene LLP 1700 K Street, NW, Suite 200 | 20006 |
| Zelaya | Morena | Washington Legal Clinic for the Homeless 1200 U Street, NW | 20009 |

**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

THURGOOD MARSHALL ACADEMY PUBLIC CHARTER HIGH SCHOOL**NOTICE OF REQUEST FOR PROPOSALS****Executive Consulting**

Thurgood Marshall Academy—a nonprofit, college-preparatory, public charter high school—seeks consulting services to support the following:

- 1) Advice and support for Executive Director transition.
- 2) Advice and support for Fifteen-Year Charter review.
- 3) General executive advising and general support for executive projects.

The **full RFP** is available on the **Employment Opportunities** page under the About tab of www.thurgoodmarshallacademy.org. Alternatively, e-mail a request for the full RFP to dschlossman@tmapchs.org no later than 5 pm on September 10, 2015.

Contact: For further information regarding the RFP contact **David Schlossman, 202-276-4722, dschlossman@tmapchs.org**. Further information about Thurgood Marshall Academy—including our nondiscrimination policy—may be found at www.thurgoodmarshallacademy.org.

Deadline & Submission: Submit bids responsive to the full RFP—including signed contract and contact information—via **email to dschlossman@tmapchs.org** no later than: **5 pm, Washington, DC, time on September 11, 2015.**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Appeal No. 18664 of Charles C. Parsons, pursuant to 11 DCMR §§ 3100 and 3101, from a decision of the Zoning Administrator, Department of Consumer and Regulatory Affairs, made November 23, 2012, to approve Building Permit No. B1210100 for construction of an addition to a flat in the CAP/R-4 Zone District at premises 117 C Street, S.E. (Square 733, Lot 23).

HEARING DATE: December 3, 2013

DECISION DATE: February 4, 2014

ORDER DENYING APPEAL

This appeal was submitted to the Board of Zoning Adjustment (“Board” or “BZA”) on September 5, 2013 by Charles C. Parsons (the “Appellant”). The appeal challenges a decision made by the Zoning Administrator (“ZA”) on November 23, 2012 to approve Building Permit No. B1210100 (“Permit”) for construction at 117 C Street, S.E. (Square 733, Lot 23) (“Property”). The Permit authorized construction of an addition to an existing row dwelling on the Property (“Addition”), which is located in the CAP/R-4 Zone District. The Property fronts on both C Street and Rumsey Court. The Appellant alleges that the proposed construction failed to constitute a valid addition to an existing structure under the definition of “Building” in Title 11, D.C. Municipal Regulations (“Zoning Regulations”), § 199.1.

Based on the Board’s previous findings and conclusions in Application No. 18263 as independently reviewed by this Board, which addressed the exact factual and legal issues raised in this matter, and the evidence of record, including the prehearing submissions and testimony received at the public hearing, the Board sustains the decision of the Zoning Administrator for the reasons set forth below.

PROCEDURAL HISTORY

The Board previously approved the building addition at issue here in BZA Application No. 18263. In the original application, the Board approved the Addition pursuant to § 223 of the Zoning Regulations. (BZA Application No. 18263 (2011) (“Application”).)

Mr. Parsons appeared as a person in opposition in the Application. Because there were no parties in opposition, the Board issued its initial decision as a summary order. Mr. Parsons filed

BZA APPEAL NO. 18664
PAGE NO. 2

a motion for reconsideration of the Application, and the Board denied the motion. (See BZA Application No. 18263-A (2012).)

Mr. Parsons petitioned the D.C. Court of Appeals for review of the Board's decision, and the Court vacated the summary order and directed the Board to prepare a full order with findings of fact and conclusions of law to facilitate judicial review of the Board's determination. *Parsons v. D.C. Bd. of Zoning Adjustment*, D.C. Court of Appeals No. 11-AA-1606, decided February 28, 2013. The Board issued the full order on July 25, 2013. (BZA Application No. 18263-B (2013).)

While the appeal was pending, the Department of Consumer and Regulatory Affairs ("DCRA") approved and issued the Permit on November 25, 2012. In July 2013, the owners of the Property commenced construction of the Addition pursuant to the Permit. (Exhibit 23 at 1.) Mr. Parsons appealed that DCRA decision to issue the Permit to the Board.

PRELIMINARY MATTERS

Notice of Public Hearing

The Office of Zoning scheduled a hearing on December 3, 2013. In accordance with 11 DCMR §§ 3112.13 and 3112.14, the Office of Zoning mailed notice of the hearing to the Appellant, Advisory Neighborhood Commission ("ANC") 6B (the ANC in which the property is located), the property owners, and DCRA. (Exhibits 15-18.)

Parties

The Appellant in this case is Charles C. Parsons, the owner of a residential property at 129 C Street, S.E., which is located six houses removed from the Property. DCRA is the Appellee, as the "person" whose administrative decision is the subject of the instant appeal, pursuant to 11 DCMR § 3199.1(a)(2). The decision or determination is DCRA's issuance of the Permit. The alleged zoning error was the Zoning Administrator's determination regarding whether the construction constituted a valid addition to the existing building under the Zoning Regulations such that the Addition and existing building constitute one building for zoning purposes. Stephanie and John Lester, the owners of the property ("Owners") are automatically a party to the proceeding under 11 DCMR § 3199.1(a)(3). ANC 6B was also automatically a party in the case.

Motion for Stay

On September 19, 2013, counsel for the Appellant filed a motion requesting either a stay of the

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building permit or, in the alternative, an expedited hearing date. By response dated September 25, 2013, counsel for the Owners opposed the stay but supported the expedited hearing date. At the hearing, counsel for the Appellant withdrew the requests. (Hearing Transcript of Dec. 3, 2013, (“Tr.”), p. 118-19.)

Pre-Hearing Submissions

The Board received prehearing materials from the Appellant on November 20, 2014, pursuant to 11 DCMR § 3112.10. (Exhibit 21.) DCRA and the Owners each submitted prehearing materials for the Board’s consideration on November 25, 2013 (Exhibit 22 (DCRA); Exhibits 23-29 (Owners).)

Appellant’s Case

The Appellant argued that the Permit was invalid because the proposed trellis connecting the Addition to the existing building did not constitute a sufficient connection to render the existing building and Addition a single building for zoning purposes. Specifically, the Appellant argued that the connection was insufficient because (a) it is located below the main floor of the Property and (b) as a trellis, is not structurally sufficient to constitute a legal building connection. Accordingly, the Appellant argued that the Zoning Administrator should have concluded that the Addition was instead a standalone two-story accessory structure that exceeded the height requirements and therefore required variance relief. (Exhibits 3 and 21.)

Owners’ Case

The Owners asserted the appeal should be denied because the Addition satisfies the requirements of the Zoning Regulations. The Owners presented a legal analysis demonstrating that the existing building and the Addition did in fact constitute a single building under the definition of “Building” in § 199.1 of the Zoning Regulations. Specifically, the Owners demonstrated with exhibits it submitted into the record that (a) trellises constitute a sufficient building connection and communication between otherwise separate portions of a structure under established District of Columbia law; and (b) the trellis connection is located at the main floor of the building because buildings on sloping sites may have multiple “main floors” and even if a building can have only one main floor, that main floor is the Rumsey Court level where the trellis is located. Therefore, the proposed construction was properly considered as an addition to the existing building. (Exhibits 23-29.)

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DCRA's Case

DCRA also argued that the proposed trellis constituted a valid building connection under District of Columbia law. Furthermore, DCRA argued that the Board had already concluded that the connection was sufficient when it rejected Appellant's arguments in the original application and approved BZA Application No. 18263. (Exhibit 22.)

Closing of the Record

At the close of the hearing, the Board deferred its decision on the merits of the case and closed the record. The Board scheduled the case for decision on February 4, 2014, at which time it considered the merits of the case and voted 4-0 to deny the appeal.

FINDINGS OF FACT

The Property

1. The Property that is the subject of this appeal is known as Lot 23 in Square 733, and is located at 117 C Street, S.E.
2. The rear of the Property abuts Rumsey Court, a 30-foot wide public alley.
3. The Property is located in the CAP/R-4 Zone District. The R-4 Zone District permits both one-family dwellings and flats (*i.e.* a two-family dwelling). The R-4 District also permits dwellings without side yards, which are referred to as row dwellings.
4. The Property is improved with a three-story row dwelling.
5. The Property slopes significantly from north to south, such that the level of the rear yard is at Rumsey Court, and this level is one floor below the C Street level of the Property.
6. Appellant's property is located six houses to the east of the Property, at 129 C Street, S.E.

The Project

7. The Owners seek to improve the Property with an addition containing a first-story garage and second-story apartment ("Project").
8. The Project will be connected to the existing row dwelling by a trellis-covered walkway. The trellis and covered walkway will be located at grade level at the rear of the subject property, which is the Rumsey Court level of the Property.

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9. The Rumsey Court level of the Property serves as the principal entrance to the main house as well as the flat.
10. The Rumsey Court entrance is closest to the Owners' parking space and is regularly used to enter and exit the home.
11. The connection will extend from a door at the basement level of the main portion of the dwelling to a door providing access to the Project.
12. The trellis has a roof that will provide a minimum of 51% coverage over the walkway and is supported by columns.
13. The Board granted special exception approval for the Project in BZA Application No. 18263 (2011). In that case, and in response to questions posed to it by the Court of Appeals, the Board explained why the trellis would provide a physical building connection and meaningful communication between the existing row dwelling and the Project¹.
 - a. The Board determined, based on past precedent, that a trellis meets the definition of "building" because it is a roofed structure supported by columns that provides shelter.
 - b. The Board also found that the covered walkway created by the trellis permitted meaningful communication between the row dwelling and the Addition.
 - c. Finally, the Board concluded that the trellis-covered walkway was located at the Rumsey Court level of the Property, which constituted the main floor of the building.

(BZA Application No. 18263-B (2013) at 6-7 (FOF 18-20); 10-12.)

14. Pursuant to Building Permit No. 1210100, issued November 25, 2012, the Department of Consumer and Regulatory Affairs approved:

A new 2-floor rear addition to the existing SFD row structure with a new covered walkway connecting a new 2-floor addition which [sic] 1st floor as garage at all the way to the rear of property line, with a landscaped wall per BZA # 18263 – Special Exception for Lot Occupancy, Rear Yard Setback & Court on 11/17/2011. Interior to be renovated, includes new kitchen, and master bath. Conversion from

¹ Ordinarily the Board would not address such issues in a special exception, since the only issue is whether the requested relief should be granted and not whether more relief is needed. The Board only reached the trellis issue in the special exception remand in order to explain to the court why the application did not fall within the rare circumstance when the Board would on its own motion dismiss an application because there was no plausible basis to conclude that the relief requested is sufficient.

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SFD to 2-family flat, unit one – main house, unit two – on 2nd floor of the attached garage’s apartment.

15. At the public hearing, counsel for all parties, including the Appellant, stipulated that the plans for the Project approved by the Permit, including the trellis connection, remained the same as the plans reviewed by the Board in Application No. 18263. (Tr. Dec. 3, 2013 at 119-121.)

CONCLUSIONS OF LAW

The Board is authorized by the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to hear and decide appeals when it is alleged by the appellant that there is an error in any decision made by any administrative officer in the administration of the Zoning Regulations. (11 DCMR §§ 3100.2, 3200.2.) In an appeal, the Board may reverse or affirm, in whole or in part, or modify the decision appealed from. (11 DCMR § 3100.4.)

The question in this case is whether the Zoning Administrator erred in concluding that the Project and the existing row-dwelling constituted a single building as a result of the connection between the portions created by the trellis. Based on the findings of fact in this case, as well as the Board’s extensive findings and conclusions on the issue of the trellis in Application No. 18263, the Board is not persuaded by the Appellant that the Zoning Administrator erred in making this determination.

The definition of “building” appears at 11 DCMR § 199.1. Although stated in one paragraph, this order will separate each sentence for ease of reference

Building - a structure having a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals, or chattel.

When separated from the ground up or from the lowest floor up, each portion shall be deemed a separate building, except as provided elsewhere in this title.

The existence of communication between separate portions of a structure below the main floor shall not be construed as making the structure one (1) building.

The second sentence explains why the subject property and the row-dwellings it is attached to are each separate buildings, because each is separated from the other by common division walls. Such is not the case for the existing row-dwelling and the proposed addition. Were it not for the existence of the trellis each would be considered separate buildings. Whether the trellis makes these otherwise separate structures into a single building is addressed by the third sentence of the definition. Although that sentence provides that the existence of a communication below the

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main floor cannot turn otherwise separate structures into one building, it necessarily follows that the existence of such a communication at or above the main floor would.

In Application No. 18263, the Appellant advanced the same arguments it presented in this Appeal; namely that the trellis does not establish the type of substantial communication contemplated in the definition and, even if it did, the connection is below the main floor. In that matter, the Board concluded that the Zoning Administrator retained the authority to interpret the Zoning Regulations and determine whether the trellis-covered walkway is a sufficient building connection. (BZA Application No. 18263-B at 10. *See also* Footnote 1, *supra*.) However, given the questions posed by the Court of Appeals in its remand, the Board elected to explain why the Zoning Administrator could plausibly conclude that the connection was both sufficient and not below the main floor and, accordingly, why the application should not have been dismissed. *Id.*

Based on the facts presented to the Board in Application No. 18263, the Board concluded that the Zoning Administrator could plausibly determine that the trellis-covered walkway constituted a valid building connection. (BZA Application No. 18263-B at 11-12.) In doing so, the Board spelled out in detail the reasons why the trellis-covered walkway met the requirements of the Regulations and why such interpretation was consistent with past precedent.

- First, the Board noted that in *Application No. 17331 of JPI Apartment Development LP* (2005) at 2, it had previously concluded that a trellis meets the definition of “building” when it has a roof that provides at least 51% coverage, is supported by columns, and is used for the shelter, enclosure or support of persons. All of these elements were satisfied by the trellis.
- Second, the Board concluded that the trellis would cover a walkway between the row dwelling and the Addition, and the trellis would therefore facilitate meaningful “communication” (that is, access) between the portions of the structure.
- Third, the Board concluded that the trellis-covered walkway was located at the “main floor” of the structure. Because the Zoning Regulations define the main floor as the floor at which the “principal entrance” is located, the Board concluded that, on a sloping site, the slope can result in multiple principal entrances that correspond to the changes in grade and, therefore, multiple main floors. In the case of the Project, the trellis was located at the Rumsey Court level of the building, which contained principal entrances to both the unit in the row dwelling and the Addition.

For all of these reasons, the Board concluded that the trellis constituted a portion of the “building” that provided “communication” at the “main floor” of the structure, and therefore met the requirements of the definition of “building” in § 199.1. (Application No. 18263-B at 10-12.)

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The term “main” is not defined in the Zoning Regulations. *Merriam-Webster Dictionary* defines the word “main” to mean - the chief part, essential point. In this case the rear door where the cars are parked is used more than the door in the front of the house. Therefore the rear door meets the definition of "essential" and therefore the connection at the rear may be considered a communication.

Based on the same facts present before the Board in Application No. 18263, the Zoning Administrator independently concluded that the trellis constituted a sufficient building connection, and accordingly DCRA issued the permit that is the subject of the appeal. Now that the building permit has been issued, the Board is no longer dealing with a theoretical determination, but with the actual decision by the Zoning Administrator. But since the facts remain the same, then so is the Board’s conclusion that a single building was formed by the trellis and therefore the Zoning Administrator’s determination should be sustained.

The Board’s prior conclusion that the trellis is located at the main floor of the building is further buttressed by the record in this case. As noted in the above findings of facts, the Rumsey Court level of the property (that is, the level at which the trellis connection is located) serves as the principal entrance to the main house as well as the flat. Further, the Rumsey Court entrance is closest to the Owners’ parking space and is regularly used to enter and exit the home.

Advisory Neighborhood Commission 6B

The Board is required to give “great weight” to the issues and concerns raised by the affected ANC. (D.C. Official Code § 1-309.10(d) (2012 Repl.)) In this case, ANC 6B voted to take no position on the above-referenced appeal. Accordingly, the ANC has not provided any advice that would cause the Board to conclude the appeal should be granted.

DECISION

Based on the findings of fact and conclusions of law, the Board concludes that the Appellant has not satisfied its burden of proof with respect to claim of error regarding the Zoning Administrator’s approval of Building Permit No. 1210100, issued on November 25, 2012, to approve construction of an addition in the CAP/R-4 Zone District at 117 C Street, S.E. (Square 733, Lot 23). Accordingly, it is therefore **ORDERED** that the appeal is **DENIED**.

VOTE: **4-0-1** (Lloyd J. Jordan, S. Kathryn Allen, Jeffrey L. Hinkle, and Anthony J. Hood to Deny; one Board seat vacant.)

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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 21, 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.

BOARD OF ZONING ADJUSTMENT
NOTICE OF PROPOSED RULEMAKING

BZA Application No. 19130

The Board of Zoning Adjustment of the District of Columbia (BZA), pursuant to the authority set forth in Section 206 of the Foreign Missions Act, approved August 24, 1982 (96 Stat. 286, D.C. Official Code § 6-1306), and the Zoning Regulations of the District of Columbia (Regulations), hereby gives notice of its intention to not disapprove, or in the alternative, disapprove the following:

Application of the Embassy of the Russian Federation, pursuant to 11 DCMR § 1002 of the Foreign Missions Act, to allow the construction of a security fence at an existing embassy in the R-5-D District at premises 2001 Connecticut Avenue N.W. (Square 2536, Lot 308).

A public hearing date has not yet been set for the case. Notice of the public hearing date will be mailed to property owners within 200 feet of the subject property and the affected **Advisory Neighborhood Commission (ANC) 1C**. Additionally, it will be published in the *DC Register*, the public hearing calendar of the Office of Zoning (OZ) website at <http://dcoz.dc.gov/bza/calendar.shtm>, and on public hearing notices available at the OZ office. A final determination on an application to locate, replace, or expand a chancery shall be made no later than six months after the date of the filing of the application.

HOW TO FAMILIARIZE YOURSELF WITH THE CASE

In order to review exhibits in the case, follow these steps:

- Visit the OZ website at www.dcoz.dc.gov
- Under “Featured Services”, click on “Case Records”.
- Enter the BZA application number indicated above and click “Go”.
- The search results should produce the case. Click “View Details”.
- On the right-hand side, click “View Full Log”.
- This list comprises the full record in the case. Simply click “View” on any document you wish to see, and it will open a PDF document in a separate window.

HOW TO PARTICIPATE IN THE CASE

Members of the public may participate in a case by submitting a letter in support or opposition into the record or participating as a witness. Visit the Interactive Zoning Information System (IZIS) on our website at <http://app.dcoz.dc.gov> and click on “Participating in an Existing (ZC or BZA) Case” for an explanation of these options. Please note that party status is not permitted in Foreign Missions cases.

If you have any questions or require any additional information, please call OZ at 202-727-6311.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 06-08D
Z.C. Case No. 06-08D
Fort Lincoln/Gateway Village, LLC
(Minor Modification of an Approved Consolidated Planned Unit Development
@ Square 4325)
February 9, 2015

This Order pertains to a request by Fort Lincoln/Gateway Village, LLC (“Applicant”). The Applicant seeks approval of a modification to an approved planned unit development (“PUD”) for the property known as Parcel 173/145 in Square 4325 (“Property”). The original PUD order was approved in Z.C. Case No. 06-08, which became effective on November 23, 2007. The original PUD order was previously modified through the following: a minor modification approved in Z.C. Case No. 06-08A, which became effective on May 16, 2008; a modification and time extension request approved in Z.C. Case No. 06-08B, which became effective on April 30, 2010; and a modification request in Z.C. Case No. 06-08C, which became effective on October 12, 2012.

The Zoning Commission for the District of Columbia (“Commission”) first considered the application at a public meeting held June 10, 2013 and considered an amended version of the application at its public meeting held February 9, 2015, at which time it approved the request.

FINDINGS OF FACT

1. The original PUD application, Z.C. Case No. 06-08, approved a 357-unit townhouse and townhouse condominium development consisting of three sizes of single-family townhouses (16-foot, 20-foot, and 24-foot-wide models) and “2 over 2” townhouse condominiums on approximately 23 acres of vacant land in Ward 5 and in the Fort Lincoln Urban Renewal Plan Area. The site plan approved in the original PUD application included a tot lot, a Mews Green, and a central Community Green that consisted of 1.18 acres of open space intended for non-organized, passive, and active recreational use. The original PUD application also required that 30 workforce affordable housing units be targeted for sale to District of Columbia Public School (“DCPS”) employees. Z.C. Order No. 06-08 became effective on November 23, 2007.
2. On November 19, 2007, the Commission approved the Applicant’s minor modification application (Z.C. Case No. 06-08A), which authorized the following changes to the approved plans:
 - Changes to the footprints of the various unit sizes;
 - Flexibility to provide a “loft” option in the 16-foot, 20-foot, and 24-foot-wide townhomes;
 - Flexibility for the interior 24-foot-wide units to have the option of a detached garage, or a larger rear yard and a parking pad instead of the detached garage;

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- Flexibility for the 20-foot-wide units to have the option to convert the interior parking garage to living space;
 - An increase to the maximum height of the 16-foot-wide units from 43 to 47 feet, an increase to the maximum height of the 20-foot-wide units from 42 to 47 feet, and an increase to the maximum height of the 24-foot-wide units from 40 to 42 feet; and
 - A modification to the overall site plan to include differing townhome widths in the various strings of townhomes throughout the site. The minor modification application did not request any change in the approved PUD's: amenities package (including the amount of workforce housing); lot configuration; Low-Impact Development ("LID") components; Community Green and Mews Green; tot lot; or the total number of residential units. Z.C. Order No. 06-08A became effective on May 16, 2008.
3. On April 30, 2010, the Commission approved a modification of the approved PUD and an extension of the period of approval of the original PUD project in Z.C. Case No. 06-08B. The Commission approved the following modifications to the project:
- A reduction in the total number of residential units from 357 units to 334 units;
 - A return to the original PUD's design scheme of having consistent townhouse widths in each string of townhouses;
 - An increase in the amount of overall greenspace included in the project; and
 - A three-phase development timeline and an extension of the time period of PUD approval with the requirement that a building permit application for the first phase of development be filed within one year from April 30, 2010, and that construction commence on the first phase of development within two years from April 30, 2010.
4. On September 10, 2012, the Commission approved a modification of the approved PUD in Z.C. Case No. 06-08C. The Commission approved the following modifications to the project:
- A modification to Condition No. 3 of Z.C. Order No. 06-08 to allow the workforce affordable housing units to be made available to the general public, and not limited to only DCPS employees;

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- Flexibility to satisfy the 30 workforce affordable housing unit requirement with the 16-foot townhome model (with less than 50% of the individual townhomes in a stick of 16-foot townhomes dedicated as workforce affordable units), or with either of the “2 over 2” condominium unit models (the two-story, three-bedroom, and two-and-one-half bathroom unit; or the one-story, two-bedroom, and two-bathroom unit);
 - Flexibility to replace some or all of the “2 over 2” condominium units approved for Phases II and III with the approved 16-foot and 24/22-foot townhome types; and
 - Providing the 10-year period of affordability commences on the date that each unit is first sold, rather than the date the Certificate of Occupancy for the building is issued.
5. On May 7, 2013, the Applicant submitted an application requesting approval of a modification to Condition No. 2 of Z.C. Order No. 06-08C, pursuant to the consent calendar provisions of the Zoning Regulations, 11 DCMR § 3030. The Applicant noted that Condition No. 2 of Z.C. Order No. 06-08C lists seven separate financial contributions that the Applicant was required to make. The Applicant stated that it had satisfied six of those conditions and is seeking to modify only one contribution. The financial requirement of Condition No. 2 of Z.C. Order No. 06-08C which the Applicant desired to modify currently reads as follows:

Renovation and Upgrade of the Theodore Hagens Cultural Center – The Applicant will make a financial contribution of \$25,000 for the renovation of space within the Theodore Hagens Cultural Center located within the Fort Lincoln community. These funds will be used to purchase and install exercise equipment, patio furniture and furnishings, and Hi-Definition televisions for the cultural center.

6. The Applicant stated that DCPS had recently decided to close the Thurgood Marshall School. Discussions within the Fort Lincoln community, the District of Columbia Council, and the Gray Administration raised the possibility of turning the Thurgood Marshall School facilities (which include an indoor Olympic-sized swimming pool) into a community center. The Applicant stated that the existing Theodore Hagens Cultural Center (“Hagens Center”) is smaller and less accessible than the Thurgood Marshall School. In addition, the Hagens Center is so lightly used at this point that the DC Department of Parks and Recreation (“DPR”) has reduced staffing and terminated evening use of the facility. As a result, the sentiment in the Fort Lincoln community (echoed by the Ward 5 Councilmember) was that the financial contribution for renovation and upgrade of the Hagens Center would be better used to help further the creation of a

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Thurgood Marshall Community Center, located within the existing Thurgood Marshall School facilities.

7. For these reasons, the Applicant requested that the \$25,000 financial contribution required to be made for renovations and upgrades to the Hagans Center should instead be used to help turn the Thurgood Marshall School facilities into the Thurgood Marshall Community Center. In addition, the Applicant requested that the time period in which this financial contribution is required to be made be extended to April 23, 2015. (Exhibit ["Ex."] 1.)
8. In a report dated May 31, 2013, the Office of Planning ("OP") indicated support for the Applicant's time extension request for the \$25,000 contribution, but requested additional information from the Applicant regarding the exact use of the funds in the new community center. (Ex. 6.)
9. At a properly noticed public meeting on June 10, 2013, the Commission requested that the Applicant provide more specific information as to what the \$25,000 would be used for at the Thurgood Marshall Community Center and left the record open for the Applicant to provide this information.
10. In a letter dated October 9, 2013, the Applicant stated that representatives of the Young Men's Christian Association ("YMCA"), DCPS, and the City Administrator were engaged in ongoing discussions regarding the Thurgood Marshall Recreation Center. Accordingly, the Applicant requested that it have until November 27, 2013, to provide detailed information concerning the use the required \$25,000 contribution. (Ex. 8.) The Commission granted this request.
11. In a letter dated November 26, 2013, the Applicant noted that it needed additional time to provide the information and requested that it have until March 31, 2014, to provide that additional information. (Ex. 9.) The Commission granted this request.
12. In a letter dated April 8, 2014, the Applicant again requested additional time, proposing a deadline of June 30, 2014, to provide that additional information. (Ex. 10.) The Commission granted that request.
13. In a letter dated June 25, 2014, the Applicant stated that it had been working with the DC Department of General Services ("DGS") to find appropriate users for the Thurgood Marshall Community Center. The Applicant noted that the YMCA had a plan, which was approved by DGS, for using a major part of the Community Center for their programs and services. The Applicant also noted that in order for DGS to commence renovation work, DGS determined that they also needed a District agency to commit to using space in the future community center along with the YMCA. The DC Office of

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Aging had shown interest in taking such space, as it would be an ideal partner for the YMCA, given the large number of seniors in the Fort Lincoln neighborhood. The Applicant contended that this information provided a sufficient basis for the Commission to approve the requested modification. (Ex. 11.)

14. In a report dated July 7, 2014, OP stated that, because the Applicant had not provided details in its June 25, 2014 submission regarding what the \$25,000 contribution would be used for, OP did not support the minor modification request. (Ex. 12.)
15. By letter dated July 16, 2014, the Applicant stated that nothing was to be gained by denying this application at this time, nor was anything gained by having the Applicant make a financial contribution to a recreation center that is not heavily used. Therefore, the Applicant requested that it be given until January 31, 2015, to provide more detail as to what the \$25,000 contribution would provide at the new Thurgood Marshall Community Center and identify an enforcement mechanism to assure that the public benefit will be delivered. The Applicant also stated that OP was amenable to the requested time extension. (Ex. 13.) At a properly noticed public meeting on July 17, 2014, the Commission approved this request.
16. In a letter dated January 30, 2015, the Applicant noted that despite the best efforts of the Applicant and DGS, the Applicant believed that it will likely be some time before the Thurgood Marshall Community Center is operational. Thus, the Applicant re-engaged with DPR representatives of the Hagans Center to create a list of needs that could be fulfilled with the \$25,000 contribution from the Applicant. The Applicant provided a detailed list of the exercise and recreation equipment, tables and chairs, stage equipment, and greenhouse repairs that the Applicant and DPR intend to be purchased for use at the Hagans Center in satisfaction of Condition No. 2 of Z.C. Order No. 06-08. The Applicant agreed to purchase all of this equipment or services and deliver such equipment or services to the Hagans Center by April 23, 2015. (Ex. 14.)
17. No other District agencies participated in this application,
18. By letter dated June 4, 2013, Advisory Neighborhood Commissioner (“ANC”) 5C03, Robert King, the Single-Member District Commissioner for this property, noted his support for the application. (Ex. 7.)

CONCLUSIONS OF LAW

Upon consideration of the record of this application, the Commission concludes that the Applicant’s purchase of the exercise and recreation equipment, tables and chairs, stage equipment, and provision of greenhouse repairs at the Hagans Center satisfy the relevant terms and intent of the portion of Condition No. 2 of Z.C. Order No. 06-08, which address the

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renovation and upgrade of the Hagans Center. The Commission concludes that the proposed modifications are in the best interest of the District of Columbia and are consistent with the intent and purpose of the Zoning Regulations and Zoning Act. The approval of the modification application is not inconsistent with the Comprehensive Plan.

The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (DC Law 8-163, D.C. Official Code § 6-623.04), to give “great weight” to OP’s recommendations. The Commission finds that the final list of goods and services to be provided by the Applicant includes sufficient detail, as requested by OP, regarding the use of the \$25,000 for the renovation and upgrade of the Hagans Center. The Commission also notes OP’s support for the Applicant’s request for a time extension for payment of the \$25,000 contribution to April 23, 2015.

The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (DC Law 1-21, D.C. Official Code § 1-309.10(d)), to give “great weight” to the issues and concerns of the affected ANC. The Commission notes that, in this case, there was no official position from the ANC regarding this application.

DECISION

In consideration of the above Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of this application for a modification of the approved PUD project in Z.C. Order Nos. 06-08, 06-08A, 06-08B, and 06-08C. The Zoning Commission hereby modifies the eighth paragraph of Condition No. 2 to read as follows:

Renovation and Upgrade of the Theodore Hagans Cultural Center – The Applicant will make a financial contribution of \$25,000 for the renovation of space within the Theodore Hagans Cultural Center located within the Fort Lincoln community. These funds will be used to purchase exercise and recreation equipment, tables and chairs, stage equipment, and provide green house repairs. The purchase of this equipment and services, and delivery of such equipment or services shall be made by April 23, 2015.

On February 9, 2015, upon the motion of Chairman Hood, 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 § 3028.29, this Order shall become final and effective upon publication in the *D.C. Register* on September 4, 2015.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 06-11N**

Z.C. Case No. 06-11N

**The George Washington University
(2007 Foggy Bottom Campus Plan –**

Modification of Conditions C-4 and C-7 of Z.C. Order No. 06-11/06-12)

May 4, 2015

Application of The George Washington University (“University”) pursuant to 11 DCMR § 3129.7, for review and approval of modifications to Conditions C-4 and C-7 of Z.C. Order No. 06-11/06-12, which approved the 2007 Foggy Bottom Campus Plan. In accordance with § 3035.4 of the Zoning Regulations, this case was heard and decided by the Zoning Commission for the District of Columbia (“Commission”) using the rules of the Board of Zoning Adjustment at 11 DCMR §§ 3100 *et seq.* For the reasons stated below, the Commission hereby approves the requested modifications.

HEARING DATE: May 4, 2015

DECISION DATE: May 4, 2015 (bench decision)

FINDINGS OF FACT

Application, Parties, and Hearing

1. The property that is the subject of this application is the University’s Foggy Bottom Campus, which is defined in Condition C-2 of Z.C. Order No. 06-11/06-12 and consists of the following properties: Square 39, Square 40, Square 41, Square 42 (Lots 54, 55), Square 43 (Lot 26), Square 54, Square 55, Square 56, Square 57, Square 58 (Lots 1, 5, 6, 802, 803), Square 75 (Lots 33, 34, 41, 46, 47, 861, 864, 865, 866, 867, 868, 869, 870, 2097), Square 77, Square 79 (Lots 63, 64, 65, 808, 853, 854, 861, 862), Square 80 (Lots 2, 26, 27, 28, 29, 42, 43, 44, 45, 46, 47, 50, 51, 52, 54, 56, 800, 802, 811, 820, 822, 823, 824, 825, 828, 843), Square 81 (Lot 846), Square 101 (Lots 58, 60, 62, 879), Square 102, Square 103 (1, 33, 34, 35, 40, 41, 42, 43, 44, 45), Square 121 (Lot 819), and Square 122 (Lots 29, 824, 825) (hereinafter, “Foggy Bottom Campus”).
2. By Z.C. Order No. 06-11/06-12, dated March 12, 2007, the Commission approved the most recent campus plan for the Foggy Bottom Campus (“Campus Plan Order”). The Commission affirmed and supplemented the reasons for its approval on remand from the D.C. Court of Appeals in Z.C. Order No. 06-11B/06-12B (“Remand Order”).
3. On February 4, 2015, the University submitted an application pursuant to § 3129.7 of the Zoning Regulations requesting modification of Conditions C-4 and C-7 of the Campus

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- Plan Order to specify how the University will account for students associated with the recently acquired Corcoran College of Art and Design (“Corcoran College”). (Exhibit [“Ex.”]1.)
4. The Corcoran College, now known as the Corcoran School of the Arts and Design within the University’s Columbian College of Arts and Sciences, is located at 500 17th Street N.W. (Square 171, Lots 814 and 816) (“Corcoran”). (Ex. 1.)
 5. The public hearing was scheduled for May 4, 2015. Notice of the public hearing was published in the *D.C. Register* on March 20, 2015 and was mailed to Advisory Neighborhood Commission (“ANC”) 2A and to owners of all property within 200 feet of the Foggy Bottom Campus. (Ex. 3, 4.) Notice of the public hearing was also posted on the Foggy Bottom Campus and the Corcoran pursuant to 11 DCMR §§ 3113.14 through 3113.20. (Ex. 7A, 7B, 11.)
 6. On April 20, 2015, the University filed a pre-hearing statement updating and supplementing the original application. (Ex. 8-8C.)
 7. The public hearing was conducted on May 4, 2015. The hearing was conducted in accordance with the provisions of 11 DCMR §§ 3022 and 3117.
 8. At the May 4, 2015 public hearing, the University presented evidence and testimony from the University’s senior leadership. (Ex. 12.)
 9. The Office of Planning (“OP”) submitted a report and provided testimony in support of the application. (Ex. 9.)
 10. In addition to the University, ANC 2A was automatically a party in the application and submitted a report and provided testimony in opposition to the application. (Ex. 10.) The West End Citizens Association (“WECA”) also submitted a request for party status, which was granted by the Commission. (Ex. 5.) WECA also submitted testimony in opposition to the application. (Ex. 14.)
 11. No other organizations or persons submitted evidence or provided testimony in support of or in opposition to the application.
 12. After the close of the May 4th public hearing, the Commission deliberated on the matter and voted to approve the application in Z.C. Case No. 06-11N.

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Background—Student Headcount

13. The Campus Plan Order includes a cap on student headcount as well as a detailed definition for who is included in the “Foggy Bottom student headcount.” The student headcount definition addresses the treatment of students at the University’s satellite campuses and other locations. The Foggy Bottom student headcount includes all University students with a “primary relationship” to the Foggy Bottom campus. Generally, students who take a class at the Foggy Bottom campus are considered to have a “primary relationship” with the Foggy Bottom campus and are therefore counted under the Foggy Bottom student headcount, even if those students take some or most of their classes at a satellite location. Conversely, students who have a primary relationship with another campus because they either live on that campus or take all of their classes at that campus (e.g., the Mount Vernon campus) are not counted under the Foggy Bottom student headcount.
14. In the Remand Order, the Commission reiterated its support for the headcount definition and the primary relationship test, including in particular the exclusion of University students who do not live or take classes at the Foggy Bottom campus.
15. The current Foggy Bottom student headcount definition does not count students who reside on the Foggy Bottom campus unless they also take a class on the Foggy Bottom campus.

Background – Corcoran

16. The Corcoran is located in the SP-2 Zone District. The existing Corcoran College is a permitted conforming use. Use as a college was first established in the late 1800s. When the current Zoning Regulations took effect in 1958, those regulations permitted a college use as a matter of right in the SP Zone District. Although the Zoning Regulations now require a special exception for a college or university use in the SP Zone District, the existing college use is permitted to remain as a pre-existing conforming use. (*See* 11 DCMR § 199, definition of “nonconforming use” (“A use lawfully in existence at the time of adoption or amendment of this title that would thereafter require special exception approval ... shall not be deemed a nonconforming use. That nonconforming use shall be considered a conforming use, subject to the further provisions of §§ 3104.2 and 3104.3.))
17. The Corcoran is located approximately two blocks east of the Foggy Bottom campus. The Corcoran is surrounded by government office and institutional uses. There are no

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residential properties between the Foggy Bottom campus and the Corcoran. The Corcoran is located outside of the defined boundaries of the “Foggy Bottom/West End” residential area (which is defined in Condition P-1 of the Campus Plan Order as bounded by N Street, N.W. on the north, the Potomac River and Rock Creek Park on the west, Constitution Avenue, N.W. on the south, and 19th Street, N.W. on the east).

The University’s Acquisition and Integration of the Corcoran College

18. In August 2014, the University received ownership of the Corcoran and agreed to take over responsibility for its upkeep and maintenance. The University also agreed to take over operations of the Corcoran College and integrate it into the broader University curriculum.
19. When the University took control of the Corcoran College in August 2014, it enrolled approximately 400 existing Corcoran students as University students. These students were roughly equally divided between undergraduate and graduate students.

Modification to Condition C-4

20. The University anticipates that the bulk of the Corcoran classes in art and design will continue to be offered at the Corcoran. As University students, the Corcoran College students also have the opportunity to take classes at other University campuses, including the Foggy Bottom Campus. As the Corcoran College is integrated into the broader University curriculum, the University expects that Corcoran undergraduate students will take some of their courses on the Foggy Bottom campus as part of a core curriculum. Corcoran graduate students, by contrast, will generally tend to take all or most of their classes at the Corcoran.
21. The student headcount definition already accounts for the treatment of Corcoran College students. As Corcoran students are integrated into the Foggy Bottom curriculum, any student who takes one or more classes on the Foggy Bottom campus will, by definition, be counted toward the Foggy Bottom student headcount. Only Corcoran students who take all of their classes at a location other than the Foggy Bottom campus will not be counted. To make this clear, the University proposed to amend Condition C-4 to explicitly reference the Corcoran.
22. As University students, the Corcoran College students also have the opportunity to live in University housing. As the campuses and programs are integrated, the University expects that, over time, some Corcoran students who will live on the Foggy Bottom campus will

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also take classes on the Foggy Bottom campus and therefore be counted toward the Foggy Bottom student headcount. However, other Corcoran students who will live on the Foggy Bottom campus will still take all of their classes at the Corcoran.

23. The current student headcount definition is silent on the treatment of students who live on the Foggy Bottom campus but do not take any classes on the Foggy Bottom campus. Consistent with the “primary relationship” standard, the University proposed to amend Condition C-4 to include any student who lives on the Foggy Bottom campus in the headcount, even if that student does not take any classes on campus.

Modification to Condition C-7

24. Under the current Foggy Bottom Campus Plan housing requirement, the University does not have any obligation to house any undergraduate Corcoran students unless they take a full-time course load on the Foggy Bottom campus. However, the University proposed to modify Condition C-7 to require freshmen and sophomore Corcoran students to live in University housing, regardless of where they take their classes, in order to direct these younger undergraduates to on-campus housing.
25. The University testified that it will begin implementation of the housing requirement with students who matriculate in the Fall of 2015, which is the first class of students admitted after the University’s acquisition of the Corcoran College. The University testified that it has sufficient housing stock to accommodate the additional Corcoran students.

OP Report

26. OP submitted a report in support of the application.

ANC 2A Report

27. At its April 2015 meeting, the ANC adopted a resolution recommending that the Commission count all Corcoran students as a part of the Foggy Bottom campus, even if the students do not take a class or reside on the Foggy Bottom campus. ANC 2A argued that because of the proximity of the Corcoran and the proposed integration of Corcoran programs, even students who do not take a class or reside on the Foggy Bottom campus could still use the campus and have impacts on the surrounding residential neighborhood.
28. ANC 2A did not oppose the University’s modification to Condition C-4 to count all students who reside on the Foggy Bottom campus as a part of the student headcount, nor

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did the ANC oppose the University's modification to Condition C-7 to extend the housing requirement to Corcoran students.

WECA Testimony

29. WECA similarly contended that all Corcoran students should be counted as a part of the Foggy Bottom student headcount because they may use other Foggy Bottom campus resources such as the library or fitness center or impose traffic and parking impacts on the Foggy Bottom Campus.

Contested Issue—Corcoran Students Who Take All Their Classes at the Corcoran

30. The sole contested issue in the case is the treatment of Corcoran students who do not take a class or reside on the Foggy Bottom Campus. ANC 2A and WECA proposed that all Corcoran students be counted as a part of the Foggy Bottom student headcount—effectively incorporating the Corcoran into the Foggy Bottom Campus—while the University and OP proposed that the campuses should remain separate and only those students who take a class or reside on the Foggy Bottom campus should be included in the Foggy Bottom student headcount.
31. The Commission is not persuaded by ANC 2A and WECA's rationale for the following reasons:
- a. First, if the Commission were to incorporate all Corcoran students into the Foggy Bottom student headcount (or pull the Corcoran into the Foggy Bottom campus), then, as several Commissioners noted, the Commission would also need to make a concomitant adjustment to the headcount cap itself. The students associated with the Corcoran acquisition are not new; rather, the Corcoran College existed as an independent educational institution in the same location for over a century and with a student enrollment that, in recent years, matched or exceeded the current number of Corcoran students. The University's proposed method is, by contrast, more conservative, because it will count some Corcoran students toward the Foggy Bottom student headcount limit and therefore result in an overall reduction in the total number of students associated with the two campuses;
 - b. Second, the Commission agrees with the University that many Corcoran students will attend classes, create, and study exclusively at the Corcoran. Counting every Corcoran student as a part of the Foggy Bottom campus would be unnecessarily overbroad;

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- c. Third, the Commission does not agree with ANC and WECA that those Corcoran students who may not take a class or reside on campus but nevertheless come to the campus for some other reason, such as to use the library, health and wellness center, or other facilities, have impacts that warrant their inclusion in the Foggy Bottom student headcount cap. The Commission finds that the ANC and WECA failed to provide specific evidence that Corcoran students were actually resulting in the alleged impacts. With regard to the library, the Commission credits the University's testimony that modern technology and University policies continue to significantly reduce the need to come to the Foggy Bottom campus to use many facilities; research, book purchases, course registration, and other formerly centralized activities are all regularly conducted online. With regard to the health and wellness center, the Commission credits the University's testimony that the zoning order that regulates the use of this facility specifically addresses which students are eligible to use the facility (see Z.C. Order No. 02-26C);
- d. Fourth, the Commission does not agree with ANC and WECA's contention that Corcoran students will have traffic and parking impacts on the surrounding residential neighborhoods. Again, the ANC and WECA failed to provide specific evidence that Corcoran students had resulted in specific adverse impacts; rather the ANC and WECA merely complained about general parking difficulties in the neighborhood. The Commission credits the University's testimony that all Corcoran students will be subject to the same University Code of Conduct as other University students, which prohibits freshman and sophomore students bringing cars to the Foggy Bottom/West End Area and limits student parking in the streets adjacent to and surrounding the Foggy Bottom campus pursuant to Condition C-13 of the Campus Plan. Furthermore, the Commission credits the University's testimony that the Corcoran is located approximately four-to-five blocks from the Farragut West and Farragut North Metrorail entrances, and it is expected that Corcoran students will continue to use mass transit, walking, and biking as the primary means of traveling to and from campus; and
- e. Fifth and finally, the Commission finds that the relationship between the Foggy Bottom campus and the Corcoran is still new and will evolve over time. The next Foggy Bottom campus plan will provide the Commission with an opportunity to re-evaluate the relationship between the two campuses and make adjustments as necessary.

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32. Therefore, for all of the above reasons, the Commission finds that it is not necessary to include all of the Corcoran students within the Foggy Bottom Campus Plan headcount cap. The University's proposed modifications are tailored to capture and count those Corcoran students that will have impacts on the Foggy Bottom campus and surrounding area. Furthermore, because the Corcoran students were already present in the general area, the University is effectively absorbing a portion of the Corcoran population into its Foggy Bottom enrollment caps and reducing the total number of students associated with the combined institutions.

CONCLUSIONS OF LAW

Upon consideration of the record of this application, the Commission concludes that the Applicant's proposed modification is consistent with the intent of the Commission's prior approvals. The Commission concludes that the proposed modification 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 Commission is required under D.C. Official Code § 6-623.04 to give great weight to OP recommendations. The Commission concurs with OP's view that the modifications should be approved.

The Commission required the University to satisfy the burden of proving the elements of § 3129 of the Zoning Regulations, which are necessary to establish the case for modification of the Commission's previous approval. Here, the Commission concludes that the University provided sufficient evidence that the proposed modifications will not impact the Commission's original approval of the Foggy Bottom Campus Plan as set forth in the Campus Plan Order. The University's proposal is consistent with the "primary relationship" methodology approved by the Commission in the Campus Plan Order and affirmed by the Commission in the Remand Order. Furthermore, extension of this methodology to Corcoran students will not result in objectionable impacts to the residential neighborhoods surrounding the Foggy Bottom campus because the University will count those Corcoran students that take classes or live on the Foggy Bottom campus under the caps previously judged by the Commission to be acceptable.

In accordance with D.C. Official Code § 1-309.10(d), the Commission must give great weight to the written issues and concerns of the affected ANC. The Commission accorded the issues and concerns raised by ANC 2A the "great weight" to which they are entitled, and in so doing fully credited the unique vantage point that ANC 2A holds with respect to the impact of the proposed application on the ANC's constituents. For the reasons stated in Findings of Fact Nos. 31 and

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32, the Commission did not find the ANC’s advice that that all Corcoran students should be counted as a part of the Foggy Bottom student headcount to be persuasive.

Based upon the record before the Commission, and having considered and given great weight to the reports of OP and ANC 2A, the Commission concludes that the University has met the burden of satisfying the applicable standards under 11 DCMR §§ 3129.

DECISION

In consideration of the reasons set forth herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of modifications to Conditions C-4 and C-7 of Z.C. Order No. 06-11/06-12 as follows:

Condition C-4

For the duration of this Plan, the Foggy Bottom student headcount shall not exceed 20,000 students, and the Foggy Bottom student full-time equivalent shall not exceed 16,553.

a. For purposes of this Condition:

- i. “Foggy Bottom student headcount” shall be defined as the number of GW students in the “Foggy Bottom/Mount Vernon Campus Total Student Body”¹⁰, minus: study abroad students, continuous enrollment students, students that reside at the Mount Vernon Campus, students that take all of their courses at the Mount Vernon Campus, and Foggy Bottom faculty and staff accounted for pursuant to Condition C-5 herein who are also enrolled in one or more courses at the Foggy Bottom Campus. Notwithstanding the foregoing, students who reside in on-campus beds on the Foggy Bottom Campus shall each be counted toward the Foggy Bottom student headcount.

Note that students taking all of their courses at the Corcoran are not specifically deducted from this number as they are not included in the “Foggy Bottom/Mount Vernon Campus Total Student Body” by virtue of their courses not being located on the Foggy Bottom or Mount Vernon campuses.

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¹⁰ The “Foggy Bottom/Mount Vernon Campus Total Student Body” is compiled by the GW Office of Institutional Research (OIR) and is currently reported on the OIR online “GW Factbook” available at www.gwu.edu/~ire/.

Condition C-7

The University shall require all full-time Foggy Bottom and Corcoran freshmen and sophomore students to reside in housing located within the campus plan boundary. The University may exempt from this requirement those students who commute (i.e., students who have established permanent residency off-campus prior to enrollment at the University or students who live off-campus with a parent, guardian, or other family member), are married or have children, ~~or~~ have disabilities or religious beliefs inconsistent with residence hall life, or who matriculated at the Corcoran prior to the Fall 2015 semester. The University’s efforts with respect to this Condition shall be monitored by the Advisory Committee.

VOTE: 5-0-0 (Marcie I. Cohen, Peter G. May, Anthony J. Hood, Robert E. Miller, and Michael G. Turnbull to adopt).

BY ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.

FINAL DATE OF ORDER: August 24, 2015

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION CORRECTED¹ ORDER NO. 08-07A(1)
Z.C. Case No. 08-07A

Four Points, LLC and Curtis Properties, Inc.

(Second-Stage PUD and PUD Modifications @ 2255 Martin Luther King Jr. Avenue, S.E.)
March 30, 2015

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on December 18, 2014, to consider an application from Four Points, LLC and Curtis Properties, Inc. (together, the "Applicant") for approval of a second-stage planned unit development ("PUD") and modifications to an approved first-stage PUD at 2255 Martin Luther King Jr. Avenue, S.E. (Lot 839 and part of Lot 906 in Square 5785) ("PUD Site"). The Commission considered the applications pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

FINDINGS OF FACT

The Application, Parties, Hearing, and Post-Hearing Submissions

1. On March 31, 2008, the Applicant filed an application and supporting materials with the Commission for review and approval of a first-stage PUD and related zoning map amendment to rezone (i) Lots 984 and 1019 in Square 5772 from C-3-A/C-M-1 to C-3-A; (ii) Lots 829 and 1018 in Square 5783 from C-2-A to C-3-A; (iii) Lots 898, 899, and 900 in Square 5784 from C-2-A to C-3-A; and (iv) Lot 906 in Square 5785 from C-2-A/C-3-A to C-3-A ("Overall PUD Site"). The Overall PUD Site has a combined land area of approximately 340,467 square feet (approximately 7.8 acres), and is generally bounded by U Street to the north, Martin Luther King Jr. Avenue to the east, Chicago Street to the south, and Interstate 295 to the west, all located in the southeast quadrant of the District. Pursuant to Z.C. Order No. 08-07, dated September 9, 2013, and effective October 25, 2013, the Commission granted approval of the first-stage PUD and zoning map amendment.
2. The approved PUD is a mixed-use project consisting of approximately 1,570,000 square feet of gross floor area comprised of seven new buildings and two renovated existing buildings. The Commission approved the development of approximately 481,000 square feet of gross floor area for residential use; approximately 144,000 square feet of gross floor area for retail, service, arts, and limited types of office use; and approximately 945,000 square feet of gross floor area for office use. (*See* Z.C. Order No. 08-07, p. 23.)

¹ The Applicant's draft order left out the word "not" in item (f) on p. 12 and in Condition No. 8 on p. 22 and this Corrected Order is being issued so that it reads that Building 1 "does not" and "shall not" have a Chicago Street, S.E. address. A Chicago Street address would have made the building's residents eligible to participate in the Residential Parking Permit program, which is precisely what the Applicant promised not to allow. Neither the Office of the Attorney General nor the Zoning Commission as part of their review of the draft order noticed the inconsistency.

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3. On June 27, 2014, the Applicant filed an application with the Commission for review and approval of a second-stage PUD and modifications to the approved first-stage PUD for development of the PUD Site. The PUD Site is zoned C-3-A. The PUD Site was not rezoned as part of the 2008 application. The PUD Site is generally bounded by private property to the north, Martin Luther King Jr. Avenue to the east, Chicago Street to the south, and a public alley to the west.
4. The approved first-stage plans for the PUD Site authorized development of a six-story, mixed-income residential building ("Building 1"), with approximately 65,000 square feet of gross floor area devoted to residential use comprised of 65 dwelling units (plus or minus 10%), 33 off-street parking spaces, and 22 bicycle parking spaces. Building 1 was approved with a maximum density of 2.57 floor area ratio ("FAR") and a maximum building height of 60 feet, not including roof structures.
5. The Applicant requests modifications to the approved first-stage PUD to develop the PUD Site with a modified design for Building 1. The modified building would contain approximately 68,263 square feet of gross floor area devoted to residential use comprised of 71 residential units (plus or minus 10%), 26 below-grade parking spaces, 37 secure bicycle parking spaces, and various tenant amenities. Live/work units for artists will be located on the ground floor. Eighty percent of the residential units would be devoted to households earning up to 60% of the area medium income ("AMI"). The building would have a maximum density of 2.85 FAR and a maximum height of 65 feet, not including roof structures, at its highest point.
6. At its public meeting held on July 28, 2014, the Commission voted to schedule a public hearing on the application.
7. On August 13, 2014, the Applicant submitted a prehearing statement (Exhibit ["Ex. 16]). The prehearing statement set forth information requested by the Commission, including additional information on the live/work units; details on Building 1's compliance with the Enterprise Green Communities rating system; an explanation of why a larger green roof could not be provided; an explanation of the safety features on the roof deck; clarification on Applicant's commitment to enter into a First Source Employment Agreement; additional renderings of how Building 1 relates to the height of the adjacent row dwellings on Chicago Street; and an explanation as to why the Green Area Ratio requirements do not apply to Building 1. The submission also included updated architectural drawings and materials required pursuant to § 3013 of the Zoning Regulations.
8. On November 14, 2014, the Applicant submitted a supplemental prehearing statement. (Ex. 22.) This submission included (i) further revised architectural drawings, which demonstrated how the Applicant refined Building 1's façades to provide better

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integration with the surrounding community and to respond to feedback from the Office of Planning (“OP”), the Commission, and the community; and (ii) a transportation impact study, dated October 20, 2014, prepared by Gorove/Slade Associates, Inc., the Applicant’s transportation consultant, which was submitted to the District Department of Transportation (“DDOT”).

9. On November 20, 2014, the Concerned Citizens of Anacostia (“CCA”) filed a Party Status Request to participate at the hearing in opposition to the application. (Ex. 23.) The Party Status Request raised issues regarding Building 1’s height, massing, and design incompatibility with the character of the historic neighborhood; Building 1’s non-compliance with the principles approved under the first-stage PUD with regard to the housing type mix; the absence of retail; the absence of a community benefits agreement or a clear presentation of the public benefits and amenities related to the project; and the project’s potential impact on the historic view of the Capitol and downtown DC.
10. On November 24, 2014, OP submitted a report recommending approval of the application. (Ex. 24.) The OP report stated that the project conforms to the Comprehensive Plan’s objectives for the area and to the Generalized Land Use and Policy Maps. (*See* OP Report, p. 1.) OP expressed its support for the design of Building 1, which “would positively add to the character and activity along MLK Avenue” (*id.* at p. 5), and stated that the proposed changes to Building 1 would not make the development inconsistent with the Comprehensive Plan, the C-3-A Zone District, or the overall concept of the first-stage PUD. *Id.* at p. 8. Furthermore, OP stated its support for “granting all the areas of flexibility requested.” (*Id.* at p. 7.) Overall, the OP report recommended approval of the application.
11. On November 24, 2014, DDOT also submitted a report that assessed the potential safety and capacity impacts of the project on the District’s transportation network. (Ex. 25.) The DDOT report made the following conclusions: (i) vehicle, loading, and trash access is in keeping with DDOT’s approach to site access; (ii) the Applicant utilized sound methodology and travel assumptions and developed an appropriate mode split; (iii) the project is projected to minimally increase travel delay in the area; (iv) existing transit service, pedestrian infrastructure, and bicycle infrastructure has capacity to accommodate future demand; and (v) the Applicant proposes an adequate number of long-term bicycle parking spaces in bicycle storage rooms. (*See* DDOT Report, pp. 1-2.) The DDOT report also concluded that there are no direct mitigations necessary as part of the development of Building 1 beyond the Transportation Demand Management (“TDM”) plan proposed in its report and as set forth on page 21 of this Order. Given the complexity of the project, DDOT requested that the Applicant continue to work with DDOT staff on the following matters: (i) installation of at least four short-term bicycle parking spaces; (ii) for each subsequent second-stage application, the Applicant’s evaluation of consistency with the first-stage analysis and the first second-stage analysis; (iii) public space approvals, including curbs and gutters, street trees and landscaping, street lights,

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sidewalks, and other features within the public rights of way; and (iv) potential modifications to traffic signals in future second-stage applications. (*Id.* at p. 2.)

12. On December 3, 2014, Advisory Neighborhood Commission (“ANC”) 8A, the ANC in which the PUD Site is located, submitted a letter requesting postponement of the public hearing, which was originally scheduled for December 4, 2014. (Ex. 33.) On December 3, 2014, the Commission granted the request for postponement and rescheduled the case to December 18, 2014, for a public hearing.
13. On December 18, 2014, the Applicant submitted a letter opposing the party status request submitted by CCA. (Ex. 72.) The Applicant’s letter asserted that CCA did not demonstrate that its interests would be more significantly, distinctively, or uniquely affected than those of other persons in the general public, as required under § 3022.4 of the Zoning Regulations. The Applicant’s letter stated that CCA’s alleged representation of homeowners and tenants within the entire Ward, and members of three distinct neighborhood organizations with different boundaries and purposes, demonstrates that CCA’s interests are not unique and instead apply to residents of all of the neighborhoods surrounding the PUD Site.
14. On December 18, 2014, the Applicant also submitted a letter responding to the issues raised in the CCA’s party status request. (Ex. 73.) The Applicant’s letter stated that (i) the PUD Site is not within the Anacostia Historic District and is therefore not subject to review by the Historic Preservation Office (“HPO”) or the Historic Preservation Review Board (“HPRB”); (ii) the proposed modifications to Building 1 are minor in nature and will not cause adverse effects to the neighborhood; (iii) residential development is an appropriate use for Building 1, particularly because retail development is planned for adjacent lots within the Overall PUD; and (iv) the proposed amount of affordable housing is appropriate for Building 1 and will not result in an over concentration of subsidized, income-capped housing at the PUD Site. The Applicant’s letter also set forth the proposed public benefits and project amenities associated with the second-stage application for Building 1.
15. On December 18, 2014, the Applicant submitted a Construction Management Plan, which sets forth the actions the Applicant will take to minimize any impacts from construction of the proposed development on the adjacent communities. (Ex. 75.)
16. After proper notice, the Commission held a hearing on the application on December 18, 2014. The parties to the case were the Applicant and ANC 8A.
17. At the public hearing, the Commission denied CCA’s party status request based on the Commission’s findings that: (i) CCA stated that it represented numerous other community groups and organizations, including ANC 8A, the Historic Anacostia Preservation Society (“HAPS”), and the Chicago Shannon Civic Association (“CSCA”),

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but provided no letters of authorization from those groups agreeing to the representation; (ii) CCA did not provide a list of individual members whom it represented, and further testified that none of CCA's members live within 200 feet of the PUD Site; and (iii) members of CCA are not significantly, distinctively, or uniquely affected by the proposed development on the PUD Site. However, the Commission granted CCA representatives additional time at the public hearing to present its case.

18. Two principal witnesses testified on behalf of the Applicant at the hearing: Stan Voudrie of Four Points, LLC; and Fernando Bonilla of Grimm + Parker Architects, who the Commission accepted as an expert in architecture. At the public hearing, the Applicant submitted its PowerPoint presentation. (Ex. 77.)
19. Forty-three individuals and local organizations also submitted letters in support of the application. (Ex. 26-30, 34-68, 70, 71, 76.)
20. OP and DDOT testified in support of the application at the public hearing. At the request of the Commission, OP indicated that it would work with the Applicant to establish appropriate conditions to approval.
21. At the public hearing, Commissioner Gretta Fuller of ANC 8A presented testimony and cross-examined the Applicant's witnesses regarding the application. Commissioner Fuller's questions related to the lack of ground floor retail in Building 1, the insufficient amount of brick on the building façade, the need to address lighting and safety in the adjacent public alley, the use of the side yard, on-street parking restrictions for Building 1 residents, and the Applicant's commitment to a community benefits package. (*See* Transcript ["Tr."], 12/18/14, pp. 96-119.)
22. At the public hearing, the Commission stated that there was nothing in the case record from ANC 8A that authorized Commissioner Fuller to represent the ANC regarding the application, as required pursuant to 11 DCMR § 3012.5(h). The Commission requested that ANC 8A submit a letter confirming that Commissioner Fuller is authorized to represent the ANC. (*See* Tr., 12/18/14, pp. 188-189.) However, ANC 8A did not subsequently submit documentation confirming Commissioner Fuller's representation. Therefore, the Commission treated Commissioner Fuller's testimony as that of an individual.
23. At the public hearing, five persons testified in support of the application and two persons testified in opposition to the application. The persons in support of the application were Kamal Freeman, Darren Davis, Ronald Moten, Anthony McDuffy, and Anthony Gualtier. The persons in opposition to the application were Camille Bourguigon, on behalf of CCA (*see* Tr., 12/18/2014, pp. 144-158) and David White of CSCA (*see* Tr., 12/18/2014, pp. 140-144).

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24. On January 12, 2015, the Applicant submitted a post-hearing submission. (Ex. 80-80B.) The post-hearing submission included (i) revised architectural drawings (Exhibit 80A1-80A3) showing the following, as requested by the Commission at the public hearing: updated fiber cement and metal panels; additional brick on the building's façade and on the Chicago Street sidewalk; plans and elevations of the roof structure and solar panels; additional details of the design and layout of the live/work units; updated layout and furniture for the side yard; perspectives of the revised roof deck; and multiple street level perspectives; (ii) a list of the additional proffers that the Applicant offered at the public hearing; (iii) an explanation of the phasing plan for the Overall PUD (Ex. 80); (iv) an explanation of the Applicant's outreach with community members following the public hearing (Ex. 80); and (v) a Community Benefits Agreement (Ex. 80B) that the Applicant presented to the ANC and neighborhood stakeholders.
25. At its public meeting held on February 9, 2015, the Commission took proposed action to approve the applications and the architectural plans and elevations (the "Plans") that were submitted to the record (Ex. 80A). The Commission requested that the Applicant explain why the project does not include a green roof, and to continue working with the community and ANC 8A to finalize a community benefits agreement, and to report the progress of the negotiations to the Commission, prior to final action.
26. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") on February 12, 2015 under the terms of the District of Columbia Home Rule Act. (Ex. 82.) The NCPC Executive Director, by delegated action dated March 10, 2015, found that the proposed PUD would not be inconsistent with the Comprehensive Plan for the National Capital. (Ex. 86.)
27. On March 23, 20015, the Applicant submitted a post-hearing submission (Exhibit 87). The post-hearing submission stated the reasons the Applicant elected not to include a green roof in the project. It further stated that the Applicant had attempted in good faith to negotiate the terms of a community benefits agreement, but the parties had not been able to reach agreement.
28. At the public meeting on March 30, 2015, the Applicant submitted a community benefits agreement signed by Four Points Development, the Concerned Citizens of Anacostia, Historic Anacostia Preservation Society, and Historic Anacostia Block Association (Exhibit 88). The Applicant stated that it was willing to abide by the terms of the agreement as a condition of the Commission's approval of the application.
29. The Commission took final action to approve the application on March 30, 2015.

The PUD Project

30. The PUD Site is situated in Ward 8, just outside of the Anacostia Historic District, and is zoned C-3-A. The PUD Site is bounded by private property to the north, Martin Luther

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King Jr. Avenue, S.E. to the east, Chicago Street to the south, and a public alley to the west.

31. The Applicant proposes to develop the PUD Site with Building 1, a six-story residential building with approximately 68,263 square feet of gross floor area devoted to residential use, comprised of 71 residential units (plus or minus 10%), 26 below-grade parking spaces, 37 secure bicycle parking spaces, and various tenant amenities. Live/work units for local artists will be located on the ground floor. The building will have a maximum density of 2.85 FAR and a maximum height of 65 feet, not including roof structures, at its highest point.
32. The building will include a total of 71 units. Eighty percent of the residential units (i.e., 57 units) will be devoted to households earning up to 60% of the AMI. The income mix includes eight units at 30% of the AMI, 26 units at 50% of the AMI, and 23 units at 60% of the AMI. The remaining 20% of the units (i.e., 14 units) will be market-rate units. The building will contain a variety of unit sizes, including studios, one-bedroom units, and two-bedroom units.

Development Incentives and Flexibility

33. With respect to development of Building 1, the Applicant requested the following areas of flexibility from the Zoning Regulations:
 - a. *Flexibility from the Loading Requirements* – Subsection 2201.1 of the Zoning Regulations requires that Building 1 include one loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery space at 20 feet deep. The Applicant requests flexibility to provide one loading berth at 30 feet deep and one loading platform at 100 square feet, located outside of the building. The flexibility is necessary due to the limited area on the PUD Site to provide loading facilities. The project cannot accommodate a 55-foot truck due to the narrow width of the PUD Site and the grade change. However, the Commission finds that the proposed loading facilities are sufficient to serve the needs of the prospective residents of Building 1. Given the proposed unit mix, the Commission finds that a 30-foot loading berth will adequately accommodate smaller-sized moving trucks that are anticipated to serve studios, one-bedroom, and two-bedroom rental units. The Commission further finds that the Applicant will be able to manage and schedule use of the loading berth and provide an organized process for residential move-ins and move-outs and contemporaneous deliveries;
 - b. *Flexibility from the Side Yard Width Requirements* - Pursuant to § 775.5 of the Zoning Regulations, no side yards are required for apartment houses in the C-3-A Zone District. If a side yard is provided, it must be at least two inches wide for

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each foot of height of building, but not less than six feet. In this case, a minimum width of 10.8 feet is required. The Applicant proposes to provide a side yard on the northeast side of the building that has a minimum width of 30 feet, and a side yard on the southwest side of the building that has a minimum width of 6.7 feet, thus necessitating flexibility. The Commission finds that this proposed configuration is necessary to provide adequate space to accommodate the proposed amenities on the ground floor of the building. Moreover, despite full compliance with § 775.5, there is ample open space, light, and air surrounding Building 1 in all directions. In addition to the compliant 30-foot side yard on the northeast side of the PUD Site, the PUD Site also has a front yard that varies between 3.86 feet and six feet deep and a rear yard that has an average depth of 38.76 feet. The PUD Site also has a significant amount of open space in its northeast corner. In addition, the southwest side yard complies with § 775.5 for most of the building's width, providing additional light and air on this side of the PUD Site. Thus, the Commission finds that providing a side yard on the southwest side of the PUD Site that does not fully comply with the Zoning Regulations will not result in any adverse impacts to the open space on the PUD Site or on the enjoyment and comfort of building residents;

- c. *Flexibility from the Off-Street Parking Requirements* - Subsection 2101.1 of the Zoning Regulations requires one parking space for each two dwelling units, or in this case, a minimum of 36 parking spaces. The Applicant proposes to provide 26 parking spaces located in the below-grade garage, thus requiring flexibility. The Commission finds that 26 off-street parking spaces is sufficient to meet the anticipated parking demand for the building. The PUD Site is located in close proximity to multiple public transportation options. The Anacostia Metrorail Station, which services the Green Metrorail line, is located approximately one-quarter of a mile (a seven minute walk) from the PUD Site, and a bus stop is located directly in front the PUD Site, which services seven different Metrobus lines (90, A42, A46, A48, B2, P6, and U2) with three additional Metrobus stops located 0.1 mile away from the PUD Site (and servicing the 93, W2, and the DC Potomac Avenue/Skyland Avenue routes). There are also multiple car- and bike-share stations located within easy walking distance of the PUD Site, plus on-site bicycle parking for 37 bicycles, which will together provide additional alternative transportation options and reduce the need for residents of Building 1 to own a car. The Commission agrees with the DDOT report, which states that “it is not anticipated [that] demand from this building will lead to needed on-street parking” (see Ex. 25, DDOT Report, p. 5), and finds that the proposed number of parking spaces is a reasonable supply of parking for the land use and location of the PUD Site. Furthermore, the Commission finds that Building 1 is consistent with the Comprehensive Plan's goals of investing in transit-oriented development, improving pedestrian facilities, and transforming key District arterials into multi-modal corridors that incorporate and balance a variety of mode choices; and

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d. Flexibility from the Compact Parking Space Requirements - The Applicant requests flexibility from the compact parking space requirements of § 2115.4 of the Zoning Regulations. Subsection 2115.4 provides that compact parking spaces must be placed in groups of at least five contiguous spaces; however, the eight parking spaces proposed to be compact are not located in groups of at least five contiguous spaces. The Commission finds that providing the compact parking spaces is necessary in order to maximize the efficiency of the garage, provide as many parking spaces as possible, and maintain a drive aisle width of 20 feet. Furthermore, the compact spaces are clustered in the eastern corner of the garage to allow this space to be used efficiently, rather than as an underutilized dead-space. Thus, the Commission finds that no adverse impacts will result due to the proposed number and configuration of the compact parking spaces.

34. The Applicant also requests the following flexibility from Z.C. Order No. 08-07:

| | Approved During First-Stage | Proposed Modifications for Second-Stage | Permitted in Zone C-3-A |
|------------------------------------|---|--|--|
| Lot size | 25,300 sf | 23,976 sf | N/A |
| Building footprint | 10,850 sf | 11,366 sf | N/A |
| Lot Occupancy | 43% | 47% | 75% (80% for projects subject to IZ) |
| Building height | 60 feet (not including roof structures) | 65 feet (no roof structures over 4 feet) | 65 feet (90 feet for PUD) |
| Residential use | 65,000 sf | 68,263 sf | 95,904 sf (4.0 FAR) (4.5 FAR for a PUD; 4.8 FAR for projects subject to IZ) |
| Retail/office use | 0 sf | 0 sf | 59,940 (2.5 FAR) |
| Number of residential units | 65 (plus or minus 10 percent) | 71 | N/A |
| FAR | 2.57 | 2.85 | 4.0 FAR matter-of-right; 4.5 FAR for a PUD; and 4.8 FAR for projects subject to IZ |
| Number of parking spaces | 33 | 26 | 36 (1 for 2 units) |

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| | Approved During First-Stage | Proposed Modifications for Second-Stage | Permitted in Zone C-3-A |
|-----------------------------------|-----------------------------|--|-------------------------|
| Number of bicycle parking spaces | 22 | 37 | 24 (1 for 3 units) |
| Loading berth length (ft.) | 30 | 30 (no change) | 55 |
| Loading platform area (sq. ft.) | 200 | 100 | 200 |
| Number of delivery/loading spaces | None | None | 1 at 20 ft. |
| Rear Yard | N/A | 38.76 feet | 13.5 feet minimum |
| Side Yard | N/A | Min. 6.7 feet S.W. side 30 feet N.E. side | 10.8 feet minimum |

35. Additional Areas of Flexibility – The Applicant requests flexibility in the following areas:
- a. To be able to provide a range in the number of residential units of plus or minus 10% from the 71 depicted on the Plans;
 - b. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building;
 - c. To vary the number, location, and arrangement of parking spaces, provided that the total is not reduced below the number required under the Zoning Regulations;
 - d. To vary the sustainable design features of the building, provided the total number of points achievable for the project does not decrease below 46 points under the Enterprise Green Communities standard; and
 - e. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details, locations, and dimensions, including curtainwall mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings and trim; and any other changes to comply with all applicable District of Columbia laws and regulations that are otherwise necessary to obtain a final building permit.

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Public Benefits and Amenities

36. The Commission found in Z.C. Order No. 08-07 that a number of public benefits and amenities will be created as a result of the approved PUD. (See Z.C. Case No. 08-07, Finding of Fact No. 33.) The Commission finds that approval of the PUD, as modified, will continue to result in a number of public benefits and amenities, including:
- a. Housing and Affordable Housing – Building 1 will include approximately 68,263 square feet of gross floor area devoted to residential uses comprised of 71 new residential units (plus or minus 10%). The Applicant will devote 80% of the residential units, which constitutes 57 units and 41,644 square feet of gross floor area, to affordable units reserved for households earning at or below 60% of the AMI. The remaining 14 units will be market-rate. Under matter-of-right zoning in the C-3-A District, the Applicant would only have to dedicate eight percent of the residential gross floor area (i.e., 5,461 square feet of gross floor area) to households earning up to 80% of the AMI. Thus, the Applicant's proposal to provide 36,183 square feet of gross floor area over what the Zoning Regulations require, and at a significantly deeper subsidy, is a substantial amenity for this project. The creation of the new housing is also consistent with the goals of the Zoning Regulations, the Comprehensive Plan, and the Mayor's housing initiative;
 - b. Partnership with Teach for America - The Applicant has reached an agreement with Teach for America ("TFA"), where TFA will assist the Applicant in preparing residential marketing plans tailored to attracting teachers to become residents of Building 1. Through this partnership, TFA will be able to leverage its professional network to reach out to local teachers and encourage them to apply for affordable housing at the PUD Site. Based on this mutually beneficial arrangement, the Applicant created a custom designed common area on the ground floor of Building 1 to incorporate a teacher work area where tenants can make copies of lesson plans at their convenience, among other amenities;
 - c. Roof Deck Access - The Applicant will permit ANC 8A, CSCA, and the Historic Anacostia Block Association ("HABA") to each access the roof terrace on Building 1 no less than two times per year for ANC, CSCA, and HABA events. Scheduling will be mutually agreed to by Building 1's tenant's association, property manager, and the ANC, CSCA, or HABA;
 - d. Live/Work Studios – Building 1 will include six ground floor live/work units to accommodate and attract resident artists. These flexible spaces will address the need for both housing and work space for artists. Providing this type of space will retain the creative industry and entrepreneurial spirit of artists within the community and will spur business development, encourage mixed income

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housing growth, and aid arts-related business and services in the area. Live/work units specifically designed and developed for artists will encourage community development, neighborhood revitalization, and economic stimulation;

- e. CBE and First Source Employment - Expanding employment opportunities for residents and local businesses is a priority of the Applicant. Both Audubon (the project's financing consultant) and Four Points, LLC are Certified Business Enterprises ("CBEs"). In addition, a minimum of 35% of the eligible project costs will be contracted with CBE-certified firms. The Applicant will also enter into a First Source Employment Agreement with the Department of Employment Services in conjunction with development of Building 1;
- f. Transportation and Public Space Improvements - Building 1 will include a number of elements designed to promote effective and safe vehicular and pedestrian access, TDM measures, and connections to public transit services. For example, the Applicant located vehicular access in the public alley in order to limit potential conflicts with pedestrians and to maximize the pedestrian experience along Martin Luther King Jr. Avenue and Chicago Street. The proposed TDM measures are listed on page 21 of this Order. The Applicant also proposes a number of public space improvements adjacent to the PUD Site, including new street trees, bicycle racks, streetlight enhancements, and brick paving. In addition, the Applicant will ensure that Building 1 does not have a Chicago Street, S.E. address and will include in its residential leases a provision that prohibits tenants from obtaining residential parking permits for the PUD Site;
- g. Environmental Benefits - The Applicant is fully committed to providing high-quality housing in the District of Columbia. Through the development of Building 1, the Applicant will expand its commitment by ensuring the environmental, economic, and social sustainability of the residents through the implementation of sustainable design features. A number of strategies will be implemented to enhance the inherently sustainable nature of the site's location and to promote a healthy, desirable, and comfortable lifestyle that will fully benefit the project's residents while minimizing the impact on the environment. The proposed development provides a number of environmental benefits and includes street tree planting and maintenance, landscaping, methods to reduce stormwater runoff, and sustainable engineering practices. Building 1 is designed to meet rigorous energy and environmental design standards using the Enterprise Green Communities rating system as a guide and performance metric. A Green Communities checklist indicating the sustainable features of the project is included at pages 30-33 of the Plans. (Ex. 80A2-80A3.) Green Communities is a nationally-recognized sustainability strategy designed specifically for affordable housing projects, and the program's sustainability requirements are equivalent to LEED for Homes Mid-Rise; and

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- h. Construction Management Plan – The Applicant will abide by the terms of the Construction Management Plan. (Ex. 75.)

Compliance with the Comprehensive Plan

37. The Commission finds that the proposed PUD, as modified, continues to: (i) be consistent with the District of Columbia Comprehensive Plan Future Land Use Map and the Generalized Policy Map; (ii) help implement many of the guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, connecting the city, and building green and healthy communities; and (iii) further the objectives and policies of the Comprehensive Plan's major elements, as set forth in the OP report (Ex. 24) and as previously found by the Commission in Finding of Fact No. 39 of Z.C. Order No. 08-07. (Ex. 4A.) For example, the Commission finds that the project will support Policies LU-1.3.4 and T-1.1.4, since Building 1 is designed to encourage transit use and will help to enhance the safety, comfort, and convenience of passengers walking to the Anacostia Metrorail Station or transferring to and from local buses, since the project incorporates streetscape improvements, including lighting and landscaping. (See Z.C. Order, Finding of Fact No. 39(a)(iii) and 39(b)(i).) The Commission also finds that the project advances Policy LU-2.1.3 by balancing the area's housing supply with the parallel goals of protecting the neighborhood character and restoring the environment. (See Z.C. Order, Finding of Fact No. 39(a)(iv).) Furthermore, the Commission finds that the project promotes Policy LU-2.2.3 because it incorporates a number of elements designed to serve as buffers between the adjacent lower density and residential areas, including landscaping, height step-downs and set-backs, and other architectural and site planning measures that avoid potential conflicts. (See Z.C. Order, Finding of Fact No. 39(a)(viii).) The Commission further finds that the project also fosters Policies T-2.4.1 and UD-3.1.1/3.1.2 by promoting the city's streetscape design and sidewalk management goals by installing street trees, sidewalks, and plantings adjacent to Building 1 that will enhance the visual character of the street and provide a buffer to reduce the impacts of vehicle traffic; development of Building 1 will also help improve the city's sidewalk system to form a network that links residents across the District. (See Z.C. Order, Finding of Fact No. 39(b)(iv) and 39(f).) With respect to environmental protection, the Commission finds that the project is consistent with Policy E-1.1.1: Street Tree Planting and Maintenance, Policy E-1.1.3: Landscaping, and Policy E-2.2.1: Energy Efficiency. (See Z.C. Order, Finding of Fact No. 39(d)(i)-(iii).) Finally, the Commission finds that the project advances the Far Southeast and Southwest Area Element of the Comprehensive Plan, specifically by strengthening the Martin Luther King Jr. Avenue corridor with live/work units that will function in a similar fashion to traditional retail uses and will help to activate and facilitate pedestrian movements.
38. In addition, the Commission specifically finds that the modified PUD is consistent with *Policy H-1.2.3: Mixed Income Housing*, since the project is mixed-income and disperses

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affordable housing throughout the city, rather than concentrating such units in economically depressed neighborhoods. The Commission also finds that the project is consistent with *Policy H-1.2.5: Workforce Housing* because the pricing for the affordable units will be set at a level that is affordable to teachers, firefighters, police officers, nurses, and members of the other occupational categories listed in Policy H-1.2.5. Finally, the Commission finds that the project is consistent with *Policy H-1.1.5: Housing Quality*, since the affordable units will meet the same high quality architectural standards provided for the market-rate housing on the overall PUD and will be indistinguishable from market rate housing in their exterior appearance.

Office of Planning Reports

39. By report dated July 21, 2014, OP stated that it supported the application and that the second-stage PUD, as modified, is not inconsistent with the first-stage PUD approval, the Comprehensive Plan, or the Zoning Regulations. (Ex. 13.) Therefore, OP recommended that the Commission schedule a public hearing on the application.
40. By report dated November 24, 2014, OP submitted a report recommending approval of the application. (Ex. 24.) The OP report stated that the project conforms to the Comprehensive Plan's objectives for the area and to the Generalized Land Use and Policy Maps. (See OP Report, p. 1.) OP expressed its support for the design of Building 1, which "would positively add to the character and activity along MLK Avenue" (*id.* at p. 5), and stated that the proposed changes to Building 1 would not make the development inconsistent with the Comprehensive Plan, the C-3-A zone, or the overall concept of the first-stage PUD (*id.* at p. 8). Furthermore, OP stated its support for "granting all the areas of flexibility requested." (*id.* at p. 7.) Overall, the OP report recommended approval of the application.

DDOT Report

41. By report dated November 24, 2014, DDOT indicated its support for the PUD. (Ex. 25.) DDOT's report stated that: (i) the application is projected to minimally increase travel delay in the area, (ii) existing transit service, pedestrian infrastructure, and bicycle infrastructure has capacity to accommodate future demand, and (iii) the Applicant proposes to provide an adequate number of long-term bicycle parking spaces in bicycle storage rooms. (See DDOT Report, p. 2.) DDOT's report also indicated that the TDM measures proposed by the Applicant, if implemented as planned, would encourage the use of alternative modes of transportation and are largely adequate. (*Id.* at 10.) In addition to the TDM measures proposed by the Applicant, DDOT requested that the Applicant also install at least four short-term bicycle parking spaces for public access. (*Id.* at 11.) With this insertion, DDOT found that the TDM plan was sufficient to encourage non-auto travel and supported the high non-auto mode split assumed in the Applicant's transportation analysis. (*Id.*)

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Contested Issues/Party in Opposition

42. Commissioner Fuller and representatives of CCA raised concerns at the public hearing and in written testimony. The concerns raised by Commissioner Fuller included the following issues: materials and design of Building 1, obstruction of views, additional traffic and reduced on-street parking availability, and disturbances during construction. (See Ex. 78 and Tr., 12/18/2014, pp. 124-127.) The concerns raised by CCA included the following issues: excessive height and density, obstruction of views, inappropriate design and character of the building, disturbances during construction, an over-concentration of housing and affordable housing at the PUD Site, and inadequate public benefits and amenities. (See Tr., 12/18/2014, pp. 140-158.)
43. The Commission has carefully reviewed and considered each of the points made both in writing and orally at the public hearing, and makes the following findings:
 - a. *Materials and Design of Building 1*: There was testimony that Building 1 did not fit in with the character of the Anacostia Historic District and did not include sufficient brick on the building facades or an adequate number of windows. The Commission finds that the PUD Site is not within the Anacostia Historic District and is therefore not required to be submitted for review by HPO or the HPRB. The Commission finds that D.C. Official Code §§ 6-1105(a) and 1107(a) (2012 Repl.) provide that building permits for construction or alteration need only be reviewed under the historic preservation regulations when the construction or alteration is “in an historic district or on the site of an historic landmark” (D.C. Official Code § 6-1107(a)). The Commission finds that the PUD Site and most of the land area within the overall PUD are located outside of the boundaries of the Anacostia Historic District; that only two buildings within the overall PUD are located within the Historic District; and that those buildings will go through appropriate historic review processes during their second-stage PUD applications. The Commission therefore finds that the historic review process is inapplicable to Building 1. Furthermore, the Commission finds that the Applicant significantly changed the façade of the building to address concerns expressed by the ANC, CCA, and community members, adding substantial amounts of brick and additional windows, as specifically requested. (See Plans at Ex. 80A1-80A3.) Therefore, the Commission finds that the Applicant has adequately addressed all of the concerns raised relating to the materials and design of Building 1;
 - b. *Views, height, and density*: There was testimony that Building 1, at a height of 65 feet and at a density of 2.85 FAR, would obstruct views into the city and would be too dense. The Commission finds that the proposed height and density of Building 1 are well within the zoning parameters permitted in the C-3-A Zone District, are appropriate for the PUD Site, and respond to the scale, orientation,

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and urban fabric of the surrounding area. The height of Building 1 serves as a transition between the existing low and mid-rise structures in the surrounding neighborhood to the east and south, and to the taller buildings approved as part of the first-stage PUD. Building 1 is only five stories along Chicago Street in order to make the scale transition more significant. Furthermore, the Commission finds that the first-stage PUD application did not change the underlying zoning for the PUD Site. The C-3-A District permits a matter-of-right building height of 65 feet (11 DCMR § 770.1), which is the exact height requested. As a PUD, the C-3-A District permits a maximum building height of 90 feet (11 DCMR § 2405.1), which is significantly taller than the height requested. Moreover, portions of the building are shorter than the approved building height under the first-stage PUD, which permitted a maximum height of 60 feet plus roof structures, which could be constructed to a maximum height of 18 feet, six inches, resulting in a perceived building height of almost 80 feet. However, the building as currently proposed is 65 feet and only includes a three foot overrun.

Furthermore, the Commission finds that it is well settled in the District of Columbia that a property owner is not entitled to a view, light, or air across another person's property without an express easement. (*See Hefazi v. Stiglitz*, 862 A.2d 901, 911 (D.C. 2004) (“American courts have wisely refused to allow the acquisition by prescription of easements of light and air”); *see also Ash v. Tate*, 73 F.2d 518 (D.C. Cir. 1934) (no injunction under District of Columbia law to prevent adjoining landowner from erecting structure that cuts off light and air); Z.C. Order No. 11-03, Finding of Fact No. 91 (“[t]he Commission finds that the viewsheds and property values ... are not protected by any restrictive covenants or by the Zoning Regulations.”))

Moreover, the Commission finds that the height and density of Building 1 is consistent with the Comprehensive Plan designations for the PUD Site. The Future Land Use Map designates the PUD Site for mixed use Medium Density Residential and Medium Density Commercial development. The corresponding Districts for these designations allow maximum building heights of 60 to 90 feet. (10A DCMR §§ 225.5 and 225.10.) In contrast, the Future Land Use Map designates the surrounding neighborhoods to the east and south of the PUD Site as Moderate Density Residential, which generally defines areas characterized by single family homes, 2-4 unit buildings, row houses, and low-rise apartment buildings. (10A DCMR § 225.4.) The Moderate Density Residential designation provides less intense corresponding zone districts, which include the R-3, R-4, R-5-A Districts and the R-5-B District in some locations. (*Id.*) Thus, the Commission finds that the Comprehensive Plan designation for the existing residential neighborhoods adjacent to the PUD Site is consistent with the low-rise row dwellings that currently exist in this location. Similarly, the Commission finds that development of the PUD Site is consistent with the District's vision for

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the area, with taller buildings along Martin Luther King Jr. Avenue; (*See generally* 10A DCMR § 1807.2(d).)

- c. *Traffic and Parking*: The Commission finds that the modified application provides a reasonable supply of parking for the land use and location of Building 1, given its close proximity to the Anacostia Metrorail station and numerous Metrobus routes. The Commission finds that the Applicant utilized sound methodology and travel assumptions in developing its traffic and parking assessments, and developed an appropriate mode split that indicates no adverse impacts to traffic and parking in the study area. (Ex. 22B, 25.) The Commission finds that there are no direct mitigations necessary as part of the development of Building 1 beyond the TDM plan proposed in Exhibit 25 and as set forth on page 21 of this Order. Based on the Applicant's Transportation Impact Study (Ex. 22B) and the DDOT Report (Ex. 25), the Commission finds that project will minimally increase travel delay in the area, and that the existing transit service, pedestrian infrastructure, and bicycle infrastructure has capacity to accommodate future demand;
- d. *Over-Concentration of Housing and Affordable Housing*: There was also testimony that Building 1 should include a mix of uses (e.g., ground floor retail) and a revised percentage of affordable and market-rate units. With respect to ground floor retail, the Commission finds that future second-stage applications for other buildings within the Overall PUD will include significant amounts of ground floor retail space along Martin Luther King Jr. Avenue and throughout the overall PUD, which will help revitalize the neighborhood's economic viability and improve the pedestrian experience. The Commission approved the development phasing in Z.C. Order No. 08-07, and the development of Building 1 is consistent with this approval. Furthermore, Building 1 will contain ground floor live/work units for artists to present their arts and crafts. The Commission finds that the Applicant designed the live/work units and the ground floor building façade such that the live/work units will activate the street in a manner similar to that of ground floor retail. Therefore, the Commission finds that there will not be an overconcentration of housing on the PUD Site.

With respect to affordable housing, the Commission finds that the proposed amount of affordable housing for Building 1 will not result in an overconcentration of subsidized, income-capped housing. The proposed affordable housing is consistent with the city's housing and affordable housing goals, and implements numerous policies of the Comprehensive Plan, including *Policy 1.1.5: Housing Quality*; *Policy H-1.2.1: Affordable Housing Production as a Civic Priority*; *Policy H-1.2.3: Mixed Income Housing*; *Policy H-1.2.5: Workforce Housing*; and *Policy H-1.4.3: Focusing Housing Investments*. Moreover, the Commission finds that affordable housing will be spread

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throughout the Overall PUD and will not be overly concentrated in Building 1. The Commission also finds that the proposed provision of affordable housing achieves the Comprehensive Plan's overall housing goal of developing and maintaining a safe, decent, and affordable supply of housing for all current and future residents of the District of Columbia. (10A DCMR § 501.1.) More specifically, the Commission finds that there is a critical need for affordable housing in Ward 8 and the Far Southeast and Southwest area in particular, the area of the city in which the PUD Site is located. As set forth in the Applicant's letter in response to the party status request (Exhibit 73), the median income for residents of the Far Southeast and Southwest area, as defined in Chapter 18 of the Comprehensive Plan, is one-half of the city's median income. (10A DCMR § 1805.1.) In addition, the unemployment rate for this same area is more than three times the average rate for the Washington region. (*Id.* at § 1805.1.) Thus, the Commission finds that there is a great need for affordable housing in this area of the city and that the development of Building 1 will help to satisfy that demand; and

- e. Construction Mitigation - The Commission finds that the Applicant adequately addressed the community's concerns related to construction impacts through its Construction Management Plan. (Ex. 75.) The Commission notes that a Construction Management Plan is not required as part of the PUD process.
44. Overall, based upon the written evidence of record, combined with the testimony presented at the public hearing on this application, the Commission finds that the materials and design of Building 1 are compatible with the surrounding neighborhood; that the height and density of Building 1 are consistent with the underlying zoning, the approved first-stage PUD, and the Comprehensive Plan; that the project will not adversely affect neighborhood traffic or on-street parking availability; that the project will not result in an over-concentration of affordable housing at the PUD Site; and that the Construction Management Plan will adequately mitigate the community's concerns regarding construction-related impacts.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to modify the approved first-stage PUD and to consider the application for approval of a

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second-stage PUD. Because the modifications proposed by the Applicant could not be approved by the Zoning Administrator pursuant to § 2409.6, the Applicant submitted the proposed modifications to the Commission for approval, and because the modifications were not so minor as to permit their review under the Commission's Consent Calendar procedure, 11 DCMR § 3030, they were processed as a second-stage application. (11 DCMR § 2409.9.)

3. As was the case for the original approval, the Commission, as part of its approval of a modification may grant or impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, loading, or any other applicable zoning requirement.
4. Development of the property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
5. The modified PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations and complies with the applicable height, bulk, and density standards of the Zoning Regulations. The uses for this project are appropriate for the PUD Site. The impact of the project on the surrounding area and on the operation of city services is acceptable given the quality of the public benefits in the project.
6. The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the project benefits and amenities are reasonable tradeoffs for the requested development flexibility.
7. Approval of this modified PUD is appropriate because the proposed development is consistent with the present character of the area, and is not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the PUD Site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
8. The Commission is required under § 3(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) (2001) to give great weight to the issues and conditions expressed in the written report of an affected ANC. ANC 8A did not submit a written report in this case.
9. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code §6-623.04) to give great weight to OP recommendations. For the reasons stated above, the Commission

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concurs with OP’s recommendation for approval and has given the OP recommendation the great weight it is entitled.

10. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401 *et seq.* (2007 Repl.)).

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for a second-stage PUD for the PUD Site, which is comprised of Lot 839 and part of Lot 906 in Square 5785, and modifications to the first-stage PUD approved pursuant to Z.C. Order No. 08-07 to permit construction of Building 1 on the PUD Site;

The Commission’s first-stage approval is modified as follows:

| | First-Stage as Approved | Modifications Granted |
|----------------------------------|--|--|
| Total FAR | 2.57 | 2.85 |
| Residential GFA | 65,000 square feet | 68,263 feet |
| Dwelling units | 65 dwelling units (plus or minus 10%) | 71 residential units (plus or minus 10%) |
| Height | 60 feet, not including roof structures | 65 feet, not including roof structures |
| Off street parking spaces | 33 | 26 |
| Bicycle parking | 22 | 37 |

The Commission’s approval of this second-stage application is subject to the following guidelines, conditions, and standards.

A. PROJECT DEVELOPMENT

1. Building 1 shall be developed in accordance with the architectural plans and elevations prepared by Grimm + Parker, dated January 12, 2015 (Ex. 80A1-80A3) as modified by the guidelines, conditions, and standards herein.
2. In accordance with the Plans, Building 1 shall have a maximum density of 2.85 FAR and a gross floor area of 68,263 square feet devoted to 71 residential units (plus or minus 10%).
3. The maximum height of Building 1 shall be 65 feet, not including roof structures.
4. Building 1 shall include a minimum of 26 off-street parking spaces.

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5. The Applicant is granted the specific flexibility from the loading requirements (§ 2201.1), the side yard width requirements (§ 775.5), the off-street parking requirements (§ 2101.1), and the compact parking space requirements (§ 2115.4), consistent with the approved Plans, including the Zoning Tabulation chart on Sheet 2 of the Plans, and as discussed in the Development Incentives and Flexibility section of this Order.
6. The Applicant shall also have flexibility with the design of Building 1 in the following areas:
 - a. To be able to provide a range in the number of residential units of plus or minus 10% from the 71 depicted on the Plans;
 - b. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building;
 - c. To vary the number, location, and arrangement of parking spaces, provided that the total is not reduced below the 26 spaces depicted in the Plans;
 - d. To vary the sustainable design features of the building, provided the total number of points achievable for the project does not decrease below 46 points under the Enterprise Green Communities standards; and
 - e. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details, locations, and dimensions, including curtainwall mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings and trim; and any other changes to comply with all applicable District of Columbia laws and regulations that are otherwise necessary to obtain a final building permit.

B. PUBLIC BENEFITS

1. **For the life of the project**, the Applicant shall abide by the community benefits agreement submitted into the record. (Ex. 88.) No subsequent amendment of that agreement shall be deemed to become part of this Order unless the Applicant requests and is granted a modification by the Commission.

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2. **For the life of the project**, the Applicant shall dedicate 41,644 square feet of gross floor area as affordable dwelling units for households earning up to 60% of the AMI.
3. **For the life of the project**, the Applicant shall permit ANC 8A, CSCA, and HABA to each access the roof terrace of Building 1 no less than two times per year for ANC, CSCA, and HABA events, with scheduling to be mutually agreed to by Building 1's tenant association, property manager, and the ANC, CSCA, or HABA.
4. **For the life of the project**, the Applicant shall dedicate a minimum of six live/work units for artists on the ground floor of Building 1.
5. **Prior to the issuance of a Certificate of Occupancy for Building 1**, the Applicant shall submit to DCRA an executed agreement with TFA or a similar organization, wherein that organization will assist the Applicant in preparing residential marketing plans tailored to attracting teachers to become residents in Building 1.
6. **For the life of the project**, the Applicant shall designate a common area on the ground floor of Building 1 as a teacher work area as shown on Sheet 11 of the Architectural Plans and Elevations. (Ex. 80A1.) The teacher work area shall be approximately 680 square feet and shall include work table(s), internet access, and a printer.
7. **Concurrently with the construction of Building 1 and for the life of the project**, the Applicant shall install and maintain the landscaping and other public space improvements adjacent to the PUD Site as shown on the Plans subject to final approval by the Public Space Division of DDOT. (Ex. 80A1-80A3.)
8. **Prior to the issuance of a building permit for Building 1 and for the life of the project**, Building 1 shall not have a Chicago Street, S.E. address and the Applicant shall include in its residential leases a provision that prohibits tenants from obtaining residential parking permits for the property from the D.C. Department of Motor Vehicles.
9. **Prior to the issuance of a building permit for Building 1**, the Applicant shall submit to DCRA an executed First Source Employment Agreement with the Department of Employment Services, and an executed Certified Business Enterprise Utilization Agreement with the District's Office of Small and Local Business Development.

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10. **The Applicant shall submit with its building permit application** for Building 1 a checklist indicating that Building 1 includes sustainable design features such that the building would be able to achieve a minimum of 46 points under Enterprise Green Communities standards.
11. **During construction of Building 1**, the Applicant shall abide by the terms of the Construction Management Plan. (Ex. 75.)
12. **During the life of the project**, the Applicant shall implement the following TDM measures:
 - a. A member of the property management group shall be a point of contact and shall be responsible for coordinating, implementing, and monitoring the TDM strategies. This would include the development and distribution of informational and promotional brochures to visitors, patrons, and employees regarding transit facilities and services, walk and bicycle facilities and linkages, and car sharing;
 - b. The project website shall provide links to existing resources such as www.goDCgo.com, which provides transportation information and options for getting around the District. In addition, an electronic message board shall be placed in the lobby that displays information such as real-time transit information for the closest bus or rail stops and bikes available at nearby Capital Bikeshare stations;
 - c. Residents shall be offered a SmarTrip card pre-paid with \$20 to encourage the use of transit to be distributed when moving in. This program shall be limited to one card per unit, and will only be employed on the initial move-in;
 - d. The Applicant shall provide a secure room inside the garage for long-term resident bicycle parking, and some racks outside for visitor or short-term bicycle parking. The development will provide a total of 37 secure bicycle parking spaces for use by residents in the parking garage; and
 - e. The Applicant will install at least four short-term bicycle parking spaces for public access. The exact location of short-term bicycle parking spaces will be determined during the public space permitting process.

C. MISCELLANEOUS

1. This second-stage PUD approved by the Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application must

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be filed for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin within three years of the effective date of this Order.

2. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division of DCRA. Such covenant shall bind the Applicant and all successors in title to construct and use the property in accordance with this order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
3. 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.

On February 9, 2015, upon the motion of Commissioner Turnbull, as seconded by Commissioner Miller, the Zoning Commission **APPROVED** the application 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 approve).

On March 30, 2015, upon the motion of Commissioner May, as seconded by Vice Chairperson Cohen, the Zoning Commission **ADOPTED** the 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).

For the purposes of 11 DCMR § 3028, this Corrected Order shall be deemed to have become final and effective upon the publication of the original version of Z.C. Order No. 08-07 in the *D.C. Register* on May 22, 2015.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 11-07D**

Z.C. Case No. 11-07D

The American University

(Application for Minor Modification of an Approved Further Processing Application)

April 13, 2015

Application of The American University (“AU” or “Applicant”), pursuant to § 3129 of the Zoning Regulations, requesting approval of a modification to an approved further processing application for the development of the AU East Campus. In accordance with § 3035.4 of the Zoning Regulations, this case was heard and decided by the Zoning Commission for the District of Columbia (“Commission”) using the rules of the Board of Zoning Adjustment at 11 DCMR §§ 3100 *et seq.* For the reasons stated below, the Commission hereby approves the modification application, subject to conditions.

FINDINGS OF FACT

1. The Zoning Commission (“Commission”) approved the AU Campus Plan and East Campus Further Processing application pursuant to Z.C. Order No. 11-07. Z.C. Order No. 11-07 approved the American University Campus Plan for the period from 2011-2022 and approved a Further Processing application for the construction of six buildings on the East Campus. The East Campus is located across Nebraska Avenue, N.W. from the central campus, and is bounded by Nebraska Avenue, N.W., Massachusetts Avenue, N.W., a shared property line with the Westover Place Townhomes, and New Mexico Avenue, N.W. (Exhibit [“Ex.”] Ex. 1-2B.)
2. For the East Campus, the Commission approved the development of 590 residential beds in three buildings, three additional academic and administrative buildings, and 150 parking spaces and loading facilities in an underground garage, pursuant to the special exception standards of 11 DCMR § 210. (Ex. 1-2B.)
3. On February 2, 2015, the Commission approved in Z.C. Case No. 11-07C, a modification of the underground parking garage on the East Campus to construct two below-grade parking levels, rather than one level, and the removal of a below-grade bus turnaround. The Commission added a new condition to Z.C. Order No. 11-07, Condition No. 42, which addressed the ability of charter buses and motor coaches to enter the East Campus property.
4. On March 25, 2015, AU filed a minor modification application with the Commission in order to amend Condition No. 41(c) of Z.C. Order No. 11-07, which limited the hours of construction activity on the East Campus to Monday-Friday 7:30 a.m. to 4:30 p.m. The minor modification application proposed the amendment of Condition No. 41(c) to allow construction activity to occur on the East Campus between the hours of 7:00 a.m. to 5:00 p.m. Monday-Friday, and Saturday from 8:00 a.m. to 4:00 p.m. (Ex. 1-2B.)

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5. In addition, AU's March 25, 2015, filing noted that it met with and engaged in numerous discussions with the Westover Place Homes Corporation Board of Directors ("Westover Place") regarding this application. AU's minor modification application also proposed modifications to the surface parking lot on the East Campus, those modifications included: expansion of the landscape buffer on the surface parking lot through the removal of the six parking spaces that were closest to the shared property line with Westover Place and the planting of additional landscaping material in that area (the surface parking lot will continue to include 200 parking spaces); and the installation of cameras on the East Campus surface parking lot with a direct live feed to the AU Public Safety Office in order to monitor activity on the surface parking lot. (Ex. 1-2B.)
6. The requested minor modification will not change the material facts on which the original approval of the Further Processing application was based. The minor modification is being requested solely to help assure that AU can deliver the required dormitory beds on the East Campus by the beginning of the fall 2016 semester. If the additional work hours are not permitted, it was very concerned about its ability to deliver the dormitory beds in time for the beginning of the fall 2016 semester. As AU has noted in previous submissions and testimony before the Commission, even a two month delay in the completion of these dormitory buildings (to September or October of 2016) means that these beds will not be available for use by AU until the Fall 2017 semester. (Ex. 1-2B.)
7. AU's March 25, 2015 filing discussed the satisfaction of the requirements of 11 DCMR § 3129 *et seq.* In regard to § 3129.7, AU requested that the Commission waive the requirement to have a hearing on this application. AU argued that the facts of the proposed request are straight-forward, the period of construction activity is temporary, and the proposed minor modification application does not impact the ultimate use and operation of the buildings on the East Campus, other than to place additional requirements on AU to assure that the use of the surface parking lot does not create objectionable impacts on neighboring properties. (Ex. 1-2B.)
8. In a letter dated April 6, 2015, AU noted that based on concerns raised about the impact of Saturday construction activity on Westover Place residents, while still recognizing the need for additional construction hours to occur on the East Campus, AU, Advisory Neighborhood Commission ("ANC") 3D, and Westover Place agreed to the following hours of construction activity on the East Campus:
 - AU shall be permitted construction hours of Monday-Friday from 7:00 a.m. to 7:00 p.m.; and
 - From September 1, 2015 to the completion of outdoor construction work (expected to occur on or around February 29, 2016), AU will be able to work on Saturdays from 8:00 a.m. to 4:00 p.m. only in the event that it experiences a lost day of construction activity due to weather. AU will inform Westover Home

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Owners Corporation, for distribution to their resident home owners, and the ANC of a lost day of construction activity by 9:00 a.m. on the day of lost construction activity. (Ex. 6.)

9. ANCs 3D and 3E were automatically parties in this proceeding. ANC 3D submitted a letter in support of the application. ANC 3E did not participate in this application.
10. In a letter dated April 3, 2015, ANC 3D noted that at a regularly scheduled public meeting on April 1, 2015, with a quorum present at all times, the ANC voted 8-0-1 to support the minor modification application, as amended to permit the construction hours of Monday-Friday from 7:00 a.m. to 7:00 p.m. and outdoor construction on Saturdays from 8:00 a.m. to 4 p.m., beginning September 1, 2015 through the completion of outdoor construction work expected to be on or about February 29, 2016 (Saturday construction work would only be allowed in the event that AU experiences a lost day of construction due to weather, and AU would be required to inform the adjacent neighbors and the ANC of a lost day of construction activity by 9:00 a.m. on the day of the lost construction activity). ANC 3D also noted its support for the proposed new Condition No. 43 regarding the surface parking lot. ANC 3D requested that the Commission expedite this application and defer a public hearing on this application. (Ex. 5.)
11. Westover Place submitted a letter in support of the application. Westover Place noted its support for the proposed change in construction hours, support for the new condition regarding the design and use of the surface parking lot, and support of AU's request to waive the requirement to have a hearing on this case. (Ex. 6, Tab A.)

CONCLUSIONS OF LAW

1. The Applicant requested that the Commission approve an application to modify an approved condition of the Commission's approval of the American University East Campus, pursuant to 11 DCMR § 3129 *et seq.* Based upon the record in this case, the Commission concludes that AU has satisfied the filing and notice requirements of 11 DCMR §§ 3129 *et seq.* The parties to the original application were served a copy of the modification application, and ANC 3D and The Westover Place Homes Corporation submitted letters in support of the modification application.
2. The Commission also concludes that the Applicant has satisfied the burden of proof, that "[a]pproval of requests for modification of approved plans shall be limited to minor modifications that do not change the material facts upon which the Board [Commission] based its original approval of the application." (11 DCMR § 3129.6.) The Commission concludes that the proposal to change the hours of permitted construction activity is appropriate and that the proposed new Condition No. 43 will further mitigate any

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possible adverse impacts that the use of the surface parking lot may have on adjacent properties.

3. The Commission agrees with the Applicant that holding a public hearing on this limited and specific issue of the permitted hours of construction activity would not provide the Commission with any additional information that could not be obtained from the written responses of all interested parties. In addition, the Commission notes that ANC 3D and Westover Place were supportive of this application. For these reasons, the Commission determined that it was not necessary to hold a public hearing on this application.
4. The Commission accorded the issues and concerns raised by ANC 3D the “great weight” to which they are entitled pursuant to D.C. Official Code § 1-309.10(d) (2001). In doing so, the Commission fully credited the unique vantage point that ANC 3D holds with respect to the impact of construction hours and the surface parking lot.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia concludes that the Applicant has met the burden of proof pursuant to 11 DCMR § 3129 and it is therefore **ORDERED** that American University’s proposed modification to the approved conditions for the East Campus be **GRANTED**. The Conditions in Z.C. Order Nos. 11-07 and 11-07C remain unchanged except as follows:

Condition No. 41(c) of Z.C. Order Nos. 11-07 and 11-07C is amended to read as:

- 41.(c) The University shall be permitted construction hours of Monday-Friday from 7:00 a.m. to 7:00 p.m. From September 1, 2015 to the completion of outdoor construction work (expected to occur on or around February 29, 2016), AU will be able to work on Saturdays from 8:00 a.m. to 4:00 p.m. only in the event that the University experiences a lost day of construction activity due to weather. The University will inform Westover Home Owners Corporation, for distribution to their resident home owners, and the ANC of a lost day of construction activity by 9:00 a.m. on the day of lost construction activity. Interior work not creating an impact on adjacent properties may take place outside of these hours.

Proposed new condition (Condition No. 43) shall be added to Z.C. Order Nos. 11-07 and 11-07C:

43. AU shall expand the landscape buffer on the surface parking lot through the removal of the six parking spaces that were closest to the shared

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property line with Westover Place and the planting of additional landscaping material in that area. The surface parking lot will continue to include 200 parking spaces. AU will install cameras on the East Campus surface parking lot with a direct, live feed to the AU Public Safety Office in order to monitor activity on the surface parking lot.

VOTE: 4-0-1 (Anthony J. Hood, Michael G. Turnbull, Marcie I. Cohen, and Robert E. Miller to adopt, Peter G. May not present, not voting).

BY ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.

FINAL DATE OF THE ORDER: August 24, 2015

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING**

AND

Z.C. ORDER NO. 14-22

Z.C. Case No. 14-22

Office of Planning

(Text and Map Amendment to Create and Implement the Walter Reed (WR) Zone)

July 27, 2015

The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.

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