

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council schedules a public hearing on Bill 21-230, Caregiver Advise, Record and Enable Act of 2015
- D.C. Council schedules a public hearing on Bill 21-371, Unused Prescription Drug Donation Amendment Act of 2015
- D.C. Council schedules a public roundtable to review the Department of Small and Local Business Development’s implementation of the “Small and Certified Business Enterprise Development and Assistance Amendment Act of 2013”
- D.C. Taxicab Commission proposes a new schedule of fines
- Department of Consumer and Regulatory Affairs proposes requirements for selling secondhand tickets from public space

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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DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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ADMINISTRATOR

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ENROLLED ORIGINAL

A RESOLUTION

21-214

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To approve the disposition of District-owned real property located at 965 Florida Avenue, N.W., and known for tax and assessment purposes as Lot 1102 in Square 2873.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “965 Florida Avenue, N.W., Disposition Approval Resolution of 2015”.

Sec. 2. Definitions

For the purposes of this resolution, the term:

(1) “CBE Agreement” means an agreement governing certain obligations of the Purchaser or the Developer under the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*) (“CBE Act”), including the equity and development participation requirements set forth in section 2349a of the CBE Act (D.C. Official Code § 2-218.49a).

(2) “Certified business enterprise” means a business enterprise or joint venture certified pursuant to the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*).

(3) “First Source Agreement” means an agreement with the District governing certain obligations of the Purchaser or any developer of the Property pursuant to section 4 of the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.03), and Mayor’s Order 83-265, dated November 9, 1983, regarding job creation and employment generated as a result of the construction on the Property.

(4) “Property” means the property located at 965 Florida Avenue, N.W., and known for tax and assessment purposes as Lot 1102 in Square 2873.

(5) “Purchaser” means the Developer, its successor, or one of its affiliates or assignees approved by the Mayor.

Sec. 3. Findings.

(a) The Developer of the Property shall be Sherman Avenue LLC, with a business address c/o MRP Realty, 3050 K Street, N.W., Suite 125, Washington, D.C. 20007 (the

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“Developer”).

(b) The Property is located at 965 Florida Avenue, N.W., and consists of an approximately 1.45 acre parcel of land in the Shaw/Cardozo neighborhood of Ward 1 currently serving as an unused parking lot and containing one small abandoned building.

(c) The intended use of the Property (the “Project”) is a mixed-use development providing for affordable housing, residential market rate housing, commercial retail, and any ancillary uses allowed under applicable law, and as further described in the term sheet submitted with this resolution.

(d) The Purchaser shall comply with the requirements of section 1(a-3) of An Act Authorizing the sale of certain real estate no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801(a-3)), and the Disposition of District Land for Affordable Housing Amendment Act of 2013, effective March 10, 2015 (D.C. Law 20-193; 62 DCR 3822), dedicating 30% of all multi-family units as affordable-housing units.

(e) The Purchaser shall enter into an agreement that requires the Developer to contract with Certified Business Enterprises for at least 35% of the contract-dollar volume of the Project, and requires, in accordance with section 2349a of the CBE Act (D.C. Official Code § 2-218.49a), at least 20% of the equity and 20% of the development participation of Certified Business Enterprises.

(f) The Purchaser shall enter into a First Source Agreement with the District that governs certain obligations of the Developer pursuant to section 4 of the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.03), and Mayor’s Order 83-265, dated November 9, 1983, regarding job creation and employment as a result of the construction on the Property.

(g) Pursuant to section 1(b)(8)(F) of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801(b)(8)(F)), the proposed method of disposition is a public or private sale to the bidder providing the most benefit to the District.

(h) All documents that are submitted with this resolution pursuant to section 1(b-1) of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801(b-1)) (“Act”), shall be consistent with the executed Memorandum of Understanding or term sheet transmitted to the Council pursuant to section 1(b-1)(2) of the Act (D.C. Official Code § 10-801(b-1)(2)).

Sec. 4. Approval of disposition.

(a) Pursuant to the Act, the Mayor transmitted to the Council a request for approval of the disposition of the Property to the Purchaser.

(b) The Council approves the disposition of the Property.

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Sec. 5. Transmittal.

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

Sec. 6. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 7. Effective date.

This resolution shall take effect immediately.

COUNCIL OF THE DISTRICT OF COLUMBIA

**NOTICE OF INTENT TO ACT ON NEW
LEGISLATION**

The Council of the District of Columbia hereby gives notice of its intention to consider the following legislative matters for final Council action in not less than **15 days**.

Referrals of legislation to various committees of the Council are listed below and are subject to change at the legislative meeting immediately following or coinciding with the date of introduction. It is also noted that legislation may be co-sponsored by other Councilmembers after its introduction.

Interested persons wishing to comment may do so in writing addressed to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, NW, Room 5, Washington, D.C. 20004.

Copies of bills and proposed resolutions are available in the Legislative Services Division, 1350 Pennsylvania Avenue, NW, Room 10, Washington, D.C. 20004 Telephone: 724-8050 or online at www.dccouncil.us.

COUNCIL OF THE DISTRICT OF COLUMBIA

PROPOSED LEGISLATION

BILL

B21-441 District Government Certificate of Good Standing Filing Requirement Amendment Act of 2015

Intro. 10-8-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on the Whole with comments from the Committee on Judiciary

PROPOSED RESOLUTION

PR21-380 Apiculture Schedule of Fines Approval Resolution of 2015

Intro. 10-7-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING
1350 PENNSYLVANIA AVE., N.W., WASHINGTON, D.C. 20004**

**COUNCILMEMBER YVETTE M. ALEXANDER, CHAIRPERSON
COMMITTEE ON HEALTH AND HUMAN SERVICES**

ANNOUNCES A PUBLIC HEARING ON

**B21-47, THE “EDUCATIONAL AND INSTRUCTIONAL ANIMALS CLARIFICATION
AMENDMENT ACT OF 2015”**

**THURSDAY, DECEMBER 10, 2015
11:00 A.M., ROOM 412, JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004**

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health and Human Services, announces a public hearing on B21-47, the “Educational and Instructional Animals Clarification Amendment Act of 2015.” The hearing will take place at 11:00 a.m. on Thursday, December 10, 2015 in Room 412 of the John A. Wilson Building.

The purpose of this bill is to amend the Animal Control Act of 1979 which, among other things, prohibits the possession of certain animals in the District of Columbia. The bill clarifies that the prohibition is not applicable to an educational institution that possesses an animal for educational and instructional purposes and that complies with humane, sanitary, and safe treatment of the animal.

Those who wish to testify should contact Malcolm Cameron, Legislative Analyst to the Committee on Health and Human Services, at 202-741-0909 or via e-mail at mcameron@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Tuesday, December 8, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

For those unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements can be emailed to mcameron@dccouncil.us or mailed to Malcolm Cameron at the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Room 115, Washington, D.C., 20004. The record will close at 5:00 p.m. on Thursday, December 24, 2015.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING
1350 PENNSYLVANIA AVE., N.W., WASHINGTON, D.C. 20004**

**COUNCILMEMBER YVETTE M. ALEXANDER, CHAIRPERSON
COMMITTEE ON HEALTH AND HUMAN SERVICES**

ANNOUNCES A PUBLIC HEARING ON

B21-230, THE “CAREGIVER ADVISE, RECORD AND ENABLE ACT OF 2015”

**THURSDAY, NOVEMBER 5, 2015
11:00 A.M., ROOM 412, JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004**

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health and Human Services, announces a public hearing on Bill 21-230, the “Caregiver Advise, Record and Enable Act of 2015.” The hearing will take place at 11:00 a.m. on Thursday, November 5, 2015 in Room 412 of the John A. Wilson Building.

The purpose of this bill is to require hospitals to provide patients or their legal guardian an opportunity to select a caregiver within twenty-four hours of admission to the hospital. The hospital must record the contact information for the caregiver and consult with the caregiver at least twenty-four hours before discharging the patient.

Those who wish to testify should contact Malcolm Cameron, Legislative Analyst to the Committee on Health and Human Services, at 202-741-0909 or via e-mail at mcameron@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Tuesday, November 3, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

For those unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements can be emailed to mcameron@dccouncil.us or mailed to Malcolm Cameron at the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Room 115, Washington, D.C., 20004. The record will close at 5:00 p.m. on Thursday, November 19, 2015.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING
1350 PENNSYLVANIA AVE., N.W., WASHINGTON, D.C. 20004**

**COUNCILMEMBER YVETTE M. ALEXANDER, CHAIRPERSON
COMMITTEE ON HEALTH AND HUMAN SERVICES**

ANNOUNCES A PUBLIC HEARING ON

**B21-371, THE “UNUSED PRESCRIPTION DRUG DONATION AMENDMENT ACT OF
2015”**

**THURSDAY, NOVEMBER 12, 2015
11:00 A.M., ROOM 412, JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004**

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health and Human Services, announces a public hearing on B21-371, the “Unused Prescription Drug Donation Amendment Act of 2015.” The hearing will take place at 11:00 a.m. on Thursday, November 12, 2015 in Room 412 of the John A. Wilson Building.

The purpose of this bill is to establish a Prescription Drug Repository program within the Department of Health to dispense donated prescription drugs based on economic need to eligible individuals, and a protocol for accepting pharmaceutical drugs donated by individuals and by a pharmaceutical manufacturer or health care facility. It also establishes liability protections for the parties involved in the program.

Those who wish to testify should contact Malcolm Cameron, Legislative Analyst to the Committee on Health and Human Services, at 202-741-0909 or via e-mail at mcameron@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Tuesday, November 10, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

For those unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements can be emailed to mcameron@dccouncil.us or mailed to Malcolm Cameron at the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Room 115, Washington, D.C., 20004. The record will close at 5:00 p.m. on Thursday, November 26, 2015.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING
1350 PENNSYLVANIA AVE., N.W., WASHINGTON, D.C. 20004**

**COUNCILMEMBER YVETTE M. ALEXANDER, CHAIRPERSON
COMMITTEE ON HEALTH AND HUMAN SERVICES**

ANNOUNCES A PUBLIC HEARING ON

B21-372, THE “SAFE SLEEP FOR INFANTS ACT OF 2015”

**THURSDAY, DECEMBER 3, 2015
11:00 A.M., ROOM 412, JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004**

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health and Human Services, announces a public hearing on B21-372, the “Safe Sleep for Infants Act of 2015.” The hearing will take place at 11:00 a.m. on Thursday, December 3, 2015 in Room 412 of the John A. Wilson Building.

The purpose of this bill is to require the Department of Health to establish a Sudden Infant Death Syndrome (SIDS) Education and Prevention Program to promote awareness and education relating to SIDS with the focus on the risk factors of SIDS and safe sleeping practices for newborns and infants.

Those who wish to testify should contact Malcolm Cameron, Legislative Analyst to the Committee on Health and Human Services, at 202-741-0909 or via e-mail at mcameron@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Tuesday, December 1, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

For those unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements can be emailed to mcameron@dccouncil.us or mailed to Malcolm Cameron at the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Room 115, Washington, D.C., 20004. The record will close at 5:00 p.m. on Thursday, December 17, 2015.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
COMMITTEE ON TRANSPORTATION AND THE ENVIRONMENT
NOTICE OF JOINT PUBLIC HEARING
1350 Pennsylvania Avenue, NW, Washington, DC 20004

**CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE**

and

**COUNCILMEMBER MARY CHEH
COMMITTEE ON TRANSPORTATION AND THE ENVIRONMENT**

ANNOUNCE A JOINT PUBLIC HEARING

on

PR 21-316, the “8th & O Street, N.W. Surplus Declaration and Approval Resolution of 2015”

PR 21-317, the “8th & O Street, N.W., Disposition Approval Resolution of 2015”

PR 21-335, the “Grimke School, N.W., Surplus Declaration and Approval Resolution of 2015”

and

PR 21-336, the “Grimke School, N.W., Disposition Approval Resolution of 2015”

on

**Thursday, November 5, 2015
12:00 p.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson and Councilmember Mary Cheh announce a joint public hearing before the Committee of the Whole and the Committee on Transportation and the Environment on PR 21-316, the “8th & O Street, N.W. Surplus Declaration and Approval Resolution of 2015,” PR 21-317, the “8th & O Street, N.W., Disposition Approval Resolution of 2015,” PR 21-335, the “Grimke School, N.W., Surplus Declaration and Approval Resolution of 2015,” and PR 21-336, the “Grimke School, N.W., Disposition Approval Resolution of 2015.” The hearing will be held at 12:00 p.m. on Thursday, November 5, 2015 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of **PR 21-316** is to declare and approve as surplus the District-owned real property located at 1336 8th Street, N.W., known for tax and assessment purposes as Lot 68 in Square 399 (the “8th & O property”). The stated purpose of **PR 21-317** is to approve the disposition of the 8th & O property. The property is 13,306 square feet and is currently a surface parking lot utilized by two nearby churches. The development plan proposes a mix of approximately 76 residential units and 5,400 square feet of ground floor retail. Of the residential units, which will be condominiums, 30 % will be affordable at 50 % and 80 % AMI.

The stated purpose of **PR 21-335** is to declare and approve as surplus the District-owned real property located at 1923 Vermont Avenue, N.W., and 912 U Street, N.W., and known for tax and assessment purposes as Lots 0827 and 0833 in Square 0361 (the “Grimke property”). The stated purpose of **PR 21-336** is to approve the disposition of the Grimke property. The property consists of an approximately 38,000 square foot parcel on Vermont Ave. that has the historic Grimke School,

the current location of the African-American Civil War Museum, and accessory parking, and an approximately 5,900 square foot parcel at 912 U Street currently used for parking. The development plan proposes renovating the Grimke School to build a new arts and cultural center with space for the African-American Civil War Museum and performing arts organizations, as well as commercial office space. Seven market-rate townhomes will be built on the site of the Grimke gymnasium and parking lot. On the U Street parcel, the plan calls for construction of approximately 35 residential condominium units, plus approximately 3,000 square feet of ground-floor retail. Of the 35 condominiums, 13 will be affordable at 50 % and 80 % AMI.

Those who wish to testify are asked to telephone the Committee of the Whole at (202) 724-8196, or email Cynthia LeFevre, Legislative Counsel, at clefevre@dccouncil.us, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Tuesday, Nov. 3, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on Nov. 3, 2015 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. A copy of the legislation can be obtained through the Legislative Services Division of the Secretary of the Council's office or on <http://lims.dccouncil.us>.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on November 19, 2015.

**Council of the District of Columbia
COMMITTEE ON THE JUDICIARY**

NOTICE OF PUBLIC ROUNDTABLE

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

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

ANNOUNCES A PUBLIC ROUNDTABLE ON

**PR21-0272, THE “DISTRICT OF COLUMBIA COMMISSION ON HUMAN RIGHTS LISA BORNSTEIN
CONFIRMATION RESOLUTION OF 2015”**

**PR21-0273, THE “DISTRICT OF COLUMBIA COMMISSION ON HUMAN RIGHTS KAREN
MULHAUSER CONFIRMATION RESOLUTION OF 2015”**

**PR21-0257, THE “CORRECTIONS INFORMATION COUNCIL PHYLISA CARTER CONFIRMATION
RESOLUTION OF 2015”**

**PR21-0324, THE “DIRECTOR OF THE DEPARTMENT OF FORENSIC SCIENCES JENIFER SMITH
CONFIRMATION RESOLUTION OF 2015”**

AND

**PR21-0347, THE “FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT MEDICAL
DIRECTOR JULLETTE SAUSSY CONFIRMATION RESOLUTION OF 2015”**

**Wednesday, October 28, 2015, 11 a.m.
Room 120, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

On Wednesday, October 28, 2015, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on the Judiciary, will hold a public roundtable on Proposed Resolution 21-0272, the “District of Columbia Commission on Human Rights Lisa Bornstein Confirmation Resolution of 2015”; Proposed Resolution 21-0273, the “District of Columbia Commission on Human Rights Karen Mulhauser Confirmation Resolution of 2015”; Proposed Resolution 21-0257, the “Corrections Information Council Phylisa Carter Confirmation Resolution of 2015”; Proposed Resolution 21-0324, the “Director of the Department of Forensic Sciences Jenifer Smith Confirmation Resolution of 2015”; and Proposed Resolution 21-0347, the “Fire and Emergency Medical Services Department Medical Director Juliette Saussy Confirmation Resolution of 2015”.

The roundtable will take place in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 11 a.m.

The stated purpose of PR21-0272 is to confirm Lisa Bornstein to the Commission on Human Rights for a term to end December 31, 2017. The purpose of PR21-0273 is to confirm Karen Mulhauser to the Commission on Human Rights for a term to end December 31, 2016.

The stated purpose of PR21-0257 is to confirm Phylisa Carter to the Corrections Information Council for a term to end January 10, 2016.

The stated purpose of PR21-0324 is to confirm Jenifer Smith as Director of the Department of Forensic Sciences for a four-year term.

The stated purpose of PR21-0337 is to confirm Juliette Saussy as the Medical Director of the Fire and Emergency Medical Services Department, to serve at the pleasure of the Mayor.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the roundtable 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, title (if any), and the number of the proposed resolution about which they would like to testify **by close of business, October 23, 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 roundtable, 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 November 6, 2015.

**Council of the District of Columbia
Committee on Business, Consumer, and Regulatory Affairs
Notice of Public Roundtable**

John A. Wilson Building 1350 Pennsylvania Avenue, NW, Suite 119 Washington, DC 20004

**Councilmember Vincent B. Orange, Sr., Chair
Committee on Business, Consumer, and Regulatory Affairs
Announces a Public Roundtable**

**Review of the Department of Small and Local Business Development (“DSLBD”)
Implementation of the “Small and Certified Business Enterprise Development and
Assistance Amendment Act of 2013” and the “Small and Certified Business Enterprise
Development and Assistance Waiver Certification Amendment Act of 2014”**

**Monday, November 2, 2015, 10:00 a.m.
John A. Wilson Building, Room 500
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004**

Councilmember Vincent B. Orange, Sr. announces the scheduling of a public roundtable by the Committee on Business, Consumer, and Regulatory Affairs to review DSLBD’s implementation of the “Small and Certified Business Enterprise Development and Assistance Amendment Act of 2013” and the “Small and Certified Business Enterprise Development and Assistance Waiver Certification Amendment Act of 2014”. The public roundtable is scheduled for Monday, November 2, 2015 at 10:00 a.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, DC 20004.

The Committee will review DSLBD’s implementation of the “Small and Certified Business Enterprise Development and Assistance Amendment Act of 2013”. Specifically, the Committee is interested in how DSLBD is ensuring that all construction and non-construction contracts over \$250,000 include a 35% CBE subcontracting requirement; second, DSLBD’s role in ensuring that developers and contractors are submitting subcontracting plans with a certified CBE included on the plan, as required by law; and third, DSLBD’s role in ensuring that all contracts under \$250,000 are set-aside for SBE’s and CBE’s.

Second, the Committee will review DSLBD’s implementation of the “Small and Certified Business Enterprise Development and Assistance Waiver Certification Amendment Act of 2014.” Specifically, the Committee will focus on the implementation of the FY16 District agencies’ expendable budget plans; second, DSLBD’s plan to require agencies that don’t expend 50% of its expendable budget with CBE’s to acquire a waiver from the Mayor; third, DSLBD’s process of notifying CBE’s when a waiver is requested by a District agency; fourth, DSLBD’s process in granting or denying waivers requested by a District agency; and fifth, DSLBD’s efforts to allow CBE’s to self-certify if no material change exists; and sixth, extend re-certification periods for CBE’s from 2 to 3 years.

Individuals and representatives of organizations who wish to testify at the public roundtable are asked to contact Ms. Faye Caldwell, Special Assistant to the Committee on Business, Consumer, and Regulatory Affairs, at (202) 727-6683, or via e-mail at fcaldwell@dccouncil.us and furnish

their names, addresses, telephone numbers, and organizational affiliation, if any, by the close of business Friday, October 30, 2015. Each witness is requested to bring 20 copies of his/her written testimony. Representatives of organizations and government agencies will be limited to 5 minutes in order to permit each witness an opportunity to be heard. Individual witnesses will be limited to 3 minutes.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. The official record will remain open until close of business Monday, November 16, 2015. Copies of written statements should be submitted to the Committee on Business, Consumer, and Regulatory Affairs, Council of the District of Columbia, Suite 119 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

COUNCIL OF THE DISTRICT OF COLUMBIA

Notice of Reprogramming Requests

Pursuant to DC Official Code Sec 47-361 et seq. of the Reprogramming Policy Act of 1990, the Council of the District of Columbia gives notice that the Mayor has transmitted the following reprogramming request(s).

A reprogramming will become effective on the 15th day after official receipt unless a Member of the Council files a notice of disapproval of the request which extends the Council's review period to 30 days. If such notice is given, a reprogramming will become effective on the 31st day after its official receipt unless a resolution of approval or disapproval is adopted by the Council prior to that time.

Comments should be addressed to the Secretary to the Council, John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Room 5 Washington, D.C. 20004. Copies of the reprogrammings are available in Legislative Services, Room 10. Telephone: 724-8050

Reprog. 21-106: Request to reprogram \$530,706 of Fiscal Year 2015 Special Purpose Revenue funds budget authority within the Public Service Commission (PSC) was filed in the Office of the Secretary on October 8, 2015. This reprogramming ensures that the budget is aligned with revised spending plans for FY 2015.

RECEIVED: 14 day review begins October 8, 2015

Reprog. 21-107: Request to reprogram \$300,000 of Fiscal Year 2015 Local Funds Budget Authority from the District Department of Transportation (DDOT) to the Pay-As-You-Go (Paygo) was filed in the Office of the Secretary on October 8, 2015. This reprogramming is needed to fund streetscape improvements for Kennedy Street, NW from the Capitol Street to Georgia Ave, NW.

RECEIVED: 14 day review begins October 8, 2015

Reprog. 21-108: Request to reprogram \$800,000 of Fiscal Year 2015 Local Funds Budget Authority from the Department of Corrections (DOC) to the Pay-As-You-Go (Paygo) Capital Fund Agency was filed in the Office of the Secretary on October 8, 2015. This reprogramming ensures that the roof at the DOC Central Detention Facility, which cannot withstand another winter without a major renovation, is replaced.

RECEIVED: 14 day review begins October 8, 2015

Reprog. 21-109: Request to reprogram \$905,225 of Fiscal Year 2015 Local Funds Budget Authority from the Department of General Services to the Pay-As-You-Go (Paygo) Capital Fund Agency was filed in the Office of the Secretary on October 8, 2015. This reprogramming ensures that the purchase of fixtures, furniture and equipment for the Eliot Hines small capital project is funded.

RECEIVED: 14 day review begins October 8, 2015

Reprog. 21-110: Request to reprogram \$596,349 of Fiscal Year 2015 Local Funds Budget Authority within the Department of Housing and Community Development (DHCD) was filed in the Office of the Secretary on October 8, 2015. This reprogramming ensures that the support of the agency's personal services realignment due to changes in different agency initiatives and programs.

RECEIVED: 14 day review begins October 8, 2015

Reprog. 21-111: Request to reprogram \$41,115 of Fiscal 2015 Local Funds Budget Authority from the Department of Public Works to the Pay-As-You-Go (Paygo) Capital Fund was filed in the Office of the Secretary on October 9, 2015. This reprogramming ensures that the DPW will be able to fund the cost of completing a network upgrade at two sites, 3200 Benning Road, N.E. and 5100 Shepherd Parkway, S.W.

RECEIVED: 14 day review begins October 13, 2015

Reprog. 21-112: Request to reprogram \$1,202,900 of Fiscal Year 2015 Special Purpose Revenue funds budget authority from the District Department of Transportation (DDOT) to the Pay-As-You-Go (Paygo) Capital Fund was filed in the Office of the Secretary on October 9, 2015. This reprogramming is to ensure that DDOT completes the project requirements (design reviews, permitting and field verification activities) of the awarded capital project MRR16C – Virginia Tunnel (VAT) and to fulfill the terms of the December 15, 2014 Memorandum of Agreement between CSX and the District of Columbia.

RECEIVED: 14 day review begins October 13, 2015

Reprog. 21-113: Request to reprogram \$1,541,000 of Fiscal Year 2015 Special Purpose Revenue funds budget authority from the District Department of Transportation (DDOT) to the Pay-As-You-Go (Paygo) Capital Fund was filed in the Office of the Secretary on October 9, 2015. This reprogramming is to ensure that DDOT completes the project requirements (design reviews, permitting and field verification activities) of the awarded capital project MRR16C – Virginia Tunnel (VAT) and to fulfill the terms of the December 15, 2014 Memorandum of Agreement between CSX and the District of Columbia.

RECEIVED: 14 day review begins October 13, 2015

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 16, 2015
Petition Date: November 30, 2015
Hearing Date: December 14, 2015
Protest Hearing Date: February 10, 2016

License No.: ABRA-100646
Licensee: Bardo, LLC
Trade Name: Bardo
License Class: Retailer's Class "D" Tavern
Address: 25 Potomac Avenue, S.E.
Contact: William Stewart: (762) 233-7070

WARD 6 ANC 6D SMD 6D07

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such 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 February 10, 2016 at 1:30 pm.

NATURE OF OPERATION

Outdoor Beer Garden. Beer made on premise. Food Trucks to supply food. Total number of Summer Garden seats: 700. Total Occupancy Load: 750. Brew Pub Endorsement.

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

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 16, 2015
Petition Date: November 30, 2015
Hearing Date: December 14, 2015
Protest Hearing: February 10, 2016

License No.: ABRA-100249
Licensee: Colorado & Cohen LLC
Trade Name: Bullfrog Bagels
License Class: Retailer's Class "C" Restaurant
Address: 317 7th Street, S.E.
Contact: Jeremiah Cohen: (202) 494-2609

WARD 6 ANC 6B SMD 6B02

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. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled on February 10, 2016 at 1:30 p.m.

NATURE OF OPERATION

New Restaurant offering a great selection of bagelwiches, brunch and supper. Total Occupancy Load is 35. Sidewalk Café with 7 seats

HOURS OF OPERATON FOR PREMISES AND SIDEWALK CAFE

Sunday through Saturday 6 am – 11 pm

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION FOR PREMISE AND SIDEWALK CAFE

Sunday through Saturday 10 am – 11 pm

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

Posting Date: October 16, 2015
Petition Date: November 30, 2015
Hearing Date: December 14, 2015

License No.: ABRA-095700
Licensee: Chaplin Restaurant DC, LLC
Trade Name: Chaplin
License Class: Retailer's Class "C" Restaurant
Address: 1501 9th Street, N.W.
Contact: Adrian Williams: 202-644-8806

WARD 6

ANC 6E

SMD 6E01

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

NATURE OF SUBSTANTIAL CHANGE

Request to add an Entertainment Endorsement that will include live music, a DJ and Karaoke music.

CURRENT HOURS OF OPERATION

Sunday through Thursday 11:00am to 2:00am, Friday and Saturday 11:00am to 3:00am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION

Sunday through Thursday 11:00am to 1:30am, Friday and Saturday 11:00am to 2:30am

PROPOSED HOURS OF LIVE ENTERTAINMENT

Sunday through Thursday 6:30pm to 1:00am, Friday through Saturday 6:30pm to 1:30am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 16, 2015
Petition Date: November 30, 2015
Hearing Date: December 14, 2015
Protest Hearing Date: February 10, 2016

License No.: ABRA-093723
Licensee: Dean & Deluca of Georgetown, Inc.
Trade Name: Dean & Deluca
License Class: Retailer's Class "D" Restaurant
Address: 3276 M Street, N.W.
Contact: Andrew Kline: (202) 686-7600

WARD 2 ANC 2E SMD 2E05

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 February 10, 2016 at 4:30 pm.

NATURE OF OPERATION

Restaurant where patrons will be able to enjoy wine and beer paired with cheese and charcuterie. Total number of seats: 100. Total Occupancy Load: 150. Entertainment Endorsement. Total number of Summer Garden seats: 50

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

Sunday through Thursday 10 am – 11 pm and Friday & Saturday 10 am – 12 am

HOURS OF ENTERTAINMENT INDOORS

Sunday through Thursday 6 pm – 11 pm and Friday & Saturday 6 pm – 12 am

HOURS OF ENTERTAINMENT OUTDOORS IN SUMMER GARDEN

Sunday through Thursday 10 am – 11 pm and Friday & Saturday 10 am – 12 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 16, 2015
Petition Date: November 30, 2015
Hearing Date: December 14, 2015
Protest Hearing Date: February 10, 2016

License No.: ABRA-099379
Licensee: District Taco LLC
Trade Name: District Taco
License Class: Retailer’s Class “D” Restaurant
Address: 1919 M Street, N.W.
Contact: Chris Medhurst: 202-340-6702

WARD 2

ANC 2B

SMD 2B06

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 1:30pm on February 10, 2016.

NATURE OF OPERATION

New Mexican restaurant. No dancing, entertainment, or performances. Total Occupancy Load: 144. Inside seating for 90.

HOURS OF OPERATION FOR PREMISES AND SUMMER GARDEN

Saturday & Sunday 10am - 9pm, Monday through Friday 7am - 10pm

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Saturday & Sunday 10am - 9pm, Monday through Friday 8am – 10pm

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

Posting Date: October 16, 2015
Petition Date: November 30, 2015
Hearing Date: December 14, 2015

License No.: ABRA-091607
Licensee: Dunya, LLC
Trade Name: Dunya Restaurant & Lounge
License Class: Retailer's Class "C" Tavern
Address: 801 Florida Avenue, N.W.
Contact: Siyamak Sadeghi: 240-602-6667

WARD 1

ANC 1B

SMD 1B02

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

NATURE OF SUBSTANTIAL CHANGE

Request to add Entertainment Endorsement that will include occasional DJ or Live Band.

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

Sunday through Thursday 8:00am to 2:00am, Friday and Saturday 8:00am to 3:00am

PROPOSED HOURS OF LIVE ENTERTAINMENT

Sunday through Thursday 6:00pm to 2:00am, Friday through Saturday 6:00pm to 3:00am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 16, 2015
Petition Date: November 30, 2015
Hearing Date: December 14, 2015
Protest Hearing Date: February 10, 2016

License No.: ABRA-100647
Licensee: Farmers & Distillers DC, LLC
Trade Name: Farmers & Distillers
License Class: Retailer's Class "C" Restaurant
Address: 600 Massachusetts Avenue, N.W.
Contact: Stephen O'Brien: (202) 625-7700

WARD 2 ANC 2C SMD 2C01

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 February 10, 2016 at 1:30 pm.

NATURE OF OPERATION

A full-service, polished, casual restaurant with a bar in-house. Small, micro-batch and second run distilling with an emphasis on all nature foods, cooking from scratch and local sourcing. Total number of seats: 325. Total Occupancy Load: 450. Total number of Sidewalk Cafe seats: 65. Distillery Pub Endorsement.

HOURS OF OPERATION FOR PREMISES AND SIDEWALK CAFÉ

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

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

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

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

Posting Date: October 16, 2015
Petition Date: November 30, 2015
Hearing Date: December 14, 2015
Protest Hearing: February 10, 2016

License No.: ABRA-100234
Licensee: Galley Foods, Inc.
Trade Name: Galley
License Class: Retailer's Class "B"
Address: 1350 Okie Street, N.E.
Contact: Stephen O'Brien: (202) 625-7700

WARD 5

ANC 5D

SMD 5D01

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. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled on February 10, 2016 at 4:30 p.m.

NATURE OF OPERATION

New 25% Class B. Prepares healthy, high-quality meals delivered directly to your home or office in 30 minutes or less. The applicant proposes to allow customers to add wine or beer to their dinner order, which is done entirely online. (Alcoholic Beverages are delivered in the District of Columbia only, and to customers who are 21 years of age or older). This location will not be open to the public.

HOURS OF OPERATON FOR PREMISE AND SALES AND SERVICE OF ALCOHOLIC BEVERAGES

Sunday through Saturday 9 am – 12 am

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

Posting Date: October 16, 2015
Petition Date: November 30, 2015
Hearing Date: December 14, 2015

License No.: ABRA-095905
Licensee: S & B Market, LLC
Trade Name: MLK Mini Market
License Class: Class "B" Grocery
Address: 3333 Martin Luther King Jr. Avenue, S.E.
Contact: Biruktayt Kelifa: 202-373-1550

WARD 8

ANC 8C

SMD 8C03

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

NATURE OF SUBSTANTIAL CHANGE

Request a Class Change from a Retailer "B" Grocery to a Retailer "A" Liquor Store.

CURRENT HOURS OF OPERATION

Sunday through Saturday 7:00am to 9:00pm

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES

Sunday through Saturday 9:00am to 9:00pm

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

Posting Date: October 16, 2015
Petition Date: November 30, 2015
Hearing Date: December 14, 2015

License No.: ABRA-088102
Licensee: Chicken Tortilla, Inc.
Trade Name: Ocopa
License Class: Retailer's Class "C" Restaurant
Address: 1324 H Street, N.E.
Contact: Eddie Migues: (202) 396-1814

WARD 6

ANC 6A

SMD 6A06

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

Applicant is requesting an Entertainment Endorsement. Entertainment to include Latin dancing and occasional live music.

CURRENT HOURS OF OPERATION

Sunday through Saturday 8 am – 2 am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Saturday 11 am – 1:30 am

PROPOSED HOURS FOR LIVE ENTERTAINMENT

Sunday through Saturday 6 pm - 2 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/16/2015

Notice is hereby given that:

License Number: ABRA-060026

License Class/Type: A Retail - Liquor Store

Applicant: Beletesh, Ltd

Trade Name: Serv-u-Liquors

ANC: 1B02

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

1935 9TH ST NW

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

11/30/2015

A HEARING WILL BE HELD ON:

12/14/2015

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	-	-
Monday:	10 am - 12 am	10 am - 12 am
Tuesday:	10 am - 12 am	10 am - 12 am
Wednesday:	10 am - 12 am	10 am - 12 am
Thursday:	10 am - 12 am	10 am - 12 am
Friday:	10 am - 12 am	10 am - 12 am
Saturday:	10 am - 12 am	10 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

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

Posting Date: October 16, 2015
Petition Date: November 30, 2015
Hearing Date: December 14, 2015
Protest Hearing Date: February 10, 2016

License No.: ABRA-100610
Licensee: Coffee House Holdings, Inc.
Trade Name: Starbucks Coffee #7610
License Class: Retailer's Class "D" Restaurant
Address: 237 Pennsylvania Avenue, S.E.
Contact: Stephen O'Brien: (202) 625-7700

WARD 6

ANC 6B

SMD 6B01

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 February 10, 2016 at 4:30 pm.

NATURE OF OPERATION

A restaurant serving savory small plates and desserts meant for sharing, in addition to its coffee and breakfast offerings served all day, and offering wine & beer selections to its guest in a relaxing and comfortable environment. Total number of seats: 60. Total Occupancy Load: 60. Total number of Sidewalk Cafe seats: 14.

HOURS OF OPERATION FOR THE PREMISES

Sunday through Saturday 5am – 11pm

HOURS OF OPERATION FOR THE SIDEWALK CAFE

Monday through Thursday 8am-9pm, Friday through Sunday 8am-10pm

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR THE PREMISES

Monday through Friday 2pm–11pm, Saturday & Sunday 12pm-11pm

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR THE SIDEWALK CAFE

Monday through Thursday 2pm–9pm, Friday 2pm-10pm, Saturday & Sunday 12pm-10pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 16, 2015
Petition Date: November 30, 2015
Hearing Date: December 14, 2015
Protest Hearing Date: February 10, 2016

License No.: ABRA-100595
Licensee: Coffee House Holdings, Inc.
Trade Name: Starbucks Coffee #7877
License Class: Retailer's Class "D" Restaurant
Address: 1801 Columbia Road, N.W.
Contact: Stephen O'Brien: (202) 625-7700

WARD 1 ANC 1C SMD 1C04

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 February 10, 2016 at 4:30 pm.

NATURE OF OPERATION

A restaurant serving savory small plates and desserts meant for sharing, in addition to its coffee and breakfast offerings served all day, and offering wine & beer selections to its guest in a relaxing and comfortable environment. Total number of seats: 31. Total Occupancy Load: 48. Total number of Sidewalk Cafe seats: 16.

HOURS OF OPERATION FOR THE PREMISES AND SIDEWALK CAFE

Sunday through Saturday 5am - 11pm

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR THE PREMISES AND SIDEWALK CAFE

Saturday & Sunday 12pm- 11pm, Monday through Friday 2pm - 11pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 16, 2015
Petition Date: November 30, 2015
Hearing Date: December 14, 2015
Protest Hearing Date: February 10, 2016

License No.: ABRA- 100651
Licensee: Coffee House Holdings, Inc.
Trade Name: Starbucks Coffee #19851
License Class: Retailer’s Class “D” Restaurant
Address: 815 O Street, N.W.
Contact: Stephen O’Brien: (202) 625-7700

WARD 6 ANC 6E SMD 6E01

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 February 10, 2016 at 4:30 pm.

NATURE OF OPERATION

A restaurant serving savory small plates and desserts meant for sharing, in addition to its coffee and breakfast offerings served all day, and offering wine & beer selections to its guest in a relaxing and comfortable environment. Total number of seats: 30. Total Occupancy Load: 30. Total number of Sidewalk Café seats: 18.

HOURS OF OPERATION FOR THE PREMISES AND SIDEWALK CAFE

Sunday through Saturday 5am – 11pm

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR THE PREMISES AND SIDEWALK CAFE

Saturday & Sunday 12pm- 11pm, Monday through Friday 2pm – 11pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 16, 2015
Petition Date: November 30, 2015
Hearing Date: December 14, 2015
Protest Hearing Date: February 10, 2016

License No.: ABRA- 100623
Licensee: Coffee House Holdings, Inc.
Trade Name: Starbucks Coffee #21159
License Class: Retailer’s Class “D” Restaurant
Address: 3416 Wisconsin Avenue, N.W.
Contact: Stephen O’Brien: (202) 625-7700

WARD 3 ANC 3C SMD 3C06

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 February 10, 2016 at 4:30 pm.

NATURE OF OPERATION

A restaurant serving savory small plates and desserts meant for sharing, in addition to its coffee and breakfast offerings served all day, and offering wine & beer selections to its guest in a relaxing and comfortable environment. Total number of seats: 28. Total Occupancy Load: 40. Total number of Sidewalk Cafe seats: 16.

HOURS OF OPERATION FOR THE PREMISES AND SIDEWALK CAFE

Sunday through Saturday 5am – 11pm

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE FOR THE PREMISES AND THE SIDEWALK CAFE

Saturday & Sunday 12pm- 11pm, Monday through Friday 2pm – 11pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 16, 2015
 Petition Date: November 30, 2015
 Hearing Date: December 14, 2015
 Protest Hearing Date: February 10, 2016

License No.: ABRA-100625
 Licensee: Coffee House Holdings, Inc.
 Trade Name: Starbucks Coffee #23466
 License Class: Retailer’s Class “D” Restaurant
 Address: 1000 H Street, N.W.
 Contact: Stephen O’Brien: (202) 625-7700

WARD 2 ANC 2C SMD 2C01

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 February 10, 2016 at 4:30 pm.

NATURE OF OPERATION

A restaurant serving savory small plates and desserts meant for sharing, in addition to its coffee and breakfast offerings served all day, and offering wine & beer selections to its guest in a relaxing and comfortable environment. Total number of seats: 24. Total Occupancy Load: 24.

HOURS OF OPERATION

Sunday through Saturday 5am – 11pm

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Saturday & Sunday 12pm- 11pm, Monday through Friday 2pm – 11pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 16, 2015
Petition Date: November 30, 2015
Hearing Date: December 14, 2015

License No.: ABRA-094881
Licensee: Two Foxes, LLC
Trade Name: The Pursuit
License Class: Retailer’s Class “C” Restaurant
Address: 1421 H Street, N.E.
Contact: Thomas Boisvert: 202-758-2139

WARD 6

ANC 6A

SMD 6A06

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

NATURE OF SUBSTANTIAL CHANGE

Request a Class Change from a Retailer “C” Restaurant to a Retailer “C” Tavern.

CURRENT HOURS OF OPERATION/ ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION FOR INSIDE PREMISES

Sunday through Saturday 11:00am to 2:00am

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

Sunday through Thursday 11:00am to 11:00pm, Friday and Saturday 11:00am to 12:00am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 16, 2015
Petition Date: November 30, 2015
Hearing Date: December 14, 2015
Protest Hearing Date: February 10, 2016

License No.: ABRA-100648
Licensee: Trump Old Post Office, LLC
Trade Name: Trump International Hotel Washington DC
License Class: Retailer's Class "C" Hotel
Address: 1100 Pennsylvania Avenue, N.W.
Contact: Stephen O'Brien: (202) 625-7700

WARD 2 ANC 2C SMD 2C01

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 February 10, 2016 at 1:30 pm.

NATURE OF OPERATION

A full-service luxury hotel to include: Curated museum, library, spa, health club, meeting and events space and several dining options in the hotel. Total number of seats: 204. Total number of rooms: 263. Total Occupancy Load: 898. Total number of Summer Garden seats: 552.

HOURS OF OPERATION

24 Hours

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

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

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

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

HOURS OF ENTERTAINMENT INSIDE AND OUTSIDE PREMISE

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

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

The District of Columbia Public Charter School Board (“PCSB”) hereby gives notice of Inspired Teaching Demonstration Public Charter School’s request to amend its charter by increasing its enrollment ceiling beginning in school year 2016-2017. A public hearing regarding this item will be held on November 16, 2015 at 6:30 p.m.; a vote will be held on December 14, 2015 at 6:30 p.m. To submit public comments, you may do so by one of the actions below. All comments must be submitted on or before November 16, 2015. For questions, please contact Laterica (Teri) Quinn, Equity and Fidelity Specialist, at 202-328-2660 or lquinn@dcpcsb.org.

Submitting Public Comment:

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

2. Sign up to testify in-person at the public hearing on November 16, 2015, by emailing a request to public.comment@dcpcsb.org by no later than 4 p.m. on Thursday, November 12, 2015.

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

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

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 15-05 (P.N. Hoffman and Associates, Inc. & Riverside Baptist Church: Consolidated PUD and Related Map Amendment for Square 472, Lot 127 (“Property”))

THIS CASE IS OF INTEREST TO ANC 6D

On March 16, 2015, the Office of Zoning received an application from P.N. Hoffman and Associates, Inc. & Riverside Baptist Church (the “Applicant”). The Applicant is requesting approval of a consolidated planned unit development (“PUD”) and related amendment to the Zoning Map. The Office of Planning provided its report on July 16, 2015, and the case was set down for hearing on July 27, 2015. The Applicant provided its prehearing statement on September 21, 2015.

The property that is the subject of this application consists of approximately 36,015 square feet of land area and is located at 680 I Street S.W. (Square 472, Lot 127). The subject property is zoned R-5-B. The Applicant proposes to rezone the Property to the C-3-A Zone District.

The Applicant proposes to redevelop the existing church into a new building containing a new home for Riverside Baptist Church and a nine-story apartment building with ground-floor community-serving uses and underground parking.

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

How to participate as a witness.

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

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

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

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

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

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

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

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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.

OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

ERRATA NOTICE

The Administrator of the Office of Documents and Administrative Issuances (ODAI), pursuant to the authority set forth in Section 309 of the District of Columbia Administrative Procedure Act, approved October 21, 1968, as amended (82 Stat. 1203; D.C. Official Code § 2-559 (2012 Repl.)), hereby gives notice of a correction to the Notice of Final Rulemaking issued by the Director of the Department of Health Care Finance (Department), and published in the *D.C. Register* on August 14, 2015 at 62 DCR 11142.

The final rulemaking amended Chapter 95 (Medicaid Eligibility) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR). The rulemaking mistakenly included the following line, indicating Section 9510 should be reserved:

9510 [RESERVED]

Section 9510 (Transitional Medicaid) was previously amended through a Notice of Proposed Rulemaking published in the *D.C. Register* on February 6, 2015 at 62 DCR 001710, and finalized in the Notice of Final Rulemaking published June 5, 2015 at 62 DCR 8059. The Department did not intend to overwrite Section 9510 with the August 14, 2015 rulemaking.

This Errata Notice's correction to the Notice of Final Rulemaking clarifies the June 5, 2015 final rulemaking is the correct version of 29 DCMR § 9510, and does not alter the intent, application, or purpose of the proposed rules. The rules are effective upon the original publication date of June 5, 2015.

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

DEPARTMENT OF MOTOR VEHICLES

NOTICE OF FINAL RULEMAKING

The Director of the Department of Motor Vehicles (“Director”), pursuant to the authority set forth in Sections 1825 and 1826 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code §§ 50-904 and 50-905 (2014 Repl.)); Sections 6 and 7 of the District of Columbia Traffic Act of 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code §§ 50-2201.03 and 50-1401.01 (2014 Repl.)); Section 3 of the Uniform Classification and Commercial Driver’s License Act of 1990, effective September 20, 1990 (D.C. Law 8-161; D.C. Official Code § 50-402 (2014 Repl.)); and Mayor’s Order 91-161, dated October 15, 1991, hereby gives notice of the adoption of the following amendment to Chapter 13 (Classification and Issuance of Commercial Driver’s Licenses) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (DCMR).

These amendments make grammatical corrections and update rules to comply with federal regulations.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on August 21, 2015 at 62 DCR 11587. No comments were received. No changes were made to the text of the proposed rules. The rules were adopted as final on September 21, 2015, and will become effective upon publication of this notice in the *D.C. Register*.

Title 18 DCMR, VEHICLES AND TRAFFIC, is amended as follows:

Chapter 13, CLASSIFICATION AND ISSUANCE OF COMMERCIAL DRIVER'S LICENSES, is amended as follows:

The chapter heading is amended to read as follows:

**CHAPTER 13 COMMERCIAL DRIVER LICENSES AND
COMMERCIAL LEARNER PERMITS**

Section 1300, GENERAL PROVISIONS, is amended as follows:

Subsection 1300.1(g) is amended to read as follows:

- (g) Issuing commercial driver licenses and commercial learner permits.

Section 1301, APPLICATION FOR A COMMERCIAL DRIVER’S LICENSE, is amended as follows:

The section heading is amended to read as follows:

**1301 APPLICATION FOR A COMMERCIAL DRIVER LICENSE OR
COMMERCIAL LEARNER PERMIT**

Subsection 1301.1 is amended as follows:

The lead-in text is amended to read as follows:

1301.1 The application or renewal application for a commercial driver license or commercial learner permit shall include the following:

Paragraph (f) is amended to read as follows:

- (f) All jurisdictions in which the applicant has previously been licensed to operate any type of motor vehicle within the last ten years;

Paragraph (h) is amended by striking the word “and”.

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

New paragraphs (j), (k), (l), and (m) are added to read as follows:

- (j) Whether the person is a United States citizen or has lawful permanent residency as specified in 49 C.F.R. § 383.71(a)(2)(v), (b)(9), (c)(6), and (d)(5);
- (k) The medical certification required by 49 C.F.R. § 383.71(h);
- (l) If applicable, applicant’s certification that he or she operates only in intrastate commerce and is subject to the District of Columbia’s driver qualification requirements; and
- (m) If the applicant is seeking to transfer a commercial driver license from another jurisdiction, and wishes to retain a hazardous materials endorsement, require compliance with standards for such endorsement specified in 49 C.F.R. §§ 383.71(b)(8) and 383.141 and ensure that the driver has passed the test for such endorsement specified in 49 C.F.R. § 383.121.

Subsection 1301.2 is amended by striking the phrase “commercial driver’s license or commercial driver’s instruction license” and inserting the phrase “commercial driver license or commercial learner permit” in its place.

Subsection 1301.3 is amended by striking the phrase “commercial driver’s license” and inserting the phrase “commercial driver license or commercial learner permit” in its place.

Section 1302, COMMERCIAL DRIVER’S INSTRUCTION LICENSE, is amended as follows:

The section heading is amended to read as follows:

1302 ISSUANCE OF COMMERCIAL LEARNER PERMIT

Section 1302 is amended by striking the phrase “commercial driver’s instruction license” wherever it appears and inserting the phrase “commercial learner permit” in its place.

Subsection 1302.1 is amended to read as follows:

- 1302.1 A commercial learner permit shall be issued only to an individual who:
 - (a) Provides proof of citizenship or lawful permanent residency as specified in 49 C.F.R. § 383.71(a)(2)(v), (b)(9), (c)(6), and (d)(5);
 - (b) Except as set forth in § 1303.7 of this chapter, is a resident of the District of Columbia; and
 - (c) Holds a valid noncommercial driver license or a valid commercial driver license if applying to operate commercial vehicles in a group or endorsement other than the group or endorsement that he or she is authorized to operate.

Subsection 1302.7 is amended to read as follows:

- 1302.7
 - (a) The commercial learner permit shall be valid for no more than one hundred and eighty (180) days from the date of issuance. The learner permit may be renewed for an additional one hundred and eighty (180) days without requiring the permittee to retake the general or endorsement knowledge test. The permit may be renewed within thirty (30) days before its expiration.
 - (b) The commercial learner permit holder is not eligible to take the commercial driver license skills test in the first thirty (30) days after the initial issuance of the commercial learner permit.

Section 1303, ISSUANCE OF COMMERCIAL DRIVER'S LICENSE, is amended as follows:

The section heading is amended to read as follows:

1303 ISSUANCE OF COMMERCIAL DRIVER LICENSE AND COMMERCIAL LEARNER PERMIT

Subsection 1303.1 is amended to read as follows:

- 1303.1 No person shall be issued a commercial driver license unless that person:
- (a) Is a resident of the District of Columbia, except as set forth in § 1303.7;
 - (b) Either:
 - (1) Possesses a commercial learner permit;
 - (2) Has met the requirements of §§ 1315 and 1316 of this chapter or
 - (3) Is granted a waiver pursuant to § 1318;
 - (c) Meets the requirements set forth in § 1327;
 - (d) Surrenders his or her non-commercial or commercial driver license from any state; and
 - (e) Provides proof of citizenship or lawful permanent residency as specified in 49 C.F.R. § 383.71.

A new Subsection 1303.7 is added to read as follows:

- 1303.7 A person may obtain a non-domiciled commercial driver learner permit or commercial driver license if:
- (a) The applicant is domiciled in a foreign jurisdiction, as defined in 49 C.F.R. § 383.5 and the Federal Motor Carrier Administration Administrator has not determined that the commercial motor vehicle operator testing and licensing standards of that jurisdiction meet the standards contained in subparts 49 C.F.R. part 383, subparts F, G and H; or
 - (b) The applicant is domiciled in a state that is prohibited from issuing commercial learner permits or commercial driver licenses in accordance with 49 C.F.R. § 384.405.

A new Subsection 1303.8 is added to read as follows:

- 1303.8 An applicant for a non-domiciled commercial learner permit or a commercial license must:
- (a) Complete the requirements to obtain a commercial learner permit contained in 49 C.F.R. § 383.71(a) or a commercial driver license contained in 49 C.F.R. § 383.71(b). Exception: An applicant domiciled in a foreign jurisdiction must provide an unexpired employment

authorization document issued by the United States Citizenship and Immigration Services or an unexpired foreign passport accompanied by an approved I-94 form documenting the applicant's most recent admittance into the United States. No proof of domicile is required; and

- (b) After receipt of the non-domiciled commercial learner permit or commercial driver license, and for as long as it is valid, notify the Department of any adverse action taken by any jurisdiction or governmental agency, foreign or domestic, against his or her driving privileges. Such adverse actions include, but are not limited to, license disqualification or disqualification from operating a commercial motor vehicle for the convictions described in 49 C.F.R. § 383.51 Notifications must be made within the time periods specified in 49 C.F.R. § 383.33.

Section 1304, LIMITATION ON NUMBER OF DRIVER'S LICENSES, is amended as follows:

The section heading is amended to read as follows:

1304 LIMITATION ON NUMBER OF DRIVER LICENSES

Subsection 1304.1 is amended by striking the word “driver’s” and inserting the word “driver” in its place.

Section 1305, COMMERCIAL DRIVER’S LICENSE REQUIRED, is amended as follows:

The section heading is amended to read as follows:

1305 COMMERCIAL DRIVER LICENSE REQUIRED

Subsection 1305.1 is amended as follows:

The lead-in text is amended to read as follows:

1305.1 No resident of the District of Columbia shall drive a commercial vehicle unless he or she has been issued a valid commercial driver license or a valid commercial learner permit, which authorizes him or her to operate the following types of vehicles:

Subsection 1305.2 is amended by striking the phrase “commercial driver's instruction license or commercial driver's license” and inserting the phrase “commercial learner permit or commercial driver license” in its place.

Subsection 1305.3 is amended to read as follows:

1305.3 No person shall drive a commercial motor vehicle in the District of Columbia unless the person holds a commercial driver license with the applicable class and endorsements for the vehicle(s) he or she is driving, except when driving under a commercial driver learner permit and accompanied by the holder of a commercial driver license for the vehicle being driven.

Section 1306, DISQUALIFICATION, is amended as follows:

Subsection 1306.1 is amended to read as follows:

- 1306.1 The Director shall disqualify a person from operating a commercial vehicle, by denying an application for a commercial driver license or learner permit or by withdrawing a person's commercial driver license or learner permit, if the person:
- (a) Is convicted of driving any vehicle while under the influence of alcohol or a controlled substance;
 - (b) Is convicted of having an alcohol concentration of 0.04 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine while operating a commercial vehicle;
 - (c) Is convicted of refusing to take an alcohol test while operating any vehicle;
 - (d) Is convicted of leaving the scene of an accident while operating any vehicle;
 - (e) Is convicted of causing a fatality through the negligent operation of a commercial vehicle;
 - (f) Is convicted of using any vehicle in the commission of a felony;
 - (g) Is convicted of driving a commercial vehicle when, as a result of prior violations committed while operating a commercial vehicle, the person's commercial driver license is revoked or suspended, or the person is disqualified from operating a commercial vehicle;
 - (h) Is convicted of driving a commercial vehicle and failing to slow down and stop before reaching a railroad crossing to check that railroad tracks are clear of an approaching train;
 - (i) Is convicted of driving a commercial vehicle without leaving sufficient space to drive through a railroad crossing without stopping;

- (j) Is convicted of failure to obey a traffic control device or the directions of an enforcement official at a railroad crossing while operating a commercial vehicle;
- (k) Is convicted of failure to negotiate a railroad crossing because of insufficient undercarriage clearance while operating a commercial vehicle;
- (l) Is convicted of operating a commercial vehicle in violation of an out-of-service order;
- (m) Is convicted of two (2) or more serious traffic violations within a three (3) year period;
- (n) Is convicted of operating a school bus, operating a vehicle designed to transport sixteen (16) or more people, including the driver, operating any vehicle that is more than twenty-six thousand and one (26,001) pounds, transporting hazardous material, or engaging in commercial interstate operation while under twenty-one (21) years of age;
- (o) Has falsified information contained in the commercial driver license or learner permit application or a document submitted as part of the application process. In such an instance, the Director shall at a minimum disqualify the person's commercial driver license or learner permit or the person's pending application, or disqualify the person from operating a commercial motor vehicle for a period of at least sixty (60) consecutive days;
- (p) Is convicted of fraud related to the issuance of that commercial driver license or learner permit. The person so convicted who seeks to renew, transfer, or upgrade the fraudulently obtained commercial driver license or learner permit shall be disqualified for one (1) year and the Director shall record the withdrawal in the person's driving record. The person may not reapply for a new commercial driver license or learner permit for at least one (1) year; or
- (q) Is suspected, but has not been convicted, of fraud related to the issuance of his or her commercial driver license or learner permit, and within thirty (30) days after receiving notification from the Director that re-testing is necessary, the affected commercial driver license or learner permit holder has not made an appointment or otherwise scheduled to take the next available test. In such an instance, the commercial driver license or learner permit holder shall be disqualified from driving a commercial motor vehicle. If the person fails either the knowledge or skills test or does not take the test, he or she shall be disqualified from driving a commercial motor vehicle. Once a commercial motor vehicle or learner permit holder

has been so disqualified, he or she must reapply for a commercial driver license or learner permit under the procedures set forth in this chapter.

Subsection 1306.2 is amended as follows:

1306.2 For purposes of this chapter, the following violations are serious traffic violations:

...

(i) Texting while driving;

(j) Use of a hand-held mobile telephone while driving.

Section 1307, COMMERCIAL MOTOR VEHICLE DRIVER RESPONSIBILITY, is amended as follows:

Subsection 1307.1 is amended by striking the phrase “commercial driver’s license” and inserting the phrase “commercial driver license or commercial learner permit” in its place.

Subsection 1307.2 is amended to read as follows:

1307.2 When the holder of a commercial driver license changes his or her name, mailing address or residence, he or she shall file an application for a duplicate commercial driver license with the Department of Motor Vehicles within sixty (60) calendar days.

Subsection 1307.3(a) is amended by striking the word “driver’s” and inserting the word “driver” in its place.

Section 1309, EMPLOYER’S RESPONSIBILITY, is amended as follows:

A new Subsection 1309.5 is added to read as follows:

1309.5 An employer shall not knowingly allow, require, permit, or authorize any of its drivers to engage in texting or using a hand-held mobile telephone while driving.

Section 1310, COMMERCIAL DRIVER’S LICENSE CONTENT, is amended as follows:

The section heading is amended to read as follows:

1310 COMMERCIAL DRIVER LICENSE CONTENT

Section 1310.1 is amended by striking the word “driver’s” and inserting the word “driver” in its place.

Subsection 1310.2 is added to read as follows:

1310.2 The commercial learner permit shall be marked “CLP” and shall include, in addition to the information included on a regular driver license, the group(s) of commercial motor vehicles that the permittee is authorized to operate, as specified by class in § 1312 and by endorsement in § 1313.

Section 1311, DURATION OF COMMERCIAL DRIVER’S LICENSE, is amended as follows:

The section heading is amended to read as follows:

1311 DURATION OF COMMERCIAL DRIVER LICENSE

Section 1311 is amended by striking the word “driver’s” wherever it appears and inserting the word “driver” in its place.

Section 1312, DRIVER’S LICENSE TYPE AND CLASS, is amended as follows:

The section heading is amended to read as follows:

1312 DRIVER LICENSE TYPE AND CLASS

Subsection 1312.1 is amended to read as follows:

1312.1 The following types of driver licenses shall be issued by the Director, Department of Motor Vehicles, or his or her designee:

- (a) Regular Driver License - For persons qualifying to operate Class “D,” Class “M”, and Class “N” vehicles;
- (b) Commercial Driver License - For persons qualifying to operate Class “A,” Class “B,” and Class “C” vehicles;
- (c) Learner Driver License - For persons qualifying to operate Class “D,” and Class “M” vehicles, during a period of instruction; and
- (d) Commercial Learner Permit - For persons qualifying to operate Class “A”, Class “B,” and Class “C” vehicles, during a period of instruction.

Subsection 1312.2 is amended by striking the word “driver’s” and inserting the word “driver” in its place.

Section 1313, DRIVER’S LICENSE ENDORSEMENTS AND RESTRICTIONS, is amended as follows:

The section heading is amended to read as follows:

1313 COMMERCIAL DRIVER LICENSE AND COMMERCIAL LEARNER PERMIT ENDORSEMENTS AND RESTRICTIONS

Subsection 1313.1 is amended by striking the word “driver’s” and inserting the word “driver” in its place.

Paragraph (f) is amended by striking the word “Motorcycles” and inserting the word “Motorcycle” in its place.

Paragraph (g) is amended by striking the phrase “Commercial Driver’s Instruction License” and inserting the phrase “Commercial Learner Permit” in its place.

Paragraph (h) is amended by striking the phrase “Commercial Driver’s Instruction License” and inserting the phrase “Commercial Learner Permit” in its place.

Paragraph (i) is amended by striking the phrase “Commercial Driver’s Instruction License” and inserting the phrase “Commercial Learner Permit” in its place.

Subsection 1313.3 is amended by striking the word “driver’s” and inserting the word “driver” in its place.

A new Subsection 1313.5 is added to read as follows:

1313.5 A commercial learner permit holder with a passenger endorsement shall not operate a commercial motor vehicle carrying passengers, other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver license holder accompanying the commercial learner permit holder as prescribed by §§ 1302.5 and 1302.6 of this chapter.

A new Subsection 1313.6 is added to read as follows:

1313.6 A commercial learner permit holder with a school bus endorsement shall not operate a school bus with passengers other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver license holder accompanying the commercial learner permit holder as prescribed by §§ 1302.5 and 1302.6 of this chapter.

A new Subsection 1313.7 is added to read as follows:

1313.7 A commercial learner permit holder with a tanker endorsement may only operate an empty tank vehicle and shall not operate a tank vehicle that previously contained hazardous materials that has not been purged of any residue.

Section 1314, PROCEDURES FOR LICENSING ACTIONS, is amended as follows:

Section 1314 is amended by striking the word “driver’s” wherever it appears and inserting the word “driver” in its place.

Section 1315, COMMERCIAL DRIVER’S LICENSE KNOWLEDGE TEST, is amended as follows:

The section heading is amended to read as follows:

1315 COMMERCIAL DRIVER LICENSE KNOWLEDGE TEST

Subsections 1315.1, 1315.2, 1315.4a, and 1315.5 are amended by striking the word “driver’s” wherever it appears and inserting the word “driver” in its place.

Section 1316, COMMERCIAL DRIVER’S LICENSE SKILLS TEST, is amended as follows:

The section heading is amended to read as follows:

1316 COMMERCIAL DRIVER LICENSE SKILLS TEST

Subsections 1316.1, 1316.3, 1316.4, and 1316.5, and 1316.7 are amended by striking the word “driver’s” wherever it appears and inserting the word “driver” in its place.

Subsection 1316.8 is added to read as follows:

1316.8 If allowed by another U.S. jurisdiction, a District of Columbia resident who has taken commercial driver license training in that jurisdiction may take the skills test in that jurisdiction. The test results will be accepted as if the tests were administered in the District.

Section 1318, TEST WAIVER, is amended as follows:

Subsection 1318.1 is amended by striking the word “driver’s” wherever it appears and inserting the word “driver” in its place.

Section 1319, OUT-OF-SERVICE ORDERS, is amended as follows:

Subsection 1319.2 is amended by striking the phrase “commercial driver’s license” and inserting the phrase “commercial driver license or commercial learner permit” in its place.

Section 1321, RECIPROCITY, is amended as follows:

Subsection 1321.1 is amended as follows:

The lead-in text is amended by striking the phrase “commercial driver’s license or commercial driver’s instruction license” and inserting the phrase “commercial driver license or commercial learner permit” in its place.

Paragraph (a) is amended by striking the phrase “driver’s license” and inserting the phrase “commercial driver license or commercial learner permit” in its place.

Section 1322, COMPLIANCE, is amended as follows:

Subsection 1322 is amended by striking the phrase “commercial driver’s license or a commercial driver’s instruction license” wherever it appears and inserting the phrase “commercial driver license or a commercial learner permit” in its place.

Section 1326, FEES, is amended as follows:

Subsection 1326.1 is amended as follows:

The lead-in text is amended to read as follows:

1326.1 Every applicant for a commercial driver license or commercial learner permit shall pay a non-refundable fee, payable to the D.C. Treasurer, for the following transactions:

The chart is amended by:

Striking the phrase “Commercial Driver’s Learner Permit” and inserting the phrase “Commercial Driver Learner Permit”; striking the phrase “Commercial Driver’s License” and inserting the phrase “Commercial Driver License” in its place.

Subsection 1326.2 is amended by striking the phrase “Commercial Driver’s Instruction License” and inserting the phrase “Commercial Learner Permit” in its place.

Subsection 1326.3 is amended by striking the phrase “Commercial Driver’s Instruction License” and inserting the phrase “Commercial Learner Permit” in its place.

Section 1327, PHYSICAL QUALIFICATIONS AND EXAMINATIONS, is amended as follows:

Subsection 1327.1 is amended to read as follows:

1327.1 No person shall be issued or maintain a commercial driver license or commercial learner permit unless he or she is physically qualified and, except as provided in 49 C.F.R. § 391.49, presents to the Department a valid medical examiner’s certificate, as set forth in 49 C.F.R. § 391.43(h) that is not more than two (2) years old.

Subsection 1327.3 is amended to read as follows:

1327.3 Except as otherwise provided in this section, a medical examination to determine an applicant's physical qualification to operate a commercial motor vehicle shall be performed by a medical practitioner who is listed on the National Registry of Certified Medical Examiners.

Subsection 1327.4 is amended by striking the phrase “ophthalmologist or”.

Subsection 1327.7 is amended by striking the word “driver’s” and inserting the word “driver” in its place.

Section 1329, EXEMPTIONS TO THE COMMERCIAL DRIVER’S LICENSE REQUIREMENTS, is amended as follows:

The section heading is amended to read as follows:

1329 EXEMPTIONS TO THE COMMERCIAL DRIVER LICENSE REQUIREMENTS

Section 1399, DEFINITIONS, is amended as follows:

Subsection 1399.1, is amended as follows:

By striking “Commercial Driver’s Instruction License” and inserting “Commercial Learner Permit” in its place; and by striking “Commercial Driver’s License” and inserting “Commercial Driver License” in its place.

By adding the following definitions to read as follows:

Mobile telephone -- a mobile communication device that falls under or uses any commercial mobile radio service, as defined in regulations of the Federal Communications Commission, 47 C.F.R. part 20.3. It does not include two-way or Citizens Band Radio services.

School bus -- a bus which is regularly used by or on behalf of a school to transport children to or in connection with school activities; Provided, that this definition shall not include buses operated by common carriers which are not used primarily for the transportation of school children, or vehicles owned by the United States government.

Texting -- means manually entering alphanumeric text into, or reading text from, an electronic device that includes, but is not limited to, short message service, e-mailing, instant messaging, a command or request to access an internet page, or engaging in any other form of electronic text retrieval or entry, for present or future communication.

DEPARTMENT OF HEALTH

NOTICE OF THIRD PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in Section 2 of the Regulation of Body Artists and Body Art Establishments Act of 2012, effective October 23, 2012 (D.C. Law 19-0193; D.C. Official Code §§ 7-731(a)(10) (2012 Repl.) and §§ 47-2809.01 *et seq.* (2015 Supp.)); and Mayor’s Order 2007-63(#2), dated March 8, 2007, hereby gives notice of the intent to adopt new body art regulations in Title 25 (Food Operations and Community Hygiene Facilities), Subtitle G (Body Art Establishment Regulations) of the District of Columbia Municipal Regulations (DCMR).

The purpose of this proposed rulemaking is to provide regulatory oversight of body art pursuant to the recently enacted “Regulation of Body Artists and Body Art Establishments Act of 2012”, effective October 23, 2012 (D.C. Law 19-0193; D.C. Official Code §§ 7-731(a)(10) (2012 Repl.), and 47-2809.01 *et seq.*) (2014 Supp.). This legislation provides the Department of Health with exclusive regulatory oversight of body art establishments in Title 25, Subtitle G of the District of Columbia Municipal Regulations (DCMR) and will enable the District of Columbia to protect public health and safety in body art procedures.

A Notice of Second Proposed Rulemaking, which was published in the *D.C. Register* on July 25, 2014 at 61 DCR 07425, addressed public comments to the first Notice of Proposed Rulemaking published in the *D.C. Register* on September 6, 2013 at 60 DCR 12675. However, in response to negative public comments to the Notice of Second Proposed Rulemaking, the Department of Health and the Department of Consumer and Regulatory Affairs, in conjunction with the D.C. Board of Barber and Cosmetology, formed a Body Artist Regulations Core Workgroup and worked together – from August to December 2014 on a weekly basis – to ensure the Notice of Third Proposed Rulemaking addressed the public’s concerns. Substantial changes to this proposed rulemaking involved removing sterile water requirements, the term “dyes”, and charts 2 and 3. The proposed rulemaking also uses the term “operator” instead of “licensee”; adds a new Section 601; and revises language throughout the document for correct industry usage and clarity.

The Director also gives notice of the intent to take final rulemaking action to adopt the proposed rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. The proposed rules shall not become effective until a Notice of Final Rulemaking is published in the *D.C. Register*.

Subtitle G, BODY ART ESTABLISHMENT REGULATIONS, of Title 25 DCMR, FOOD OPERATIONS AND COMMUNITY HYGIENE FACILITIES, is added to read as follows:

SUBTITLE G BODY ART ESTABLISHMENT REGULATIONS**CHAPTER 1 TITLE, INTENT, SCOPE**

- 100 Title — Body Art Establishment Regulations**
- 101 Intent — Safety**
- 102 Compliance with Federal and District Laws**

CHAPTER 2 SUPERVISION AND TRAINING, AND PRE- AND POST-OPERATING PROCEDURES

- 200 Operators Responsibilities — Qualifications and Training***
- 201 Pre-Operating Procedures — Age Restrictions Signs and Posting***
- 202 Pre-Operating Procedures — Health Risk Statements, Content, and Posting***
- 203 Pre-Operating Procedures — Jewelry Selection, and Equipment Setup***
- 204 Post-Operating Procedures — Aftercare Instructions, Content***

CHAPTER 3 OPERATING PROCEDURES TO PREVENT CROSS-CONTAMINATION, AND RECORDKEEPING REQUIREMENTS

- 300 Preventing Contamination — Distilled Water, Inks, Pigments, and Pre-Sterilized, Single-Use Disposable Items**
- 301 Preventing Contamination — Pre-Sterilized, Single-Use Disposable Sharps**
- 302 Preventing Cross-Contamination from Body Artists — Work Areas, Construction and Design, and Restrictions**
- 303 Preventing Cross-Contamination from Customers**
- 304 Preventing Contamination — Reusable Instruments and Equipment, Design, Location, and Maintenance Log**
- 305 Preventing Contamination — Marking Instruments and Stencils***
- 306 Preventing Contamination — Pre-Sterilized, Single-Use Jewelry***
- 307 Preventing Contamination — BioHazard and Infectious Waste, Handling and Disposal***
- 308 Preventing Contamination — Infection Prevention and Exposure Control Plan**
- 309 Preventing Contamination — Reusable Instruments and Sterilization Procedures***
- 310 Maintenance Records — Sterilizers and Commercial Biological Indicator Monitoring System, and Retention***
- 311 Maintenance Records — Sterilizers***
- 312 Records of Acquisitions — Disposables, Single-Use, Pre-Sterilized Instruments, and Record Retention***
- 313 Recordkeeping Requirements — Confidential, Personnel Files***
- 314 Recordkeeping Requirements — Required Disclosures***
- 315 Recordkeeping Requirements — Retention**
- 316 Recordkeeping Requirements — Reports of Infection or Allergic Reactions**

CHAPTER 4 PHYSICAL STRUCTURE, OPERATING SYSTEM AND DESIGN

- 400 Physical Structure — Building Materials and Workmanship**
- 401 Physical Structure — Floor and Wall Junctures, Covered, and Enclosed or Sealed**
- 402 Physical Structure — Floors, Walls, Ceilings, and Utility Lines**
- 403 Operating Systems and Design — Plumbing System, Design, Water Capacity, Quantity, and Availability***
- 404 Operating Systems and Design — Handwashing Sinks, Water Temperature, and Flow**

- 405 Operating Systems and Design — Toilets and Urinals, Number, Capacity, Convenience and Accessibility, Enclosures, and Prohibition*
- 406 Operating Systems and Design — Electrical, Lighting*
- 407 Operating Systems and Design — Electrical, Smoke Alarms
- 408 Operating Systems and Design — Heating and Ventilation Systems

CHAPTER 5 FACILITY MAINTENANCE

- 500 Facility Maintenance — Toilets and Urinals, Maintenance*
- 501 Facility Maintenance — Handwashing Sinks, Cleanser Availability, Hand Drying Provision, and Handwashing Signage
- 502 Facility Maintenance — Handwashing Sinks, Disposable Towels, and Waste Receptacles
- 503 Facility Maintenance — Floor Covering, Restrictions, Installation, and Cleanability
- 504 Facility Maintenance — Floors, Public Areas
- 505 Facility Maintenance — Cleanability, Sanitization and Maintenance of Plumbing Fixtures
- 506 Facility Maintenance — Refuse, Removal Frequency
- 507 Facility Maintenance — Unnecessary Items, Litter, and Controlling and Removing Pests
- 508 Facility Maintenance — Professional Service Contracts
- 509 Facility Maintenance — Prohibiting Animals*

CHAPTER 6 APPLICATION AND LICENSING REQUIREMENTS

- 600 License and Certificate of Occupancy Requirements*
- 601 Registration Requirements for Suppliers and Manufacturers
- 602 Application Procedure — Period and Form of Submission, Processing
- 603 Application Procedure — Contents of the Application Packet
- 604 Denial of Application for License — Notice
- 605 Issuance of License — New, Converted or Remodeled, Existing Operations, and Change of Ownership or Location
- 606 Issuance of License — Required Plan Reviews and Approvals
- 607 Issuance of License — Inspections - Preoperational, Conversions, and Renovations*
- 608 Issuance of License — Notice of Opening, Discontinuance of Operation, and Postings
- 609 Issuance of License — Not Transferable
- 610 Issuance of License — Duplicates
- 611 Conditions of License Retention — Responsibilities of the Operator

CHAPTER 7 INSPECTIONS, REPORTS, VIOLATIONS, CORRECTIONS, AND PROHIBITED CONDUCT AND ACTIVITIES

- 700 Access & Inspection Frequency — Department Right of Entry, Denial - Misdemeanor*
- 701 Report of Findings — Documenting Information and Observations
- 702 Report of Findings — Specifying Time Frame for Corrections
- 703 Report of Findings — Issuing Report and Obtaining Acknowledgement of Receipt
- 704 Report of Findings — Refusal to Sign Acknowledgment
- 705 Report of Findings — Public Information, Records Retention

- 706 Imminent Health Hazard – Ceasing Operations and Emergency Reporting to the Department of Health***
- 707 Imminent Health Hazard – Resumption of Operations**
- 708 Prohibited Conduct – Advertisements and Activities**
- 709 Critical Violations – Time Frame for Correction ***
- 710 Critical Violation – Verification and Documentation of Correction**
- 711 NonCritical Violations – Time Frame for Correction**
- 712 Request for Reinspection**

CHAPTER 8 ADMINISTRATIVE ENFORCEMENT ACTIONS AND ORDERS

- 800 Administrative Review – Conditions Warranting Remedies**
- 801 Administrative Review – Examining, Sampling, and Testing of Equipment, Water, Inks, Pigments, Reusable Instruments, Disposable Items, Jewelry, Sharps, Marking Instruments and Stencils, and Furnishings**
- 802 Administrative Review – Condemnation Order, Justifying Conditions and Removal of Equipment, Water, Inks, Pigments, Reusable Instruments, Disposable items, Jewelry, Sharps, Marking Instruments and Stencils, and Furnishings**
- 803 Administrative Review – Condemnation Order, Contents**
- 804 Administrative Review – Condemnation Order, Official Tagging or Marking of Equipment, Water, Inks, Pigments, Reusable Instruments, Disposable Items, Jewelry, Sharps, Marking Instruments and Stencil, and Furnishings**
- 805 Administrative Review – Condemnation Order, Removing the Official Tag or Marking**
- 806 Administrative Review – Condemnation Order, Warning or Informal Conference Not Required**
- 807 Administrative Review – Summary Suspension of License, Conditions Warranting Action**
- 808 Administrative Review – Contents of Summary Suspension Notice**
- 809 Administrative Review – Summary Suspension, Warning or Informal Conference Not Required**
- 810 Administrative Review – Summary Suspension, Time Frame for Reinspection**
- 811 Administrative Review – Summary Suspension, Term of Suspension, Reinstatement**
- 812 Administrative Remedies – Revocation or Suspension of License, or Denial of Application or Renewal of License**

CHAPTER 9 SERVICE OF PROCESS AND INFORMAL CONFERENCE

- 900 Service of Process – Notice, Proper Methods**
- 901 Service of Process – Restriction of Exclusion, Condemnation, or Summary Suspension Orders**
- 902 Service of Process – Notice, Effectiveness**
- 903 Service of Process – Proof of Proper Service**

CHAPTER 10 ADMINISTRATIVE AND CRIMINAL SANCTIONS, AND JUDICIAL REVIEW

- 1000 Civil Sanctions — Notice of Infractions**
- 1001 Criminal Sanctions — Criminal Fines, Imprisonment**
- 1002 Judicial Review — Appeals**

CHAPTER 99 DEFINITIONS

- 9900 General Provisions**
- 9901 Definitions**

CHAPTER 1 TITLE, INTENT, SCOPE

100 TITLE — Body Art Establishment Regulations

100.1 These provisions shall be known as the Body Art Establishment Regulations hereinafter referred to as “these regulations.”

101 INTENT — SAFETY

101.1 The purpose of these regulations is to protect the public’s health by keeping the District’s body art industry safe and sanitary.

101.2 These regulations:

- (a) Establish minimum standards for the design, construction, operation, and maintenance of body art establishments;
- (b) Establish minimum operational standards for sterilization, sanitation, cleaning and safety of the establishment, equipment, supplies, and work surface areas;
- (c) Set standards for maintenance and replacement of equipment and supplies;
- (d) Set standards for hygienic operations for personnel including vaccinations;
- (e) Establish recordkeeping and reporting requirements;
- (f) Establish prohibited conduct within body art establishments;
- (g) Establish licensing and registration requirement, and associated fee schedules;
- (h) Provide for enforcement through inspections, suspension and revocation of licenses and registrations, including the examination, embargo, or condemnation of unsanitary or unsafe jewelry, biohazard sharps

containers, disposable and non-disposable equipment, single-use products, wipes, gloves, towels, ointments, inks, needles, and disinfectants;

- (i) Establish fines and penalties; and
- (j) Establish definitions for this subtitle.

101.3 In accordance with the Regulation of Body Artists and Body Art Establishments Act of 2012, effective October 23, 2012 (D.C. Law 19-193; D.C. Official Code § 47-2853.76a. (2013 Supp.)), these regulations do not apply to:

- (a) A licensed physician or surgeon performing body art services for medical reasons;
- (b) A licensed funeral director performing body-piercing or tattooing services as required by that profession;
- (c) Laser tattoo removal procedures licensed by the District of Columbia Board of Medicine; or
- (d) Skin treatment procedures such as chemical peels or microdermabrasion licensed by the District of Columbia Board of Medicine.

101.4 Certain provisions of these regulations are identified as critical. Critical provisions are those provisions where noncompliance may result in injuries, spread of communicable diseases, or environmental health hazards. A critical item is denoted with an asterisk (*).

101.5 Certain provisions of these regulations are identified as noncritical. Noncritical provisions are those provisions where noncompliance is less likely to spread communicable diseases or create environmental health hazards. A section that is denoted in these regulations without an asterisk (*) after the head note is a noncritical item. However, a critical item may have a provision within it that is designated as a noncritical item with a superscripted letter “N” following the provision.

102 COMPLIANCE WITH FEDERAL AND DISTRICT LAWS

102.1 Body art establishments shall meet the following requirements:

- (a) 29 C.F.R. Part 1910 (Occupational Safety and Health Standard, Subpart Z – Toxic and Hazardous Substances);
- (b) 29 C.F.R. § 1910.1030(d) – Bloodborne Pathogen Standard;

- (c) The Regulation of Body Artists and Body Art Establishments Act of 2012, effective October 23, 2012 (D.C. Law 19-0193; D.C. Official Code § 47-2809.01 (2013 Supp.));
- (d) The Regulation of Body Artists and Body Art Establishments Act of 2012, effective October 23, 2012 (D.C. Law 19-0193; D.C. Official Code § 47-2853.76c, 47-2853.76d, and 47-2853.76e (2013 Supp.));
- (e) The Board of Barber and Cosmetology as specified in Chapter 37 of Title 17 of the District of Columbia Municipal Regulations, as amended; and
- (f) The District of Columbia's Construction Codes Supplements of 2013, Title 12 of the District of Columbia Municipal Regulations (61 DCR 13094 (March 28, 2014 – Part 2)), which consist of the following International Code Council (ICC):
 - (1) International Building Code (2012 edition);
 - (2) International Mechanical Code (2012 edition);
 - (3) International Plumbing Code (2012 edition);
 - (4) International Fire Code (2012 edition);
 - (5) International Existing Building Code (2012 edition); and
 - (6) The National Fire Protection Association (NFPA 70) National Electrical Code (2014 edition).

102.2 In enforcing the provisions of these regulations, the Department shall regulate certain aspects of a body art establishment's physical structure; operating systems, equipment, devices, fixtures, supplies, or furnishings in use before the effective date of these regulations based on the following considerations:

- (a) Whether the establishment's physical structure; operating systems, equipment, devices, fixtures, supplies, or furnishings used in a body art establishment, are in good repair or capable of being maintained in a hygienic condition in compliance with these regulations; or
- (b) The existence of a documented agreement with the operator that the physical structure; operating systems, equipment, devices, fixtures, supplies, or furnishings used in a body art establishment will be replaced by an agreed upon date.

CHAPTER 2 SUPERVISION AND TRAINING, AND PRE- AND POST-OPERATING PROCEDURES**200 OPERATORS' RESPONSIBILITIES – QUALIFICATIONS AND TRAINING***

- 200.1 Operators shall ensure that prior to working in their establishments, body artists are licensed in accordance with:
- (a) The Regulation of Body Artists and Body Art Establishments Act of 2012, effective October 23, 2012 (D.C. Law 19-0193; D.C. Official Code §§ 47-2853.76b, 76c, 47-2853.7, 47-2853.6d, and 47-2853.76e (2013 Supp.)); and
 - (b) The Board of Barber and Cosmetology as specified in Chapter 37 of Title 17 of the District of Columbia Municipal Regulations, as amended.
- 200.2 Operators shall ensure managers are on duty and on the premises during all hours of operations at each body art establishment.
- 200.3 Operators shall ensure body artists are on the premises during all hours of operations at each body art establishment.
- 200.4 Operators shall ensure body artists prior to working in a body art establishment provide proof of the following:
- (a) Proof that the body artist is eighteen (18) years of age or older. Proof of age shall be satisfied with a valid driver's license, school-issued identification, or other government issued identification containing the date of birth and a photograph of the individual;
 - (b) Record of current hepatitis B vaccination, including applicable boosters, unless the body artist can demonstrate hepatitis B immunity or compliance with current federal OSHA hepatitis B vaccination declination form; and
 - (c) Training in Biohazard issues and handling in accordance with Occupational Safety and Health Administration standards in accordance with 29 C.F.R. – Part 1910 – Occupational Safety and Health Standard, Subpart Z – Toxic and Hazardous Substances, including universal precautions in accordance with 29 C.F.R. § 1910.1030(d) – Bloodborne pathogens.
- 200.5 Operators shall ensure that only single-use disposable sharps, pigments, gloves, and cleansing products shall be used in connection with body art procedures in body art establishments in accordance with these regulations.

201 PRE-OPERATING PROCEDURES – AGE RESTRICTION SIGNS AND POSTING*

201.1 Operators shall ensure its customers are eighteen (18) years of age in order to receive a body art procedure in accordance with the Regulation of Body Artists and Body Art Establishments Act of 2012, effective October 23, 2012 (D.C. Law 19-193; D.C. Official Code § 47-2853.76e(b) (2013 Supp.)).

201.2 Operators shall ensure that before piercing a minor’s ears with an ear piercing gun, the minor shall be accompanied by a parent or legal guardian, as specified in Section 201.3(b) and the parent or legal guardian shall have submitted a signed “Parental/Legal Guardian Authorization Form” to the establishment, as specified in Subsection 201.3(b).

201.3 Operators shall conspicuously post an “Age Restriction Sign” at or near the reception area with the following text:

<p>(a) INDIVIDUALS LESS THAN 18 YEARS OF AGE ARE <u>PROHIBITED</u> FROM OBTAINING ANY BODY ART PROCEDURE, <i>EXCEPT EAR PIERCING PROCEDURES USING A MECHANIZED, PRE-STERILIZED SINGLE-USE STUD AND CLASP EAR PIERCING GUN;</i> AND</p> <p>(b) EAR PIERCING IDENTIFIED IN SECTION “(a)” IS AUTHORIZED ONLY WITH THE WRITTEN CONSENT OF A PARENT OR LEGAL GUARDIAN SUBMITTED TO THE ESTABLISHMENT AND IF THE MINOR IS ACCOMPANIED BY A PARENT OR LEGAL GUARDIAN AT THE TIME OF THE EAR PIERCING.</p>

202 PRE-OPERATING PROCEDURES – HEALTH RISK STATEMENTS, CONTENT, AND POSTING*

202.1 Operators shall ensure customers are reminded to consult with their physician regarding any medical condition which could be exacerbated by body art procedures.

202.2 Operators shall conspicuously post a disclosure sign in the reception area that is legible, clearly visible, not obstructed by any item for viewing by customers.

202.3 The lettering on the sign shall be at least five millimeters (5 mm) high for the phrase “REQUIRED DISCLOSURE”. All capital letters shall be at least five millimeters (5 mm) high and all lower case letters shall be at least three millimeters (3 mm) high. The disclosure sign shall read as follows:

REQUIRED DISCLOSURE

The United States Food and Drug Administration has not approved any pigment color additive for injectable use as tattoo ink. There may be a risk of carcinogenic decomposition associated with certain pigments when the pigments are subsequently exposed to concentrated ultra-violet light or laser irradiation.

203 PRE-OPERATING PROCEDURES — JEWELRY SELECTION, AND EQUIPMENT SETUP*

203.1 All licensed operators shall ensure customers and body artists select together the appropriate size and quality of jewelry prior to beginning the body-piercing procedure. Appropriate jewelry shall be made of:

- (a) ASTM F138, ISO 5832-1, ISO 10993-6, ISO 10993-10 and/or 10993-11, and stainless steel;
- (b) Solid 14k through 18k yellow or white gold;
- (c) Niobium;
- (d) ASTM F136 titanium or ASTM F67 titanium;
- (e) Platinum; or
- (f) Other materials found to be equally biocompatible.

203.2 All jewelry shall be free of nicks, scratches, or irregular surfaces and is properly sterilized prior to use.

203.3 All equipment and supplies, including but not limited to distilled water, inks, pigments, and all packages containing sterile instruments, pre-sterilized, single-use jewelry, and pre-sterilized, single-use disposable items shall be opened in front of the customer.

204 POST-OPERATING PROCEDURES — AFTERCARE INSTRUCTIONS, CONTENT *

204.1 Operators shall ensure after each body art procedure, the body artist provides the customer with “Aftercare Instructions”, which include the following information:

- (a) The name of the body artist who performed the procedure; and

- (b) The name, address, and telephone of the establishment where the procedure was performed.

204.2 Written “Aftercare Instructions” for tattoo procedures shall provide:

- (a) Information on the care of the procedure site;
- (b) Restrictions on physical activities such as bathing, recreational water activities, gardening, or contact with animals; and duration of the restrictions;
- (c) The need to properly cleanse the tattooed area;
- (d) The use of sterile bandages(s) or other sterile dressings(s) when necessary; and
- (e) Instructions for the customer to consult the body artist or health care practitioner at the first sign of infection or an allergic reaction, and to report a diagnosed infection, allergic reaction, or adverse reaction resulting from the application of the tattoo to the body artist and to the Department at (202) 724-8800.

204.3 Written “Aftercare Instructions” for body-piercing procedures shall state:

- (a) Proper cleansing techniques for the pierced area;
- (b) The need to minimize physical activities as specified in Subsection 204.2(b) for at least six (6) weeks;
- (c) Use of sterile bandages(s) or other sterile dressings(s) when necessary;
- (d) The name of the body artist, and the name, address, and telephone of the establishment where the procedure was performed; and
- (e) The instructions for the customer to consult the body artist or a health care practitioner at the first sign of infection or an allergic reaction, and to report any diagnosed infection, allergic reaction, or adverse reaction resulting from the body-piercing to the body artist and to the Department at (202) 724-8800.

CHAPTER 3 OPERATING PROCEDURES TO PREVENT CROSS-CONTAMINATION, AND RECORDKEEPING REQUIREMENTS

300 PREVENTING CONTAMINATION — DISTILLED WATER, INKS, PIGMENTS, AND PRE-STERILIZED, SINGLE-USE DISPOSABLE ITEMS

- 300.1 Operators shall ensure only distilled water is used to mix and dilute inks or pigments, and shall not use tap water.
- 300.2 Operators shall ensure tattoo artists use inks, and pigments that are specifically manufactured for performing body art procedures in accordance with manufacturer's instructions.
- 300.3 Operators shall ensure tattoo artists transfer the quantity of ink and pigment to be used in the body art procedure from the ink and pigment bottle and place it into a single-use paper or plastic cup or cap immediately before a tattoo is applied and discarded immediately upon completion of a tattoo.
- 300.4 Single-use, disposable items, including but not limited to cups, cotton swabs, corks, rubber bands, and toothpicks shall be maintained in clean condition and dispensed in a manner to prevent contamination to unused pre-sterilized, single-use disposable items.
- 300.5 Single-use plastic covers shall be used to cover spray bottles or other reusable accessories and discarded immediately upon completion of the procedure.
- 300.6 Inks, pigments, soaps, and other products in multiple-use containers shall be dispensed in a manner that prevents contamination of the storage container and the remaining unused portion through the use of a single-use receptacle.
- 300.7 If a tray is used for inks or pigments, it shall be decontaminated after use on each customer.

301 PREVENTING CONTAMINATION — PRE-STERILIZED, SINGLE- USE DISPOSABLE SHARPS

- 301.1 Operators shall ensure tattoo artists use only pre-sterilized, single-use disposable sharps, including but not limited to needles, and razors on an individual during a single piercing or tattooing, and immediately dispose of the pre-sterilized, single-use disposable sharps into a medical-grade sharps container.
- 301.2 Operators shall ensure body artists shall use single-use disposable needles and equipment that is specifically manufactured for performing body art procedures in accordance with manufacturer's instructions.

302 PREVENTING CROSS-CONTAMINATION FROM BODY ARTISTS — WORK AREAS, CONSTRUCTION AND DESIGN, AND RESTRICTIONS

- 302.1 Operators shall ensure body artists encountering a biohazard or other health hazards report it immediately to the manager.

- 302.2 Operators shall ensure body artists use only single-use jewelry on an individual and the single-use jewelry shall not be reused on another customer.
- 302.3 All body artists shall wear single-use aprons or lap cloths and single-use gloves which shall be disposed of after completing a procedure on a customer.
- 302.4 Operators shall ensure body artists use pre-sterilized, single-use disposable equipment. For equipment that is not disposable, operators shall ensure body artists use reusable equipment, such as surgical steel forceps, that is sterilized as specified in Subsections 304.14 and 304.15.
- 302.5 All operators shall ensure body artists:
- (a) Wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices while on duty;
 - (b) Wash their hands, wrists and arms to the elbow thoroughly using hot or tempered water with a liquid germicidal soap before and after tattooing or body-piercing and as often as necessary to remove contaminants;
 - (c) Dry hands thoroughly with single use disposable towel;
 - (d) Don new medical-grade latex, vinyl or hypoallergenic single-use disposable gloves on both hands when touching, decontaminating, or handling a surface, object, instrument, or jewelry that is soiled or that is potentially soiled with human blood; and
 - (e) Don new medical-grade latex, vinyl or hypoallergenic single-use disposable gloves while assembling tattooing and body-piercing instruments and during tattooing and body-piercing procedures, as specified in Chapter 3.
- 302.6 When a body art session is interrupted, or immediately after gloves are torn or perforated, operators shall ensure the tattoo artist or body-piercer:
- (a) Remove and discard the gloves;
 - (b) Wash and dry their hands as specified in Subsections 302.5(b) and (c); and
 - (c) Don a new pair of gloves, as specified in Subsection 302.5(d).
- 302.7 Operators shall ensure body artists use the following universal precautions for all body art procedures:
- (a) Don new gloves for routine disinfecting procedures;

- (b) Move in such a manner as to avoid re-contamination of work surfaces;
- (c) Discard and remove disposable items from work areas after completing a body art procedure on each customer;
- (d) Disinfect work surface areas and all equipment that may have been contaminated during the body art procedure;
- (e) Dispose of single-use apron and/or lap cloths after use on each customer;
- (f) Remove and discard gloves and wash hands;
- (g) Discard materials in appropriate red biohazard waste bags after use on each customer;
- (h) Disinfect all reusable equipment made of non-porous material after each use. Non-spray wipes for surfaces and liquids for soaking jewelry are preferred over spray disinfectants which may disperse pathogens into the air;
- (i) Apply iodine, bacitracin and other antiseptics with single-use applicators. Applicators that have touched a customer shall not be used to retrieve antiseptics, iodine, etc. from any containers;
- (j) Clean contaminated instruments (such as forceps or pliers) of bacitracin or other antibiotic solutions, blood and other particles with an appropriate soap or disinfectant cleaner and hot water, followed by an ultrasonic cleaner and steam autoclave; and
- (k) Use sterilization equipment, as specified in Subsections 304.14 through 304.16, and 311.

- 302.8 Workstations in a body art establishment shall be constructed and maintained to ensure customer privacy by using curtains, folding screens, or individual rooms, and shall not be used as a walk-thru to gain access to other rooms or exits.
- 302.9 All workstations shall be constructed and equipped with floors, chairs, and table tops that are non-porous, smooth and easily cleanable and maintained in a clean and sanitary manner.
- 302.10 Carpet is not permitted as a floor covering in a work area where tattooing or body piercing is conducted.
- 302.11 All workstations shall contain a medical-grade sharps container.

- 302.12 Operators shall ensure each work station for tattoo or body-piercing procedure provides a body artist with a minimum of forty-five square feet (45 sq. ft.) of floor space.
- 302.13 Each body art establishment shall have a separate cleaning area for decontamination and sterilization procedures, in which the placement of a sterilizer is at least thirty-six (36) inches away from the placement of the required ultrasonic cleaning unit and any sink.
- 302.14 All solid surfaces and objects in the procedure area and the decontamination and sterilization area that have come in contact with the customer or the materials used in performing the tattoo or body-piercing, including but not limited to chairs, armrests, tables, countertops, and trays, shall be immediately decontaminated after each use and then disinfected by application of a disinfectant, used according to manufacturer's instructions.
- 302.15 The surfaces and objects in the procedure area shall be disinfected again if an activity that poses a potential contamination occurred in the area after the area was disinfected.

303 PREVENTING CROSS-CONTAMINATION FROM CUSTOMERS

- 303.1 Operators shall ensure that any skin or mucosa surface to receive a body art procedure is free of a rash or any visible infection and shall comply with the following procedures in preparing the customer's skin:
- (a) Clean the area of the customer's skin subject to the body art with an approved germicidal soap according to the label directions. In the case of:
 - (1) Oral piercings, the body artist shall provide the individual with antiseptic mouthwash in a single-use cup and shall ensure that the individual utilizes the mouthwash provided; or
 - (2) Lip, labret, or cheek piercing, the body artist shall follow the procedures identified in this section for skin and oral piercings.
 - (b) Use single-use disposable razors if shaving is required. The razor shall be immediately placed in a medical-grade sharps container after use;
 - (c) Wash the skin and surrounding area with soap and water, following shaving, and immediately discard the washing pad after use;
 - (d) Use single-use products only to stop the bleeding or to absorb blood, and discard immediately after use in appropriate red biohazard waste bags, and dispose of in accordance with Subsection 307.2; and

- (e) Use sterile gauze or other sterile applicator to dispense and apply petroleum jelly, soaps, and other products in the application of stencils on the area to receive a body art procedure to prevent contamination of the original container and its contents. The applicator or gauze shall be used once and then discarded immediately in the appropriate red biohazard waste bags as specified in Subsection 307.2.

304 PREVENTING CONTAMINATION – REUSABLE INSTRUMENTS AND EQUIPMENT, DESIGN, LOCATION, AND MAINTENANCE LOG

- 304.1 Operators shall ensure reusable instruments that are used during body art procedures which may contact blood or other bodily fluids, or which come in direct contact with skin which is not intact, shall be sterilized after each use or disposed of after each use.
- 304.2 Operators shall ensure reusable instruments that are used during tattooing and body-piercing procedures which do not come in contact with broken skin but which may come in contact with mucous membranes and oral tissue shall be sterilized after each use.
- 304.3 Operators shall ensure reusable instruments or reusable items that do not come in contact with non-intact skin or mucosal surfaces shall be washed with a solution of soap and distilled water, using a brush that is small enough to clean the interior surfaces, and decontaminated after each procedure.
- 304.4 Operators shall ensure that if it is not feasible to sterilize the reusable instruments because it will be damaged during the body art procedure, the reusable instruments, including but not limited to calipers and gauge wheels shall be treated with a germicidal solution prior to use.
- 304.5 Operators shall ensure reusable instruments that come in contact only with intact skin or mucosal surfaces shall either be single-use or washed in distilled water, disinfected, packaged, and sterilized after each procedure.
- 304.6 Operators shall ensure that contaminated, reusable instruments shall be placed in a labeled covered container which shall contain a disinfectant solution such as 2.0% alkaline glutaraldehyde or similar disinfectant until it can be cleaned and sterilized.
- 304.7 Operators shall ensure that all containers holding contaminated reusable instruments and container lids shall be emptied of contaminated solution and cleaned and sanitized daily or more often if needed.
- 304.8 Operators shall ensure that any part of a tattooing machine that may be touched by the tattoo artist during the procedure shall be covered with a disposable plastic sheath that is discarded upon completion of the procedure, and the tattoo machine

shall be decontaminated upon completion of the procedure, as specified in Subsections 308.1(c) and 309.

- 304.9 Operators shall ensure that a machine used to insert pigments shall be designed with removable parts between the tip and motor housing as specified in Subsections 308.1(c) and 309, and shall be designed in a manner that will prevent backflow into enclosed parts of the motor housing.
- 304.10 Operators shall ensure that a hand tool used to insert pigment shall be disposed of in a sharps medical-grade container, with the sharps intact, unless the needle can be mechanically ejected from the hand tool and disposed of in a sharps container, and the handle is then immediately sterilized before reuse.
- 304.11 Operators shall ensure body art establishments:
- (a) Place clean instruments to be sterilized first in sealed peel-packs that contain either a sterilizer indicator or internal temperature indicator. The outside of the pack shall be labeled with the name of the instrument, the date sterilized, and the initials of the person operating the sterilizing equipment;
 - (b) Place clean instruments and sterilized instrument packs in clean, dry, labeled container, or store in a labeled cabinet that is protected from dust and moisture;
 - (c) Store sterilized instruments in the intact peel-packs or in the sterilization equipment cartridge until time of use; and
 - (d) Evaluate sterilized instrument packs at the time of storage and before use. If the integrity of the pack is compromised, including but not limited to cases where the pack is torn, punctured, wet, or displaying any evidence of moisture contamination, the pack shall be discarded or reprocessed before use.
- 304.12 Operators shall ensure that reusable instruments or jewelry that come in contact with a customer, are sterilized as specified in Section 311.
- 304.13 Operators shall ensure that all reusable instruments shall be bagged, dated, and sealed before sterilizing.
- 304.14 Operators shall ensure that reusable instruments shall be sterilized in an FDA validated medical sterilizer in accordance with manufacturer instructions.
- 304.15 Operators shall ensure that after sterilizing equipment, the equipment shall be stored in a non-porous, dark, dry, cool place, such as a medical credenza.

304.16 Operators shall ensure that each body art establishment shall be equipped with a working sterilizer and with appropriate cleansing equipment, such as a working ultrasonic cleaner.

304.17 Operators shall ensure that at least one covered, foot operated solid waste receptacle, lined with disposable bags shall be provided in each:

- (a) Workstation;
- (b) At each handwash sink; and
- (c) In each toilet room.

305 PREVENTING CONTAMINATION — MARKING INSTRUMENTS AND STENCILS*

305.1 All licensed operators shall use marking instruments that are single-use and shall be used only on intact skin that has been treated with a germicidal soap.

305.2 Marking instruments that come in contact with mucous membranes or broken skin shall be single-use.

305.3 All stencils shall be single-use.

305.4 Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied using an aseptic technique and in a manner that prevents contamination of the original container and its content.

305.5 A product applied to the skin prior to tattooing or application of permanent cosmetics, including but not limited to stencils and marking and transfer agents, and pens, shall be single-use and discarded into red biohazard bags at the end of the procedure.

305.6 If measuring the body-piercing site is necessary, clean calipers shall be used and the skin marked using a single-use disposable implement, which includes a toothpick and non-toxic ink or a single-use skin marker.

306 PREVENTING CONTAMINATION — PRE-STERILIZED, SINGLE-USE JEWELRY*

306.1 Jewelry inserted into a healed piercing that has not been previously worn or contaminated shall be disinfected in accordance with manufacturer's instructions with a non-hazardous disinfectant approved by the EPA.

306.2 Jewelry placed in newly pierced skin shall be sterilized prior to piercing as specified in Subsection 304.13 or shall be purchased pre-sterilized as specified in Sections 309, 310, and 312.

307 PREVENTING CONTAMINATION — BIOHAZARD AND INFECTIOUS WASTE, HANDLING AND DISPOSAL*

307.1 Operators shall ensure all sharps are disposed of in medical-grade sharps containers and disposed of by professional environmental infectious waste disposal companies licensed in the District of Columbia, in accordance with Subsection 508.3.

307.2 All other supplies or materials that are contaminated with blood or other body fluids that are generated during a body art process, including but not limited to cotton balls, cotton tip applicators, corks, toothpicks, tissues, paper towels, gloves, single-use plastic covering, and pigment containers shall be discarded in red biohazard waste bags and disposed of by a professional environmental infectious waste disposal company licensed in the District of Columbia, in accordance with Subsection 508.3.

307.3 Solid waste that is not contaminated shall be placed in easily cleanable, sealed containers and disposed of in accordance with Section 506.

307.4 All solid waste containers shall be kept closed when not in use, and shall comply with Section 506.

308 PREVENTING CONTAMINATION — INFECTION PREVENTION AND EXPOSURE CONTROL PLAN

308.1 Operators shall ensure that each body art establishment develops, maintains and follows a written Infection Prevention and Exposure Control Plan provided by the operator that identifies the following;

- (a) Policies and procedures on universal precautions for exposure to bloodborne pathogens from blood and other potentially infectious materials;
- (b) Policies and procedures for decontaminating and disinfecting environmental surfaces;
- (c) Policies and procedures for decontaminating, packaging, sterilizing, and storing reusable instruments;
- (d) Policies and procedures for protecting clean instruments and sterile instrument packs from exposure to dust and moisture during storage;

- (e) Policies and procedures for setting up and tearing down workstations for all body art procedures performed at the body art establishment;
- (f) Policies and procedures to prevent the contamination of instruments or the procedure site during a body art procedure;
- (g) Policies and procedures for safe handling and disposal of sharps and bio-hazardous waste; and
- (h) Recommendations by the Centers for Disease Control and Prevention to control the spread of infectious disease and treat all human blood and bodily fluids as infectious through universal precautions.

308.2 Operators shall ensure routine on-site training on the establishment's Infection Prevention and Exposure Control Plan, and shall require additional training when a body artist:

- (a) Is exposed to an occupational hazard;
- (b) Performs a new procedure or there is a change in a procedure; and
- (c) The establishment purchases new equipment.

309 PREVENTING CONTAMINATION — REUSABLE INSTRUMENTS AND STERILIZATION PROCEDURES*

309.1 Operators shall ensure reusable instruments are cleaned by gloved personnel prior to sterilization using the following methods:

- (a) Pre-clean the items in an ultrasonic cleaning unit used according to the manufacturer's instructions. A copy of the manufacturers recommended procedures for operation of the ultrasonic cleaning unit shall be available for inspection by an authorized agent of the Department;
- (b) Manually clean the items by using a stiff bristle brush under water with a solution of low-residue detergent, with care taken to ensure the removal of any pigment or body substances not visible to the eye, thoroughly rinse with at least warm water and then drain, and clean by soaking in a protein dissolving detergent-enzyme cleaner used according to the manufacturer's instructions; or
- (c) Rinse and dry the items prior to packaging for sterilization.

310 MAINTENANCE RECORDS — STERILIZERS AND COMMERCIAL BIOLOGICAL INDICATOR MONITORING SYSTEM, AND RETENTION*

- 310.1 Operators shall ensure that sterilizers are loaded, operated, decontaminated, and maintained according to manufacturer's instructions, and only equipment manufactured for the sterilization of medical instruments shall be used.
- 310.2 Sterilization equipment shall be tested using a commercial biological indicator monitoring systems ("monitor") after:
- (a) Initial installation;
 - (b) Major repair;
 - (c) At least once per month; or
 - (d) At a minimum in compliance with the manufacturer's recommendation.
- 310.3 The expiration date of a monitor shall be checked prior to each use.
- 310.4 Each sterilization load shall be monitored with mechanical indicators for time, temperature, pressure, and at a minimum, Class V Indicators. Each individual sterilization pack shall have an indicator.
- 310.5 Biological indicator monitoring test results shall be recorded in a log that shall be kept on the premises for three (3) years after the date of the results.
- 310.6 A daily written log of each sterilization cycle shall be maintained on the premises for three (3) years for inspection by the Department and shall include the following information:
- (a) The date of the load;
 - (b) A list of the contents of the load;
 - (c) The exposure time and temperature;
 - (d) The results of the Class V Indicator; and
 - (e) For cycles where the results of the biological indicator monitoring test are positive, how the items were cleaned, and proof of a negative test before reuse.

311 MAINTENANCE RECORDS — STERILIZERS*

- 311.1 The Department shall require calibration of all sterilization equipment by an independent laboratory that will calibrate the equipment biennially or more frequently if recommended by the manufacturer and records of the calibrations

shall be maintained on the premises for inspection by the Department for three (3) years.

311.2 Sterilizers shall be spore tested in accordance with manufacturer's recommendations and records of the spore tests shall be maintained on the premises for three (3) years after the date of the results for inspection by the Department.

312 RECORDS OF ACQUISITIONS – DISPOSABLES, SINGLE-USE, PRE-STERILIZED INSTRUMENTS, AND RECORD RETENTION*

312.1 Operators that do not provide access to a decontamination and sterilization area that is in compliance with these regulations, or that do not have sterilization equipment as specified in Section 310 shall:

- (a) Ensure only disposable, single-use, pre-sterilized instruments and supplies are used as specified in Subsection 200.5;
- (b) Purchase disposable, single-use, pre-sterilized medical-grade instruments, including but not limited to sharps and medical-grade items, including but not limited to latex, vinyl or hypoallergenic gloves, and cleansing products, from medical suppliers registered in the District of Columbia; and
- (c) Maintain for ninety (90) days:
 - (i) A record of the purchase and use of all disposable, single-use, pre-sterilized medical-grade instruments and pigments, as specified in Subsection 314.1;
 - (ii) A record of all body art procedures, including the names of the tattoo artist or body-piercer and the customer; and
 - (iii) The date of the body art procedure.

313 RECORDKEEPING REQUIREMENTS – CONFIDENTIAL, PERSONNEL FILES*

313.1 Operators shall maintain a procedural manual at the body art establishment which shall be available at all times to operators and the Department during each inspection.

313.2 Each body art establishment's personnel manual shall maintain the following information regarding body artist, in addition to Subsection 200.4:

- (a) Full legal name;

- (b) Home address and telephone number(s);
- (c) Professional licenses and training certifications, if applicable; and
- (d) Proof that he or she is eighteen (18) years of age or older with a driver's license or other government issued identification containing the date of birth and a photograph of the individual, or school issued identifications; and
- (e) Proof of compliance with pre-employment requirement of current hepatitis B vaccination, including applicable boosters, unless the body artist:
 - (1) Demonstrates hepatitis B immunity; or
 - (2) Compliance with current federal OSHA hepatitis B vaccination declination requirements.

314 RECORDKEEPING REQUIREMENTS – REQUIRED DISCLOSURES*

- 314.1 Each body art establishment offering tattoo procedures shall keep on the premises documentation of the following information, and shall disclose and provide this information to customers upon request:
- (a) The actual pigments used in the body art establishment;
 - (b) The names, addresses, and telephone numbers of the suppliers and manufacturers of pigments used in the body art establishment for the past three (3) years; and
 - (c) Identification of any recalled pigments used in the establishment for the past three (3) years and the supplier and manufacturer of each pigment.
- 314.2 A list of emergency contact numbers shall be easily accessible to all personnel and shall include, but is not limited to:
- (1) The nearest hospital;
 - (2) The nearest fire department; and
 - (3) Emergency 911 service.
- 314.3 All files identified in this section that are maintained electronically shall be frequently backed up and accessible from multiple locations, if applicable.
- 314.4 An electronic record shall be retrievable as a printed copy.

315 RECORDKEEPING REQUIREMENTS – RETENTION

315.1 The operator shall maintain all records at the establishment for at least three (3) years or longer if required by any other applicable District law or regulation. The records shall be readily available for review by the Department upon request.

316 RECORDKEEPING REQUIREMENTS – REPORTS OF INFECTION OR ALLERGIC REACTIONS

316.1 Operators shall maintain a document called a “Report of Infection or Allergic Reactions” that details infections and allergic reactions reported to the body artist or the body art establishment by a customer, as specified in Subsection 204.2(e).

316.2 Operators shall submit to the Department a written report of any diagnosed infections or allergic reactions resulting from a body art procedure within five (5) business days of its occurrence or knowledge thereof, as specified in Subsection 204.3(e).

316.3 The report shall include the following information:

- (a) Name, address, and telephone number of the affected customer;
- (b) Name, location, telephone number and license number of the establishment where the body art procedure was performed;
- (c) The complete legal name of the body artist and his or her license number;
- (d) The date the body art procedure was performed;
- (e) The specific color or colors of the tattoo or type of jewelry used for the body-piercing, and when available, the manufacturer’s catalogue or identification number of each color or type of jewelry used;
- (f) The location of the infection and the location on the body where the body art was applied;
- (g) The name and address of the health care practitioner, if any; and
- (h) Any other information considered relevant to the situation.

316.4 The Department shall use these reports in their efforts to identify the source of the adverse reactions and to take action to prevent its recurrence.

- 316.5 Operators shall maintain all reports pertaining to infections and allergic reactions at the establishment for review until the Department authorizes their disposal, as specified in Subsection 315.1.

CHAPTER 4 PHYSICAL STRUCTURE, OPERATING SYSTEMS AND DESIGN

400 PHYSICAL STRUCTURE – BUILDING MATERIALS AND WORKMANSHIP

- 400.1 Operators of a newly constructed, remodeled or renovated body art establishment shall ensure that the design, construction, building materials, and workmanship complies with the District's Construction Codes Supplements of 2013, as specified in Subsection 102.1(f) of this chapter, or later construction codes.
- 400.2 Operators of an existing body art establishment shall maintain in good condition the physical integrity of its establishment by repairing or replacing structural or design defects, operating systems, or fixtures in use before the effective date of these regulations in accordance with the District's Construction Codes Supplements of 2013, as specified in Subsection 102.1(f) of this chapter.
- 400.3 At least thirty (30) days before beginning construction or remodeling of a body art establishment, the operator shall submit construction plans with all schedules, including but not limited to floor plans, elevations, and electrical schematics, to the Department for review and approval, as specified in Section 605.

401 PHYSICAL STRUCTURE – FLOOR AND WALL JUNCTURES, COVERED, AND ENCLOSED OR SEALED

- 401.1 Exterior floor and wall junctures shall be covered and closed to no larger than one millimeter (1 mm.) or one thirty-second of an inch (1/32 in.).
- 401.2 Covering of floor and wall junctures shall be sealed.

402 PHYSICAL STRUCTURE – FLOORS, WALLS, CEILINGS, AND UTILITY LINES

- 402.1 All procedure areas and instrument cleaning areas shall have floors, walls and ceilings constructed of smooth, nonabsorbent and easily cleanable material. Outer openings shall provide protection against contamination from dust and other contaminants.
- 402.2 All floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are smooth and easily cleanable, except that antislip floor coverings or applications may be used for safety reasons.

- 402.3 All facilities shall have a waiting area that is separate from the body art procedure area, and from the instrument cleaning, sterilization, and storage areas.
- 402.4 The floors in the restrooms and locker rooms that are next to showers or toilets, or any other wet areas, shall be constructed of smooth, durable, nonabsorbent, and easily cleanable material.
- 402.5 Every concrete, tile, ceramic, or vinyl floor installed in bathrooms, restrooms, locker rooms, and toilet rooms, which are next to showers or toilets, shall be covered at the junctures between the floor and the walls.
- 402.6 All material used to cover the junctures shall be fitted snugly to the floor and the walls so that they are water tight and there are no openings large enough to permit the entrance of vermin.
- 402.7 The material used in constructing the walls and ceilings must be joined along their edges so as to leave no open spaces or cracks.
- 402.8 Utility service lines and pipes shall not be unnecessarily exposed.
- 402.9 Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.
- 402.10 Exposed horizontal utility service lines and pipes shall not be installed on the floor.

403 OPERATING SYSTEMS AND DESIGN — PLUMBING SYSTEM, DESIGN, WATER CAPACITY, QUANTITY, AND AVAILABILITY*

- 403.1 Each body art establishment's plumbing system shall be designed, constructed, installed, and maintained according to the International Plumbing Code (2012 edition), Subtitle F (Plumbing Code Supplement of 2013) of Title 12 of the District of Columbia Municipal Regulations and shall be of sufficient size to:
- (a) Meet the water demands of the body art establishment.
 - (b) Meet the hot water demands throughout the body art establishment.
 - (c) Properly convey sewage and liquid disposable waste from the premises;
 - (d) Avoid creating any unsanitary condition or constituting a source of contamination to potable water, or tattoo or body-piercing equipment, instruments; and
 - (e) Provide sufficient floor drainage to prevent excessive pooling of water or other disposable waste in all areas where floors are subject to flooding-

type cleaning or where normal operations release or discharge water or other liquid waste on the floor.

403.2 Each plumbing fixture such as a handwashing facility, toilet, or urinal shall be easily cleanable.^N

403.3 Each body art establishment shall be equipped with at least one janitorial sink.

403.4 Each body art establishment shall be equipped with effective plumbing and sewage facilities and adequate accommodations.

404 OPERATING SYSTEMS AND DESIGN — HANDWASHING SINKS, WATER TEMPERATURE, AND FLOW

404.1 All handwashing sinks, including those in toilet rooms, shall be equipped to provide water at a temperature of at least one hundred degrees Fahrenheit (100 °F) (thirty-eight degrees Celsius (38 °C)) through a mixing valve, a combination faucet, or tempered water and a single faucet.

404.2 A mixing valve shall not be used at a handwashing sink.

404.3 A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least fifteen (15) seconds without the need to reactivate the faucet.

404.4 Any automatic handwashing facility shall be installed in accordance with the manufacturer's instructions.

405 OPERATING SYSTEMS AND DESIGN — TOILETS AND URINALS, NUMBER, CAPACITY, CONVENIENCE AND ACCESSIBILITY, ENCLOSURES, AND PROHIBITION*

405.1 Toilet facilities shall be provided in accordance with the International Plumbing Code (2012 edition), Subtitle F (Plumbing Code Supplement of 2013) of Title 12 of the District of Columbia Municipal Regulations and maintained as specified in Section 500.

405.2 The operator shall, at a minimum:

- (a) Maintain the toilet facilities in a sanitary condition that is clean and free of solid waste and litter;
- (b) Keep the facilities in good repair at all times; and
- (c) Provide self-closing doors or locking door.

- 405.3 All single-stall toilet rooms shall display gender-neutral signs on the door that read “Restroom,” or have a universally recognized picture/symbol indicating that persons of any gender may use each restroom, in accordance with the D.C. Human Rights Act of 1977, effective December 13, 1977, as amended (D.C. Law 2-38; D.C. Official Code § 2-1403.01(c) (2012 Repl.)).
- 405.4 Body art establishments employing:
- (a) Five (5) or fewer body artists may provide a single toilet facility with a gender-neutral sign on the door in accordance with the D.C. Human Rights Act of 1977, effective December 13, 1977, as amended (D.C. Law 2-38; D.C. Official Code § 2-1403.01(c) (2012 Repl.)); or
 - (b) More than five (5) body artists shall have multiple toilet facilities that are either:
 - (1) Single-stall toilet rooms with a gender-neutral sign on each door as specified in Subsection 3101.2 in accordance with the D.C. Human Rights Act of 1977, effective December 13, 1977, as amended (D.C. Law 2-38; D.C. Official Code § 2-1403.01(c) (2012 Repl.)); or
 - (2) Multiple-stall toilet rooms with gender-specific signs on the doors that read “Men” and “Women” or contain gender-specific, universally recognized pictorials of “Men” and “Women”.
- 405.5 When locker rooms are provided, there shall be both a male and female locker room available, unless the establishment is specifically designated for one (1) gender or the other.
- 405.6 If a body art establishment serves only one (1) gender, a restroom shall be made available for body artists of the opposite gender.
- 405.7 A toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door or locking doors, except that this requirement does not apply to a toilet room that is located outside a body art establishment.
- 405.8 Toilet room doors shall be kept closed except during cleaning and maintenance operations.
- 405.9 Each body art establishment shall maintain toilet facilities for body artists, which shall consist of a toilet room or toilet rooms with proper and sufficient water closets and lavatories. Toilet facilities shall be conveniently located and readily accessible to all personnel and customers.

405.10 Toilet facilities shall be deemed conveniently located and accessible to body artists during all hours of operation if they are:

- (a) Located within the same building as the business they serve; and
- (b) Accessible during working hours without going outside the building.

405.11 At no time shall consumers or body artists enter the bathroom, restroom, or locker room during routine cleaning or maintenance emergency.

406 OPERATING SYSTEMS AND DESIGN – ELECTRICAL, LIGHTING*

406.1 All rooms of a body art establishment shall have at least one (1) electrical source of light. Lighting luminaries and fixtures may be of incandescent, fluorescent, high density discharge, or light emitting diode (LED) types.

406.2 At least fifty (50) foot-candles of artificial light shall be provided in each procedure area that is positioned at the height of the workstation, and shall be provided in all decontamination and sterilization areas.

406.3 At least twenty (20) foot-candles of light shall be provided in each restroom, locker room, toilet room, or other areas when fully illuminated for cleaning.

406.4 An average illumination value of ten (10) foot-candles of light, but never less than seven and a half (7.5) foot-candles of light, shall be provided in other areas within a body art establishment, including offices, lobbies, retail shops, and waiting areas.

406.5 The above illumination levels shall be attainable at all times while the body art establishment is occupied.

407 OPERATING SYSTEMS AND DESIGN – ELECTRICAL, SMOKE ALARMS

407.1 Each distinct area of a body art establishment separated by a doorway, whether or not a door is currently present, shall be equipped with at least one (1) working smoke alarm which is installed, maintained, and tested according to the International Fire Code (2012 edition), Subtitle H (Fire Code Supplement of 2013) of Title 12 of the District of Columbia Municipal Regulations.

407.2 The smoke alarm shall be free of foreign matter such as tape or paint which could impair its proper function.

408 OPERATING SYSTEMS AND DESIGN – HEATING AND VENTILATION SYSTEMS

- 408.1 All restrooms, locker rooms, and toilet rooms shall be adequately ventilated so that excessive moisture is removed from the room. Acceptable ventilation includes mechanical exhaust ventilation, a recirculating vent, or screened windows.
- 408.2 Each system for heating, cooling, or ventilation shall be properly maintained and operational at all times when the rooms are occupied.
- 408.3 All restrooms, locker rooms, and toilet rooms shall be capable of being maintained at a temperature between sixty-eight degrees Fahrenheit (68 °F) (twenty degrees Celsius (20 °C)) and eighty degrees Fahrenheit (80 °F) (twenty-seven degrees Celsius (27 °C)) while being used by customers.

CHAPTER 5 FACILITY MAINTENANCE

500 FACILITY MAINTENANCE – TOILETS AND URINALS, MAINTENANCE*

- 500.1 Each body art establishment's plumbing system shall be:
- (a) Repaired according to the International Plumbing Code (2012 edition), Subtitle F (Plumbing Code Supplement of 2013) of Title 12 of the District of Columbia Municipal Regulations; and
 - (b) Maintained in good repair.
- 500.2 The operator shall provide a supply of toilet tissue and waste receptacle at each toilet room, and covered waste receptacles for hygienic products in any toilet room used by women.

501 FACILITY MAINTENANCE – HANDWASHING SINKS, CLEANSER AVAILABILITY, HAND DRYING PROVISION, AND HANDWASHING SIGNAGE

- 501.1 There shall be at least one (1) handwashing sink in a body art establishment.
- 501.2 Each handwashing sink or group of two (2) adjacent sinks shall be provided with hand cleaning liquid or powder.
- 501.3 Each handwashing sink or group of adjacent sinks shall be provided with:
- (a) Individual, disposable towels; or
 - (b) A heated-air, hand-drying device.

501.4 A sign or poster that notifies employees to wash their hands shall be provided at all handwashing sinks.

502 FACILITY MAINTENANCE — HANDWASHING SINKS, DISPOSABLE TOWELS, AND WASTE RECEPTACLES

502.1 A handwashing sink or group of adjacent sinks that is supplied with disposable towels or suitable drying devices shall be provided with a waste receptacle.

503 FACILITY MAINTENANCE — FLOOR COVERING, RESTRICTIONS, INSTALLATION, CLEANABILITY

503.1 A floor covering such as carpeting or similar material shall not be installed as a floor covering in toilet room areas where handwashing sinks, toilets, or urinals are located; refuse storage rooms; or other areas where the floor is subject to moisture.

503.2 The operator or manager shall inspect the premises prior to each consumer's use to ensure that the floors are clean and dry.

503.3 Mats and duckboards shall be designed to be removable and easily cleanable.

504 FACILITY MAINTENANCE — FLOORS, PUBLIC AREAS

504.1 The physical facilities shall be maintained in good repair and cleaned as often as necessary to keep them clean.

504.2 Every floor and floor covering shall be kept clean and in good repair, sanitized, or replaced so that it does not become a hazard to health or safety.

504.3 All public areas of a body art establishment, such as the lobbies and merchandising and retail areas shall be maintained in a clean and sanitary manner, free of litter, rubbish, and nuisances.

505 FACILITY MAINTENANCE — CLEANABILITY, SANITIZATION AND MAINTENANCE OF PLUMBING FIXTURES

505.1 Plumbing fixtures such as handwashing sinks, toilets, and urinals shall be cleaned as often as necessary to keep them clean and well-maintained.

505.2 All body art establishments shall be equipped with toilet facilities, which include a water closet and handwashing sinks, including hot and cold running water, hand cleaning liquid or powder, and a paper towel dispenser or equivalent hand drying equipment.

505.3 Each body art establishment used for tattoo or body piercing shall contain a mop sink and a hand sink with hot and cold running water, antibacterial soap and single-use towels in dispensers.

505.4 All restrooms shall be kept in sanitary condition and good repair. And, there shall be at least one (1) hand sink conveniently located for five (5) or more workstations for the exclusive use of body piercers or tattoo artists for washing their hands and preparing their clients for body piercing or tattooing. Use of the handwashing sink in the toilet area identified in Subsection 505.2 is prohibited for this purpose.

506 FACILITY MAINTENANCE — REFUSE, REMOVAL FREQUENCY

506.1 An inside storage room or area, outside storage area or enclosure, and receptacles shall be of sufficient capacity to hold the refuse that accumulate.

506.2 Refuse, excluding biohazardous waste, shall be placed in a lined waste receptacle and disposed of at a frequency that does not create a health or sanitation hazard.

506.3 Receptacles and waste handling units shall be designed and constructed with tight-fitting lids, doors, or covers.

506.4 Receptacles and waste handling units shall be durable, cleanable, insect- and rodent-resistant, leakproof, nonabsorbent, and maintained in good repair.

506.5 If used, an outdoor enclosure for refuse shall be constructed of durable and cleanable materials and shall be located so that a public health hazard or nuisance is not created.

506.6 An outdoor storage surface for refuse shall be constructed of nonabsorbent material such as concrete or asphalt and shall be smooth, durable, and sloped to drain.

506.7 Storage areas, enclosures, and receptacles for refuse shall be maintained in good repair.

506.8 Storage areas and enclosures for refuse shall be kept clean and maintained free of unnecessary items, as specified in Subsections 507.1 and 507.2.

507 FACILITY MAINTENANCE — UNNECESSARY ITEMS, LITTER, AND CONTROLLING AND REMOVING PESTS

507.1 The grounds surrounding a body art establishment under the control of the operator shall be kept in a clean and litter-free condition.

- 507.2 The methods for adequate maintenance of grounds include, but are not limited to, the following:
- (a) Properly storing or removing unnecessary equipment that is nonfunctional or no longer used, removing litter and waste, and cutting weeds or grass within the immediate vicinity of the physical facility that may constitute an attractant, breeding place, or harborage for pests;
 - (b) Maintaining roads and parking lots so that they do not constitute an attractant, breeding place, or harborage for pests; and
 - (c) Adequately draining areas that may provide an attractant, breeding place, or harborage for pests.
- 507.3 If a body art establishment's grounds are bordered by grounds not under the operator's control and not maintained in the manner described in Subsections 507.1 and 507.2, care shall be exercised by the operator through inspection, extermination, or other means to exclude pests, dirt, and filth that may become an attractant, breeding place, or harborage for pests.
- 507.4 Methods for maintaining a sanitary operation include providing sufficient space for placement and proper storage of equipment, instruments, and supplies.
- 507.5 The presence of insects, rodents, and other pests shall be controlled to eliminate their presence on the premises by:
- (a) Routinely inspecting the premises for evidence of pests;
 - (b) Using methods, if pests are found, such as trapping devices or other means of pest control; and
 - (c) Eliminating harborage conditions.
- 507.6 Dead or trapped birds, insects, rodents, and other pests shall be removed from a trap or the traps shall be discarded from the premises at a frequency that prevents accumulation, decomposition, or the attraction of other pests.

508 FACILITY MAINTENANCE — PROFESSIONAL SERVICE CONTRACTS

- 508.1 The operator shall maintain a copy of the body art establishment's professional service contract and service schedule, which documents the following information:
- (a) Name and address of its D.C. licensed pest exterminator/contractor;

- (b) Frequency of extermination services provided under the contract; and
- (c) The date on which extermination services were last provided to the establishment.

508.2 The operator shall maintain a copy of the body art establishment’s professional service contract and service schedule, which documents the following information:

- (a) Name and address of its District-licensed solid waste contractor;
- (b) Frequency of solid waste collection provided under the contract; and
- (c) The date on which collection services were last provided to the establishment.

508.3 Operators shall maintain a record of the body art establishment’s receipts and service schedule, which documents the following information:

- (a) Name and address of its D.C. licensed environmental Biohazard Waste Disposal Company;
- (b) Frequency of pickup services of biohazard waste, including but not limited to sharps, medical-grade gloves, and disposable, single use cleaning products; and
- (c) The date on which pickup services were last provided to the establishment.

509 FACILITY MAINTENANCE – PROHIBITING ANIMALS*

509.1 With the exception of service animals, animals shall not be allowed in the body art procedure areas, decontamination or sterilization areas, or storage areas.

509.2 Fish aquariums are not allowed in procedure areas.

CHAPTER 6 APPLICATION AND LICENSING REQUIREMENTS

600 LICENSE AND CERTIFICATE OF OCCUPANCY REQUIREMENTS

600.1 No person shall operate a body art establishment in the District without a valid body art establishment license issued by the Mayor.

600.2 No operator shall employ or permit a body artist to perform body art procedures in their body art establishment without a valid body artist license issued by the Mayor.

- 600.3 No person shall operate a body art establishment in the District with an expired or suspended body art establishment license.
- 600.4 No operator shall employ or permit a body artist to perform body art procedures in their establishment with an expired or suspended body artist license.
- 600.5 No person shall open or operate a body art establishment in the District without a valid Certificate of Occupancy.

601 REGISTRATION REQUIREMENTS FOR SUPPLIERS AND MANUFACTURERS

- 601.1 No person shall furnish or offer to furnish body art equipment, devices, inks, pigments, or supplies, in the District without a valid body art service provider registration issued by the Department.
- 601.2 No operator shall use a body art supplier or manufacturer unless the supplier or manufacturer possesses a valid body art supplier or manufacturer registration issued by the Department as specified in Subsection 601.1.
- 601.3 No operator shall purchase disposable, single-use, pre-sterilized instruments and supplies in the District from a vendor without a valid medical supplier's registration issued by the Department as specified in Subsection 312.1(b).

602 APPLICATION PROCEDURE – PERIOD AND FORM OF SUBMISSION, PROCESSING

- 602.1 An applicant shall submit an application for a license at least thirty (30) calendar days before the date planned for opening a body art establishment or at least thirty (30) calendar days before the expiration date of the current license for an existing body art establishment.
- 602.2 Licenses shall be valid for a two (2) year period and renewed every two (2) years.
- 602.3 An applicant shall submit a written application for a body art establishment license on a form provided by the Department.
- 602.4 A new application shall be filed with the Department within thirty (30) days of any change in ownership or location. An applicant shall also notify the Department immediately if the applicant decides not to open, sell, or transfer the business at the location identified in the application.
- 602.5 The Department shall not process applications for a change in ownership or location where administrative actions are pending against an existing establishment that has not been resolved.

603 APPLICATION PROCEDURE — CONTENTS OF THE APPLICATION PACKET

603.1 An application for a license to operate a body art establishment shall include the full name(s) or any other name(s), including alias used by the applicant, and the following information:

- (a) The present address and telephone number of each applicant:
 - (1) If the applicant is an individual, the individual's residential address;
 - (2) If the applicant is a corporation, the names, including aliases and residential addresses of each of the officers and directors of said corporation and each stock holder owning more than ten percent (10%) of the stock of the corporation, and the address of the corporation itself if it is different from the address of the body art establishment; or the address of the partnership itself if different from the address of the body art establishment;
 - (3) If the applicant is a partnership, the names, including aliases and residential addresses of each partner, including limited partners, and the body art establishment;
- (b) Name and address of registered agent, if applicable;
- (c) The address and all telephone numbers of the body art establishment;
- (d) A complete set of construction plans including all schedules (for example, floor plans, elevations, and electrical schematics), if applicable, as specified in Subsection 400.3;
- (e) Proof that the owner applicants and operators are at least the age of majority by a Driver's license, non-Driver's license, or other Government issued identification that displays the applicant or operator's date of birth;
- (f) Whether the owner applicants have owned or operated a body art establishment or other business in the District, another city, county or state, and if this business license:
 - (1) Has ever been suspended or revoked; and
 - (2) The reason for the suspension or revocation;

- (g) A description of any other business to be operated on the same premises or on adjoining premises owned or operated by the owner applicant(s) or manager(s); and
- (h) The name and home address (non-business address) of each licensed manager who is employed or will be employed in the body art establishment.

604 DENIAL OF APPLICATION FOR LICENSE – NOTICE

604.1 If an application for a license or a renewal of a license is denied, the Department shall provide the applicant with written notice that includes:

- (a) The specific reasons and legal authority for denial of the license;
- (b) The actions, if any, that the applicant must take to qualify for a new license or to renew a license; and
- (c) Notice of the applicant’s or licensee’s right to a hearing as prescribed in Subsection 812.3.

605 ISSUANCE OF LICENSE – NEW, CONVERTED OR REMODELED, EXISTING OPERATIONS, AND CHANGE OF OWNERSHIP OR LOCATION

605.1 Each applicant shall submit:

- (a) A properly completed application packet provided by the Department;
- (b) Copies of policies and procedures as specified in Sections 300 through 309;
- (c) Copies of required recordkeeping as specified in Sections 310 through 316 for license renewals;
- (d) Proof of payment of the application and license fees; and
- (e) Proof of the Department’s review and approval of required plans and specifications as specified in Sections 400.3 and 605, if applicable.

605.2 If the applicant complies with Sections 600, 601, 602, 603, 605, and 606 and the Department determines through its inspection as specified in Section 607 that the operation is in compliance with these regulations, the Department shall approve:

- (a) A new body art establishment;

- (b) An existing body art establishment that has changed ownership or location; or
- (c) An existing body art establishment's license renewal.

606 ISSUANCE OF LICENSE — REQUIRED PLAN REVIEWS AND APPROVALS

606.1 An applicant or operator shall submit to the Department for review and approval properly prepared plans and specifications before:

- (a) The construction of a body art establishment;
- (b) The conversion of an existing structure for use as a body art establishment; or
- (c) Major renovation, remodeling, or alteration of an existing body art establishment.

606.2 Plans required by this section shall include specifications showing layout, arrangement, and construction materials, and the location, size, and type of fixed equipment and facilities.

606.3 Plans, specifications, an application form, and the applicable fee shall be submitted at least thirty (30) calendar days before beginning construction, remodeling, or conversion of a body art establishment.

606.4 The Department shall approve the completed plans and specifications if they meet the requirements of these regulations, and the Department shall report its findings to the license applicant or operator within thirty (30) days of the date the completed plans are received.

606.5 Plans and specifications that are not approved as submitted shall be changed to comply or be deleted from the project.

607 ISSUANCE OF LICENSE — INSPECTIONS - PREOPERATIONAL, CONVERSIONS, AND RENOVATIONS*

607.1 The Department shall conduct one (1) or more preoperational inspections to verify and approve that the body art establishment is constructed and equipped in accordance with plans and modifications approved by the Department as specified in Section 606; has established standard operating procedures as specified in Chapter 3; and is in compliance with these regulations.

608 ISSUANCE OF LICENSE – NOTICE OF OPENING, DISCONTINUANCE OF OPERATION, AND POSTINGS

- 608.1 An operator shall provide notice to the Department of its intent to operate the establishment at least thirty (30) calendar days before beginning operations.
- 608.2 An operator shall provide notice to the Department of its intent to shut down permanently. The operator’s license and certificate of occupancy shall be returned to the Department and the owner shall be required to submit a new application for the issuance of a new license prior to reopening.
- 608.3 An operator shall notify the Department at least thirty (30) days in advance of its intent to close temporarily.
- 608.4 A current inspection report, all valid licenses, a Certificate of Occupancy, including the “Age Restriction Signs” required in Subsection 201.3, and the “Required Disclosure” required in Subsection 202.3 shall be conspicuously posted in the reception area next to the body art establishment’s license.

609 ISSUANCE OF LICENSE – NOT TRANSFERABLE

- 609.1 A body art establishment license shall not be transferred from one person to another person or from one location to another.

610 ISSUANCE OF LICENSE – DUPLICATES

- 610.1 An operator shall submit a request for a duplicate body art establishment license that has been lost, destroyed or mutilated on a form provided by the Department and payment of the required fee.
- 610.2 Each duplicate license shall have a secured watermark of the word “DUPLICATE” across the face of the license, and shall bear the same number as the license it is replacing.

611 CONDITIONS OF LICENSE RETENTION – RESPONSIBILITIES OF THE OPERATOR

- 611.1 Upon receipt of a license issued by the Department, the operator, in order to retain the license, shall comply with Subsections 611.2 through 611.8.
- 611.2 An operator shall post a current inspection report, and all valid licenses, Certificate of Occupancy, including the “Age Restriction Sign” required in Subsection 201.3, and “Required Disclosure” required in Subsections 202.3, shall be conspicuously posted in the reception area next to the body art establishment’s license.

- 611.3 An operator shall comply with the provisions of these regulations and approved plans as specified in Section 606.
- 611.4 An operator shall allow representatives of the Department access to its body art establishment as specified in Section 700.
- 611.5 An operator shall immediately discontinue operations and notify the Department if an imminent health hazard exists as specified in Section 706.
- 611.6 The Department may direct the replacement of existing operating systems, or equipment, devices, fixtures, supplies, or furnishings where existing equipment, devices, fixtures, supplies, or furnishings are not safe to operate, are not in good repair or are not capable of being maintained in a hygienic condition in compliance with these regulations as specified in Subsection 102.2(a).
- 611.7 An operator shall replace existing operating systems, or equipment, devices, fixtures, supplies, or furnishings that do not comply with these regulations pursuant to a documented agreement with the Department by an agreed upon date with an operating system, equipment, devices, fixtures, supplies, or furnishings that comply with these regulations as specified in Subsection 102.2(b).
- 611.8 An operator shall maintain all records in accordance with these regulations.

**CHAPTER 7 INSPECTIONS, REPORTS, VIOLATIONS, CORRECTIONS,
AND PROHIBITED CONDUCT AND ACTIVITIES**

700 ACCESS & INSPECTION FREQUENCY – DEPARTMENT RIGHT OF ENTRY, DENIAL - MISDEMEANOR*

- 700.1 The Department shall determine a body art establishment’s compliance with these regulations by conducting on-site:
 - (a) Preoperational inspections;
 - (b) Unannounced, routine and follow-up inspections; and
 - (c) Unannounced, complaint-generated inspections.
- 700.2 After representatives of the Department present official credentials and provide notice of the purpose and intent to conduct an inspection in accordance with these regulations, the applicant or operator shall allow the Department access to any part, portion, or area of a body art establishment, except when a private session is in progress.

- 700.3 The Department may enter and inspect all aspects of a body art establishment, including but not limited to work stations, locker rooms, bathrooms, lounge areas, or other areas of a body art establishment for any of the following purposes:
- (a) To determine if the body art establishment is in compliance with these regulations;
 - (b) To investigate an emergency affecting the public health if the body art establishment is or may be involved in the matter causing the emergency;
 - (c) To investigate, examine, and sample or swab equipment, devices, fixtures, supplies, or furnishings, except during any procedural session as specified in Subsection 700.2; or
 - (d) To obtain information and examine and copy all records on the premises including but not limited to instruments, equipment, manufacturers, records and maintenance logs, supplies and suppliers, service contracts, or furnishings used in a body art establishment.
- 700.4 If a person denies the Department access to any part, portion, or area of a body art establishment, the Department shall inform the individual that:
- (a) The applicant or operator is required to allow access to the Department, as specified in Subsection 700.2;
 - (b) Access is a condition of the receipt and retention of a license as specified in Subsection 611.4;
 - (c) If access is denied, an inspection order allowing access may be obtained as specified in Subsection 700.6(c); and
 - (d) The Department is making a final request for access.
- 700.5 If the Department presents credentials and provides notice as specified in Subsection 700.2, explains the authority upon which access is requested, and makes a final request for access as specified in Subsection 700.4(d), and the applicant or operator continues to refuse access, the Department shall provide details of the denial of access on the inspection report.
- 700.6 If the Department is denied access to a body art establishment for an authorized purpose, after complying with Subsections 700.2 through 700.5, the Department may:
- (a) Summarily suspend a license to operate a body art establishment in accordance with Section 807;

- (b) Revoke or suspend a license to operate a body art establishment in accordance with Section 812; or
- (c) Request that the Office of the Attorney General for the District of Columbia commence an appropriate civil action in the Superior Court of the District of Columbia to secure a temporary restraining order, a preliminary injunction, a permanent injunction, or other appropriate relief from the court including but not limited to administrative search warrants, to enforce these regulations in accordance with the Department of Health Functions Clarification Act of 2001, effective October 3, 2001, as amended (D.C. Law 14-28; D.C. Official Code § 7-731(b) (2012 Repl.)).

701 REPORT OF FINDINGS — DOCUMENTING INFORMATION AND OBSERVATIONS

701.1 The Department shall document on an inspection report form:

- (a) Administrative information about the body art establishment's legal identity, street and mailing addresses, inspection date, and other information such as status of the license and personnel certificates that may be required or other inspectional findings; and
- (b) Specific factual observations of violations of these regulations that require correction by the operator including:
 - (1) Nonconformance with critical items of these regulations;
 - (2) Failure of an operator to correct cited violations, as specified in Sections 709 or 711; or
 - (3) Failure of an operator to ensure that personnel are licensed as specified in Sections 200 and 600.

702 REPORT OF FINDINGS — SPECIFYING TIME FRAME FOR CORRECTIONS

702.1 The Department shall specify on the inspection report the time frame for correction of violations as specified in Sections 709 and 711.

703 REPORT OF FINDINGS — ISSUING REPORT AND OBTAINING ACKNOWLEDGMENT OF RECEIPT

703.1 At the conclusion of the inspection, the Department shall provide a copy of the completed inspection report and the notice to correct violations to the operator and request a signed acknowledgment of receipt. The most recent inspection report shall contain a listing of violations by area in the operation and inspection

item with corresponding citations to applicable provisions in these regulations and shall be conspicuously posted in the reception area next to the body art establishment's license.

704 REPORT OF FINDINGS – REFUSAL TO SIGN ACKNOWLEDGMENT

704.1 The Department shall inform a person who declines to sign an acknowledgment of receipt of inspection findings that:

- (a) An acknowledgment of receipt is not an agreement with the finding;
- (b) Refusal to sign an acknowledgment of receipt will not affect the operator's obligation to correct the violations noted in the inspection report within the time frames specified; and
- (c) A refusal to sign an acknowledgment of receipt will be noted in the inspection report for the body art establishment.

705 REPORT OF FINDINGS – PUBLIC INFORMATION, RECORDS RETENTION

705.1 The Department shall keep and maintain in-office as an active record a copy of each inspection report, complaint, inspector's sample reports, license suspension, and other correspondence regarding a body art establishment within the District for a period of one (1) year, and then as an inactive record for a period of two (2) additional years. Inactive records shall be destroyed in-house at the end of the two (2)-year inactive period.

705.2 In the case of an audit or investigation, the Department shall keep all records until the audit or investigation has been completed.

705.3 The Department shall treat the inspection report as a public document.

706 IMMINENT HEALTH HAZARD – CEASING OPERATIONS AND EMERGENCY REPORTING TO THE DEPARTMENT OF HEALTH*

706.1 The Department shall summarily suspend operations, or an operator shall immediately discontinue operations and notify the Department, whenever a body art establishment is operating with any of the following conditions:

- (a) Extensive fire damage that affects the body art establishment's ability to comply with these regulations;
- (b) Serious flood damage that affects the body art establishment's ability to comply with these regulations;

- (c) Loss of electrical power to critical systems, including but not limited to lighting, heating, cooling, or ventilation controls for a period of two (2) or more hours;
- (d) No water, or insufficient water capacity, or inadequate water pressure to any part of the body art establishment in violation of Subsection 403.1(a);
- (e) No hot water, or an unplanned water outage, or the water supply is cut off in its entirety for a period of one (1) or more hours in violation of Subsections 403.1(b);
- (f) Incorrect hot water temperatures that cannot be corrected during the course of the inspection in violation of Subsection 404.1;
- (g) A plumbing system supplying potable water that may result in contamination of the potable water;
- (h) A sewage backup or sewage that is not disposed of in an approved and sanitary manner;
- (i) A cross-connection between the potable water and non-potable water distribution systems, including but not limited to landscape irrigation, air conditioning, heating, or fire suppression system;
- (j) A back siphonage event;
- (k) Toilet or handwashing facilities that are not properly designed, constructed, installed, or maintained in violation of Subsections 403, 404, and 405;
- (l) Work surfaces, including but not limited to workstations, solid surfaces and objects in the procedure and decontamination areas within a body art establishment that are stained with blood or bodily fluids, or soiled; or infested with vermin; or are in an otherwise unsanitary condition;
- (m) Gross insanitary occurrence or condition that may endanger public health including but not limited to an infestation of vermin; or
- (n) Fails to eliminate the presence of insects, rodents, or other pests on the premises in violation of Subsection 507.3.

706.2

In addition to the imminent health hazards identified in Subsection 706.1, the Department shall summarily suspend operations if it determines through an inspection, or examination of records or other means as specified in Subsection 700.1, the existence of any other condition which endangers the public health, safety, or welfare, including but not limited to:

- (a) Operating a body art establishment or performing a body art procedure without a license in violation of Subsection 600.1;
- (b) Employing a body artist without a valid body artist license issued by the Mayor in violation of Subsection 600.2;
- (c) Operating a body art establishment with an expired or suspended license in violation of Subsection 600.3;
- (d) Employing a body artist who is performing body art procedures with an expired or suspended body artist license in violation of Subsection 600.4;
- (e) Operating a body art establishment without a valid Certificate of Occupancy in violation of Subsection 600.5;
- (f) Operating a body art establishment without posting required signage in violation of Subsection 608.4;
- (g) Operating a body art establishment without a manager who is on duty and on the premises during all hours of operation in violation of Subsection 200.2;
- (h) Operating a body art establishment without a body artist who is on duty and on the premises during all hours of operation in violation of Subsection 200.3
- (i) Using suppliers and manufacturers of pigments that are not registered in the District in violation of Subsections 601.1 and 601.2;
- (j) Failing to allow access to Department representatives during the facility's hours of operation and other reasonable times as determined by the Department; or hindering, obstructing, or in any way interfering with any inspector or authorized Department personnel in the performance of his or her duty in violation of Section 700; or
- (k) Operating in violation of any provision specified in Section 708.

707 IMMEDIATE HEALTH HAZARD – RESUMPTION OF OPERATIONS

707.1 If operations are discontinued as specified in Section 706 or otherwise according to applicable D.C. laws and regulations, the operator shall obtain approval from the Department before resuming operations.

707.2 The Department shall determine whether an operator needs to discontinue operations that are unaffected by the imminent health hazard in a body art establishment as determined by the Department or other District agency.

708 PROHIBITED CONDUCT – ADVERTISEMENTS AND ACTIVITIES

708.1 No operator shall permit a person to perform or offer to perform body art procedures, use any words or letters, figures, titles, signs, cards, advertisement, or any other symbols or devices indicating or tending to indicate that the person is authorized to perform such services, or use other letters or titles in connection with that person's name which in any way represents himself or herself as being engaged in the practice of body art, or authorized to do so, unless the person is licensed by and registered with the Mayor to perform body art procedures in the District of Columbia.

708.2 No operator shall permit a person to perform any body art procedure on anyone under the age of eighteen (18) years of age, except as specified in Subsection 201.2.

708.3 An operator shall not allow an ear piercing system to be used on any part of a customer's body other than the lobe of the ear.

708.4 No operator shall allow a body art procedure to be performed if the customer is unable to exercise reasonable care and safety or is otherwise impaired by reason of illness, while under the influence of alcohol, or while using any controlled substance or narcotic drug as defined in 21 U.S.C. § 802(6) or (17), respectively, or other drug in excess of therapeutic amounts or without valid medical indication, or any combination thereof.

708.5 No one shall be tattooed or pierced at any location in the establishment other than in a designated work area.

708.6 No customer shall be allowed to perform their own tattoo, piercing or insertions anywhere on the premises.

708.7 No food, drink, tobacco product, or personal effects shall be allowed to contaminate a procedural area.

708.8 Body artists shall not eat or drink while performing a procedure. If a customer requests to eat, drink or smoke, the procedure shall be stopped and the procedure

site shall be protected from possible contamination and the customer may leave the procedure area to eat, drink, or smoke.

708.9 During a branding procedure, an operator shall ensure the body artist and the customer wear appropriate protective face filter masks.

708.10 Body art procedures shall not be performed on animals in a body art establishment.

709 CRITICAL VIOLATIONS – TIME FRAME FOR CORRECTION*

709.1 An operator shall, at the time of inspection, correct a critical violation no later than five (5) business days after the inspection.

709.2 The Department may consider the nature of the potential hazard involved and the complexity of the corrective action needed and agree to specify a longer timeframe, not to exceed an additional five (5) business days, for the operator to correct a critical violation of these regulations.

709.3 Failure to correct violations in accordance with this section may subject an operator to a condemnation order pursuant to Section 802, summary suspension of a license pursuant to Section 807, revocation or suspension of a license pursuant to Section 812, or sanctions pursuant to Sections 1000 and 1001.

710 CRITICAL VIOLATION – VERIFICATION AND DOCUMENTATION OF CORRECTION

710.1 After receiving notification that the operator has corrected a critical violation, the Department shall verify correction of the violation, document the information on an inspection report, and enter the report in the Department's records.

711 NONCRITICAL VIOLATIONS – TIME FRAME FOR CORRECTION

711.1 The operator shall correct noncritical violations no later than fourteen (14) business days after the inspection.

711.2 The Department may consider the nature of the violation and the corrective action needed and agree to specify a longer timeframe, not to exceed an additional fourteen (14) business days for the operator to correct the violation.

711.3 Failure to correct violations in accordance with this section may result in the revocation or suspension of an operator's license pursuant to Section 812, or sanctions pursuant to Sections 1000 and 1001.

712 REQUEST FOR REINSPECTION

- 712.1 If a license is summarily suspended pursuant to Section 807 or suspended or revoked pursuant to Section 812 because of violations of these regulations, the operator shall submit a handwritten, email, or fax request for a reinspection and pay the required reinspection fee.
- 712.2 Upon receipt of a request for reinspection, the Department shall conduct the reinspection of a body art establishment within three (3) business days of receipt of the request.
- 712.3 A body art establishment shall not resume operations or remove from public view any signage, license, Certificate of Occupancy, or current inspection result as specified in Subsection 608.4, or any enforcement order as specified in Subsection 707.1 until the Department has reinspected the body art establishment and certified that it is in compliance with these regulations.

CHAPTER 8 ADMINISTRATIVE ENFORCEMENT ACTIONS AND ORDERS

800 ADMINISTRATIVE REVIEW — CONDITIONS WARRANTING REMEDIES

- 800.1 The Department may seek an administrative or judicial remedy to achieve compliance with the provisions of these regulations if an operator, person operating a body art establishment, or employee:
- (a) Fails to have a valid license or registration as specified in Sections 600 and 601;
 - (b) Fails to pay the required fee as specified in Subsection 605.1(d);
 - (c) Violates any term or condition of a license as specified in Section 611;
 - (d) Fails to allow the Department access to a body art establishment as specified in Subsection 700.6;
 - (e) Fails to comply with directives of the Department including time frames for corrective actions specified in inspection reports as specified in Subsections 709.1 and 711.1;
 - (f) Fails to comply with a condemnation order as specified in this chapter;
 - (g) Fails to comply with a summary suspension order by the Department as specified in this chapter;
 - (h) Fails to comply with an administrative order;
 - (i) Makes any material false statement in the application for licensure;

- (j) Falsifies or alters records required to be kept by these regulations; or
- (k) Seeks to operate with conditions revealed by the application or any report, records, inspection, or other means which would warrant the Department refusal to grant a new license.

800.2 The Department may simultaneously use one or more of the remedies listed in this chapter to address a violation of these regulations.

801 ADMINISTRATIVE REVIEW — EXAMINING, SAMPLING, AND TESTING OF EQUIPMENT, WATER, INKS, PIGMENTS, REUSABLE INSTRUMENTS, DISPOSABLE ITEMS, JEWELRY, SHARPS, MARKING INSTRUMENTS AND STENCILS, AND FURNISHINGS

801.1 The Department may examine, collect samples, and test equipment, water, inks, pigments, reusable instruments, disposable items, jewelry, sharps, marking instruments and stencils, and furnishings without cost and test as necessary to determine compliance with these regulations.

802 ADMINISTRATIVE REVIEW — CONDEMNATION ORDER, JUSTIFYING CONDITIONS AND REMOVAL OF EQUIPMENT, WATER, INKS, PIGMENTS, REUSABLE INSTRUMENTS, DISPOSABLE ITEMS, JEWELRY, SHARPS, MARKING INSTRUMENTS AND STENCILS, AND FURNISHINGS

802.1 A duly authorized agent of the Department may condemn and forbid the sale of, or cause to be removed and destroyed, any equipment, water, inks, pigments, reusable instruments, disposable items, jewelry, sharps, marking instruments and stencils, and furnishings found in a body art establishment which does not comply with these regulations, or that is being used in violation of these regulations, or that because of dirt, filth, extraneous matter, corrosion, open seams, or chipped or cracked surfaces is unfit for use.

803 ADMINISTRATIVE REVIEW — CONDEMNATION ORDER, CONTENTS

803.1 The condemnation order shall:

- (a) State that the equipment, water, inks, pigments, reusable instruments, disposable items, jewelry, sharps, marking instruments and stencils, and furnishings subject to the order may not be used, sold, moved from the body art establishment, or destroyed without a written release of the order from the Department;

- (b) State the specific reasons for placing the equipment, water, inks, pigments, reusable instruments, disposable items, jewelry, sharps, marking instruments and stencils, and furnishings under the condemnation order with reference to the applicable provisions of these regulations and the hazard or adverse effect created by the observed condition;
- (c) Completely identify the equipment, water, inks, pigments, reusable instruments, disposable items, jewelry, sharps, marking instruments and stencils, and furnishings subject to the condemnation order by the common name, the label or manufacturer's information, description of the item, the quantity, the Department's tag or identification information, and location;
- (d) State that the operator may request an informal conference in accordance with Subsection 806.2. A request for an informal conference does not stay the Department's imposition of the condemnation order;
- (e) State that the Department may order the destruction, replacement or removal of equipment, water, inks, pigments, reusable instruments, disposable items, jewelry, sharps, marking instruments and stencils, and furnishings if a timely request for a hearing is not received; and
- (f) Provide the name and address of the Department representative to whom a request for a hearing may be made.

804 ADMINISTRATIVE REVIEW — CONDEMNATION ORDER, OFFICIAL TAGGING OR MARKING OF EQUIPMENT, WATER, INKS, PIGMENTS, REUSABLE INSTRUMENTS, DISPOSABLE ITEMS, JEWELRY, SHARPS, MARKING INSTRUMENTS AND STENCILS, AND FURNISHINGS

804.1 The Department shall place a tag, label, or other appropriate marking to indicate the condemnation of equipment, water, inks, pigments, reusable instruments, disposable items, jewelry, sharps, marking instruments and stencils, and furnishings that do not meet the requirements of these regulations.

804.2 The tag or other method used to identify the equipment, water, inks, pigments, reusable instruments, disposable items, jewelry, sharps, marking instruments and stencils, and furnishings that are the subject of a condemnation order shall include a summary of the provisions specified in Section 803 and shall be signed and dated by the Department.

805 ADMINISTRATIVE REVIEW — CONDEMNATION ORDER, REMOVING THE OFFICIAL TAG OR MARKING

805.1 No person shall remove the tag, label, or other appropriate marking except under the direction of the Department as specified in Subsection 805.2.

805.2 The Department shall issue a notice of release from a condemnation order and shall remove condemnation tags, labels, or other appropriate markings from body art equipment, water, inks, pigments, reusable instruments, disposable items, jewelry, sharps, marking instruments and stencils, and furnishings if:

- (a) The condemnation order is vacated; or
- (b) The operator obtains authorization from the Department to discard equipment, water, inks, pigments, reusable instruments, disposable items, jewelry, sharps, marking instruments and stencils, and furnishings in a body art establishment identified in the condemnation order.

806 ADMINISTRATIVE REVIEW — CONDEMNATION ORDER, WARNING OR INFORMAL CONFERENCE NOT REQUIRED

806.1 The Department may issue a condemnation order to an operator, or to a person who owns or controls the equipment, water, inks, pigments, reusable instruments, disposable items, jewelry, sharps, marking instruments and stencils, and furnishings as specified in Section 802, without prior warning, or informal conference on the condemnation order.

806.2 A condemnation order shall be reviewed by a Department manager or supervisor prior to it being issued to an operator. A handwritten request or a request by email, phone, or fax may be submitted by an operator requesting an informal conference with the Department within fifteen (15) business days of receiving the condemnation order.

807 ADMINISTRATIVE REVIEW — SUMMARY SUSPENSION OF LICENSE, CONDITIONS WARRANTING ACTION

807.1 The Department may summarily suspend a license to operate a body art establishment if it is denied access to the body art establishment to conduct an inspection, or determines through an inspection, or examination of operators, employees, records, or other means as specified in the regulations, that an imminent health hazard exists.

808 ADMINISTRATIVE REVIEW — CONTENTS OF SUMMARY SUSPENSION NOTICE

808.1 A summary suspension notice shall state:

- (a) That the license of a body art establishment is immediately suspended and that all operations shall immediately cease;

- (b) The reasons for summary suspension with reference to the provisions of these regulations that are in violation;
- (c) The name and address of the Department representative to whom a written request for reinspection may be made and who may certify that reasons for the suspension are eliminated; and
- (d) That the operator may request an informal conference in accordance with Subsection 809.2. A request for an informal conference does not stay the Department's imposition of the summary suspension.

809 ADMINISTRATIVE REVIEW — SUMMARY SUSPENSION, WARNING OR INFORMAL CONFERENCE NOT REQUIRED

809.1 The Department may summarily suspend a license as specified in Section 807 by providing written notice as specified in Section 808 of the summary suspension to the operator without prior warning or informal conference.

809.2 A Notice of Summary Suspension shall be reviewed by a Department manager or supervisor prior to being issued to an operator. A handwritten request or a request by email, phone, or fax may be submitted by an operator requesting an informal conference with the Department.

810 ADMINISTRATIVE REVIEW — SUMMARY SUSPENSION, TIME FRAME FOR REINSPECTION

810.1 After receiving a handwritten request or a request by email, phone, or fax from the operator stating that the conditions cited in the summary suspension order no longer exist, the Department shall conduct a reinspection of the body art establishment for which the license was summarily suspended within three (3) business days of receiving the operator's request.

811 ADMINISTRATIVE REVIEW — SUMMARY SUSPENSION, TERM OF SUSPENSION, REINSTATEMENT

811.1 A summary suspension shall remain in effect until the conditions cited in the notice of suspension no longer exist and the Department has confirmed, through reinspection or other appropriate means that the conditions cited in the notice of suspension have been corrected.

812 ADMINISTRATIVE REVIEW — REVOCATION OR SUSPENSION OF LICENSE, OR DENIAL OF APPLICATION OR RENEWAL OF LICENSE

812.1 Failure to comply with any of the provisions of these regulations shall be grounds for the revocation or suspension of any license issued to a body art establishment

pursuant to the Department of Health Functions Clarification Act of 2001, effective October 3, 2001, as amended (D.C. Law 14-28; D.C. Official Code § 7-731(b) (2012 Repl.)). The Department may revoke a license of a body art establishment upon a showing of a subsequent violation when there is a history of repeated violations or where a license has been previously suspended.

812.2 Before a license is revoked or suspended, an operator shall be given an opportunity to answer and be heard on the violations before the Office of Administrative Hearings in accordance with the Office of Administrative Hearings Rules of Practice and Procedure in Section 2808, Title 1 DCMR, as amended.

812.3 Before the Department denies an application for license, or denies the renewal of a license as specified in Section 604, an applicant or licensee shall be given an opportunity to answer and to be heard on the violations before the Office of Administrative Hearings in accordance with the Office of Administrative Hearings Rules of Practice and Procedure in Section 2808, Title 1 DCMR, as amended.

CHAPTER 9 SERVICE OF PROCESS

900 SERVICE OF PROCESS – NOTICE, PROPER METHODS

900.1 A notice issued in accordance with these regulations shall be deemed properly served if it is served by one (1) of the following methods:

- (a) A Department representative, a law enforcement officer, or a person authorized to serve a civil process, personally services the notice to the operator, or the person operating the body art establishment without a license; or
- (b) The Department sends the notice to the last known address of the operator or person operating a body art establishment without a license, in accordance with Section 205 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1802.05 (2012 Repl.)), or by other public means so that a written acknowledgment of receipt may be acquired.

901 SERVICE OF PROCESS – RESTRICTION OR EXCLUSION, CONDEMNATION, OR SUMMARY SUSPENSION ORDERS

901.1 An employee restriction order, exclusion order, condemnation order, or summary suspension order shall be:

- (a) Served as specified in Subsection 900.1(a); or

- (b) Clearly posted by the Department at a public entrance to the body art establishment and a copy of the notice sent by first class mail to the operator or manager of a body art establishment, as appropriate.

902 SERVICE OF PROCESS – NOTICE, EFFECTIVENESS

- 902.1 Service is effective at the time of the notice's receipt as specified in Subsection 901.1(a), or if service is made as specified in Subsection 901.1(b) at the time of the notice's posting.

903 SERVICE OF PROCESS – PROOF OF PROPER SERVICE

- 903.1 Proof of proper service may be made by certificate of service signed by the person making service or by admission of a return receipt, certificate of mailing, or a written acknowledgment signed by the operator or person operating a body art establishment without a license or an authorized agent.

**CHAPTER 10 ADMINISTRATIVE AND CRIMINAL SANCTIONS,
AND JUDICIAL REVIEW**

1000 ADMINISTRATIVE SANCTIONS – NOTICE OF INFRACTIONS

- 1000.1 The Department may impose civil infraction fines penalties for violations of any provision of these regulations pursuant to the Department of Consumer & Regulatory Affairs Civil Infractions Act of 1985, (Civil Infraction Act), effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801, *et seq.* (2012 Repl.)).
- 1000.2 An operator who receives a Notice of Infraction as specified in Subsection 900.1(c), may pay the assessed fine or appear before the Office of Administrative Hearings as directed on the reverse side of the Notice of Infraction in accordance with the “Office of Administrative Hearings Rules of Practice and Procedure” in Section 2808, Title 1 DCMR, as amended.

1001 CRIMINAL SANCTIONS – CRIMINAL FINES, IMPRISONMENT

- 1001.1 An operator whose body art establishment is operating in violation of Subsections 200.5, 201, 202, 311, and 314.1 of these regulations shall be subject to license suspension or revocation as specified in Section 812, and a maximum fine of two thousand, five hundred dollars (\$2,500) in accordance with the Regulation of Body Artists and Body Art Establishments Act of 2012, effective October 23, 2012 (D.C. Law 19-0193; D.C. Official Code § 47-2809.01(c)(5) (2013 Supp.)).
- 1001.2 Any person who violates Subsections 600.1 and 600.2 of these regulations shall, upon conviction, be deemed guilty of a misdemeanor and may be punished by a

fine not to exceed two thousand five hundred dollars (\$2,500), imprisonment for not more than three (3) months, or both in accordance with the Regulation of Body Artists and Body Art Establishments Act of 2012, effective October 23, 2012 (D.C. Law 19-0193; D.C. Official Code § 47-2809.01(d)(3) (2013 Supp.)).

1002 JUDICIAL REVIEW – APPEALS

1002.1 Any person aggrieved by a final order or decision of the Department may seek judicial review in accordance with the Department of Health Functions Clarification Act of 2001, effective October 3, 2001, as amended (D.C. Law 14-28; D.C. Official Code § 7-731(b) (2012 Repl.)).

CHAPTER 99 DEFINITIONS

9900 GENERAL PROVISIONS

9900.1 The terms and phrases used in this title shall have the meanings set forth in this chapter, unless the text or context of the particular chapter, section, subsection, or paragraph provide otherwise.

9901 DEFINITIONS

9901.1 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

Aftercare Instructions – written instructions given to a customer, specific to the body art procedure received and caring for the body art and surrounding area, including information about when to seek medical treatment, if necessary.

Antiseptic solution – a liquid or semi-liquid substance that is approved by the U.S. Food and Drug Administration to reduce the number of microorganisms present on the skin and on mucosal surfaces.

Bloodborne pathogens – a microorganism present in human blood and other bodily fluids that can cause disease. Bloodborne pathogens include the hepatitis B virus, hepatitis C virus, and human immunodeficiency syndrome.

Board – the Department of Consumer and Regulatory Affairs (DCRA) Board of Barber and Cosmetology.

Body art establishment – any structure or venue, whether temporary or permanent, where body art procedures are performed, including training facilities.

Body art or body art procedure – the process of physically modifying the body for cosmetic or other non-medical purposes, including tattooing, body-piercing, and fixing indelible marks or figures on the skin through scarification, branding, tongue bifurcation, and tissue removal.

Body artist – an individual licensed to perform body art procedures in accordance with the Regulation of Body Artists and Body Art Establishments Act of 2012, effective October 23, 2012 (D.C. Law 19-193; D.C. Official Code § 47-2809.01 (2013 Supp.)).

Body piercing – the perforation of any human body part followed by the insertion of an object, such as jewelry, for cosmetic or other nonmedical purposes by using any of the following instruments, methods, or processes: stud and clasp, captive ball, soft tissue, cartilage, surface, surface-to-surface, microdermal implantation or dermal anchoring, subdermal implantation, and transdermal implantation. The term “body-piercing” does not include nail piercing.

Branding – the process of applying extreme heat with a pen-like instrument or other instrument to create an image or pattern.

Cleaning area – the area in a body art establishment used in the decontamination, sterilization, sanitization or other cleaning of instruments or other equipment used body art procedures.

Cleaning products – any material used to apply cleansing agents to the skin, such as cotton balls, tissue and paper products, paper or plastic cups, towels, gauze, or sanitary coverings.

Communicable disease – a disease that can be transmitted from person to person directly or indirectly, including diseases transmitted via blood or body fluids.

Condemnation order – a written administrative notice: (1) to remove any body art equipment or supplies, or (2) to cease conducting any particular procedures because the equipment or supplies are not being used or the procedures are not being conducted in accordance with the requirements of these regulations.

Contaminated – the presence or reasonably anticipated presence of blood, infectious materials or other types of impure materials that have corrupted a surface or item through contact.

Contaminated waste – any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if

compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; contaminated sharps and pathological and microbiological wastes containing blood and other potentially infectious materials, as defined in 29 Code of Federal Regulations, Part 1910.1030, known as “Occupational Exposure to Bloodborne Pathogens”.

Customer – an individual upon whom a body art procedure is performed.

Decontamination – the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where the pathogens are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

Decontamination and sterilization area – a room, or specific section of a room, that is set apart and used only to maintain supplies, and to clean, decontaminate and sterilize jewelry and instruments.

Department – the Department of Health.

Disinfectant – an EPA registered hospital grade disinfectant which is effective against *Salmonella choleraesuis*, *Staphylococcus aureus* and *Pseudomonas aeruginosa*; or to reduce or eliminate the presence of disease-causing microorganisms, including human immunodeficiency virus (HIV) and hepatitis B virus (HBV), for use in decontaminating inanimate objects and work surfaces.

Ear piercing – the creation of an opening in an individual’s ear lobe with an ear piercing gun to insert jewelry or other decoration.

Ear piercing gun – a mechanical device that pierces an individual’s ear using a single-use stud and clasp ear piercing system.

Exposure – an event whereby the eye, mouth or other mucous membrane, non-intact skin or parenteral contact with the blood or bodily fluids of another person, or contact of an eye, mouth or other mucous membrane, non-intact skin or parenteral contact with other potentially infectious matter.

Exposure control plan – a written action plan that specifies precautionary measures taken to manage and minimize potential exposure to bloodborne pathogens in the workplace.

Germicidal soap – an agent designed for use on the skin that kills disease-causing microorganisms, including but not limited to, products containing povidone-iodine, chloroxylenol, triclosan, and chlorhexidine gluconate.

Germicidal solution – an agent that kills disease-causing microorganisms on hard surfaces; a disinfectant or sanitizer registered with the Environmental Protection Agency and/or a 1:100 dilution of 5.25% sodium hypochlorite (household chlorine bleach) and water, made fresh daily, dispensed from a spray bottle, and used to decontaminate inanimate objects and surfaces.

Gloves – protective hand covers that reduce the risk of injury and exposure to bloodborne pathogens; those which are medical-grade latex, vinyl or hypoallergenic single-use disposable gloves and are labeled for surgical or examination purposes, for instrument cleaning shall be heavy-duty, multi-use and waterproof.

Ink cup – a small container for an individual portion of pigment that may be installed in a holder or palette and in which a small amount of pigment of a given color is placed.

Instruments – devices, including but not limited to sharps, including but not limited to needles, needle bars, needle tubes, hemostats, forceps, pliers, and other items that may come in contact with a customer's body or possible exposure to bodily fluids during the body art procedures.

Manager – a person licensed by the Department of Consumer and Regulatory Affairs to manage a body art establishment.

Medical-grade sharps container – a puncture-resistant, leak-proof, rigid container that can be closed for handling, storage, transportation and disposal and is labeled with the International Biohazard Symbol:



Minor – any person under the age of eighteen (18).

Mucosal surface – the moisture-secreting membrane lining of all body cavities or passages that communicates with the exterior, including but not limited to the nose, mouth, vagina, and urethra.

Multi-type establishment – an operation encompassing both body-piercing and tattooing in the same establishment and under the same management.

Operator – any person who owns, controls, or operates a body art establishment, whether or not the person actually performs body art procedures.

Permanent cosmetics – the application of pigments in human skin tissue for the purpose of permanently changing the color or other appearance of the skin, including but not limited to permanent eyeliner, eyebrow, or lip color.

Pre-sterilized instruments – instruments that are commercially sterilized and packaged by the manufacturer and bear a legible sterilization lot number and expiration date.

Procedure or procedural area – a room or designated portion of a room that is set apart and only used to perform body art.

Procedure site – an area or location on the human body selected for the placement of body art.

Sanitary – clean and free of agents of infection or disease.

Sanitization – reduction of the population of microorganisms to safe levels, as determined by the Department of Health, by a product registered with the Environmental Protection Agency (“EPA”) or by chemical germicides that are registered with the EPA as hospital disinfectants.

Sanitized – effective bactericidal treatment by a process that provides sufficient concentration of chemicals for enough time to reduce the bacteria count including pathogens to a safe level on instruments, equipment, and animate objects.

Scarification – placing of an indelible mark on the skin by the process of cutting or abrading the skin to bring about permanent scarring.

Sharps – any object, sterile or contaminated, that may penetrate the skin or mucosa, including but not limited to pre-sterilized single needles, scalpel blades and razor blades; but not including disposable safety razors which have not broken the skin.

Single-use – products or items intended for one-time use that are disposed of after use on a customer.

Sterilization – process of destruction of all forms of microbial life, including spores by physical or chemical means.

Sterilizer – an autoclave that is designed and labeled by the manufacturer as a medical instrument sterilizer and is used for the destruction of microorganisms and their spores.

Tattoo – placing of pigment into the skin dermis for cosmetic or other nonmedical purposes, including the process of micropigmentation or cosmetic tattooing.

Tissue removal – placing an indelible mark or figure on the skin through removal of a portion of the dermis.

Tongue bifuraction – cutting of the human tongue from tip to part of the way toward the base, forking at the end into two or more parts.

Valid license or registration – a current license or registration issued by the Mayor that is not suspended, revoked, or expired.

Workstation – the area within a procedure area where body-artists perform body art procedures. The workstation includes but is not limited to the customer’s chair or table, counter, mayo stand, instrument tray, storage drawer, and body artist’s chair.

All persons wishing to comment on these proposed rules should submit written comments, no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to the Office of the General Counsel, Department of Health, 899 North Capitol Street, N.E., Room 547, Washington, D.C. 20002. Copies of the proposed rules may be obtained from the above address, excluding weekends and holidays. You may also submit your comments to Angli Black at (202) 442-5977 or email at Angli.Black@dc.gov.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF PROPOSED RULEMAKING

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8(c) (2), (3), (5), (7), and (19), 14, and 20 of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c) (2) (3), (5), (7), and (19), 50-313, and 50-319 (2014 Repl. & 2015 Supp.)), and D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2012 Repl. & 2014 Supp.)), hereby gives notice of its intent to adopt amendments to Chapter 4 (Taxicab Payment Service Providers), Chapter 5 (Taxicab Companies, Associations and Fleets), Chapter 6 (Taxicab Parts and Equipment), Chapter 7 (Enforcement), Chapter 8 (Operation of Public Vehicles for Hire), Chapter 9 (Insurance Requirements), Chapter 10 (Public Vehicles for Hire), Chapter 12 (Luxury Services – Owners, Operators, and Vehicles), Chapter 14 (Operation of Black Cars), Chapter 15 (Licensing and Operation of Dome Light Installation Companies), Chapter 16 (Dispatch Services and District of Columbia Taxicab Industry Co-op), Chapter 18 (Wheelchair Accessible Paratransit Taxicab Service), and Chapter 19 (Private Vehicles-for-Hire) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR). The Commission also gives notice of the adoption of a new Chapter 20, entitled “Fines and Civil Penalties” to Title 31 DCMR. This rulemaking amends and supersedes the Second Emergency Rulemaking effective July 10, 2015, published on August 21, 2015 at 62/35 DCR 11313, conforming Title 31 to the Vehicle for Hire Innovation Amendment Act 2014.

This proposed rulemaking relocates all references to civil fines and penalties to a newly-created Chapter 20, and establishes a new schedule of fines. Violations of Title 31 that do not have corresponding, enumerated fines will be subject to a fine of twenty five dollars (\$25) for an operator and one hundred dollars (\$100) for an entity or owner. All other fines will be either a Schedule 1, 2, 3, or 4 violation. This rulemaking is necessary to streamline and categorize fines into one single, easily-referenced chapter of Title 31.

The Commission also hereby gives notice of its intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *D.C. Register*. Directions for submitting comments may be found at the end of this notice.

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

Section 408, OPERATING REQUIREMENTS APPLICABLE TO PSPS AND DDSS, is amended as follows:

Subsection 408.16, subparagraph (b), is amended to read as follows:

408.16 (b) Each PSP that fails to integrate or maintain integration as required by this subsection shall be subject to a civil fine in accordance with Chapter 20 in addition to any other penalty available under Chapter 7.

Section 411, PENALTIES, is amended as follows:

Subsection 411.1 is amended to read as follows:

- 411.1 A PSP or DDS that violates this chapter or an applicable provision of another chapter of this title is subject to:
- (a) Suspension, revocation, or non-renewal of the Office's approval of its MTS (if a PSP) or modification, suspension, revocation, or non-renewal of its registration under Chapter 16 (if a DDS);
 - (b) Civil fines as set forth in Chapter 20; or
 - (c) Any combination of the sanctions listed in (a) through (b) of this subsection.

Chapter 5, TAXICAB COMPANIES, ASSOCIATIONS AND FLEETS, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 509, PROMPT PAYMENT TO TAXICAB OPERATORS, is amended as follows:

Subsection 509.2 is amended to read as follows:

- 509.2 A taxicab company shall be subject to civil fines for violations of this section as set forth in Chapter 20.

Section 518, PENALTY, is amended as follows:

Subsection 518.1 is amended to read as follows:

- 518.1 A violation of this chapter shall be subject to:
- (a) The civil fines as set forth in Chapter 20 of this title;
 - (b) Impoundment of the vehicle pursuant to the provisions of the Impoundment Act as defined in Chapter 99;
 - (c) License suspension, revocation, or non-renewal; or
 - (d) Any combination of the sanctions, fines, or enforcement action under this title.

Chapter 6, TAXICAB PARTS AND EQUIPMENT, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 611, PENALTIES, is amended to read as follows:

611 PENALTIES

611.1 Each violation of this chapter by a taxicab company, independent owner, or taxicab operator shall subject the violator to:

- (a) The civil fines and penalties set forth in Chapter 20;
- (b) Impoundment of a vehicle operating in violation of this chapter;
- (c) Confiscation of an MTS unit or unapproved equipment used for taxi metering in violation of this chapter;
- (d) Suspension, revocation, or non-renewal of such person’s license or operating authority; or
- (e) Any combination of the sanctions listed in (a)-(d) of this subsection.

611.2 A PSP that violates a provision of this chapter shall be subject to the penalties set forth in Chapter 20.

Chapter 7, ENFORCEMENT, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 702, COMPLIANCE ORDERS, is amended to read as follows:

702 COMPLIANCE ORDERS

702.1 An authorized employee or official of the Office or a District enforcement official may issue a written or oral compliance order to any person licensed or regulated by this title or other applicable law. Oral compliance orders may be issued during traffic stops, as provided in § 702.7.

702.2 A compliance order may require the respondent to take any lawful action related to enforcement, compliance, or verification of compliance, with this title or other applicable law, to the extent authorized or required by this title and the Establishment Act or other applicable law, through an order to:

- (a) Appear at the Office for a meeting or other purpose provided that the order clearly states that the appearance is mandatory;

- (b) Make a payment to the District for an amount such person owes under a provision of this title or other applicable law;
- (c) Allow an administrative inspection of a place of business;
- (d) Surrender, or produce for inspection and copying, a document or item related to compliance with this title or other applicable law, such as an original licensing or insurance document, at:
 - (1) The location where document or item is maintained in the ordinary course of business;
 - (2) The Office; or
 - (3) Another appropriate location as determined by the Office or a District enforcement official in their sole discretion;
- (e) Submit a vehicle or equipment in the vehicle for testing or inspection in connection with a traffic stop;
- (f) Provide information to locate or identify a person, where there is reasonable suspicion of a violation of this title or other applicable law; or
- (g) Take any lawful action to assist with or accomplish the enforcement of a provision of this title or other applicable law.

702.3 Each compliance order shall include the following information:

- (a) The action the respondent must take to comply;
- (b) Except for oral compliance orders, the deadline for compliance; and
- (c) If the compliance order is in writing:
 - (1) A statement of the circumstances giving rise to the order;
 - (2) A citation to the relevant chapter of this title or other applicable law; and
 - (3) If the order requires a person to provide information to assist the Office or a District enforcement official in an enforcement action against a person with whom the respondent is believed to be or has been associated: the name of and contact information for such person to the extent available.

- 702.4 Where a compliance order is issued to a private sedan business to allow the Office to inspect and copy records under § 702.2 (d), the following limitations shall apply:
- (a) The Office's inspection shall be limited to safety and consumer protection-related records to ensure compliance with the applicable provisions of Chapter 19, where the Office has a reasonable basis to suspect noncompliance; and
 - (b) Any records disclosed to the Office shall not be released by the Office to a third party, including through a FOIA request.
- 702.5 OAH may draw an adverse inference where any person who is required by this title or other applicable law to maintain documents or information fails to maintain such documents or information as required.
- 702.6 A written compliance order shall be served in the manner prescribed by § 712.
- 702.7 The civil penalties for failure to comply with a compliance order are set forth in Chapter 20 of this title.
- 702.8 Each traffic stop shall comply with the following requirements:
- (a) It shall comply with all applicable provisions of this title and other applicable laws.
 - (b) No vehicle shall be stopped while transporting a passenger without reasonable suspicion of a violation of this title or other applicable laws.
 - (c) An oral compliance order may be issued in connection with a traffic stop for the purpose of:
 - (1) Determining compliance with this title and other applicable laws;
 - (2) Securing the presence and availability of the operator, the vehicle, and any other evidence at the scene;
 - (3) Preventing hindrance, disruption, or delay of the traffic stop;
 - (4) Ensuring the orderly and timely completion of the traffic stop;
 - (5) Requiring full and complete cooperation by the operator;
 - (6) Requiring the operator to provide access to a device for the purpose of demonstrating compliance with this title and other applicable law;

- (7) Making inquiries regarding the operator and/or vehicle to government agencies for law enforcement and related regulatory purposes; and
 - (8) Protecting the safety of the vehicle inspection officer, the operator, or any other individual.
- (d) Notwithstanding the requirements of § 702.8 (c), a vehicle inspection officer shall not take possession of a device which may contain evidence relevant to the enforcement of this title or other applicable law, unless:
- (1) The device is or appears to be a component of a taxicab's modern taximeter system (MTS);
 - (2) The operator denies ownership, possession, or custody of the device;
 - (3) The operator abandons the device or attempts to transfer its possession with intent to prevent access to the device for purposes of enforcement; or
 - (4) The operator is determined to be an unlawful operator in violation of D.C. Official Code § 47-2829.
- (e) The term "possession" as used in paragraph (d) of this section shall not include handling, operation, or examination of a device for purposes of enforcement of this title or other applicable law.
- (f) A private sedan operator's lack of registration with a private sedan business registered under Chapter 19 may be considered evidence of a violation of D.C. Official Code § 47-2829.

Section 714, SERVICE AND FILING, is amended as follows:

Subsection 714.3 is amended to read as follows:

- 714.3 An individual licensed by the Commission who defaces, alters, or removes a document posted without the approval of the Office shall be subject to a fine as specified in Chapter 20.

Subsection 714.4, is amended to read as follows:

- 714.4 An entity licensed by the Commission that allows or induces an individual to deface, alter, or remove a document posted pursuant to § 712.1(b), without the approval of the Office, shall be subject to a civil fine as set forth in Chapter 20.

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

Section 800, APPLICATION AND SCOPE, is amended as follows:

Subsection 800.7 is amended to read as follows:

800.7 An owner or operator that violates this subsection shall be subject to a civil fine as set forth in Chapter 20.

Section 802, TAXICAB OPERATOR SURCHARGE ACCOUNTS, is amended as follows:

Subsection 802.12, is amended to read as follows:

802.12 An operator who fails to open an account as required by § 802.1, fails to maintain the minimum account balance as required by § 802.4, willfully fails to pay a passenger surcharge owed to the District through an account under Section 802, or violates any other provision of this section shall be subject to fines as set forth in Chapter 20.

Section 808, GROUP RIDING AND SHARED RIDING, is amended to read as follows:

808.1 Group riding for pre-formed groups, as defined in § 899, is permitted at all times. No operator shall refuse to transport a pre-formed group at any time. Fares for group riding shall be calculated in accordance with § 801.8.

808.2 Shared riding, as defined in § 9901.1 is authorized under this chapter only at a shared riding location designated by the Chief of the Office in an administrative issuance issued pursuant to Chapter 7. An operator shall not pick up a passenger at a designated shared riding location except at the designated taxi stand nor discharge a passenger except at the designated discharge stand. Violations of this subsection are subject to a civil fine as set forth in Chapter 20.

808.3 Where shared riding is authorized in this chapter for Nationals Park, an operator shall not pick up a passenger except at the designated taxi stand nor discharge a passenger except at the designated discharge stand. Nationals Park shall conspicuously post the designated taxi stand and discharge stands. Violations of this subsection are subject to a civil fine as set forth in Chapter 20.

Section 817, THREATENING, HARASSING, OR ABUSIVE CONDUCT PROHIBITED, is amended as follows:

Subsection 817.6, subparagraph (a), is amended to read as follows:

(a) The civil fine as set forth in Chapter 20;

Section 821, TAXICAB STANDS, is amended as follows:**Subsection 821.6 is amended to read as follows:**

821.6 No keeper or proprietor of a licensed hotel in the District of Columbia, or a person employed by or acting on his or her behalf, shall exclude a District-licensed taxicab operator from picking up passengers at a taxicab stand or other location where taxicabs are regularly allowed to pick up passengers on the hotel premises.

Section 822, OPERATION OF PUBLIC VEHICLES FOR HIRE, is amended as follows:**Subsection 822.2 is amended to read as follows:**

822.2 Face cards.

- (a) No person shall counterfeit, make, duplicate, obtain, purchase, possess, display, or present a counterfeit, false, or altered official government issued operator identification (Face) card; a counterfeit, false, or altered official government issued public vehicle for hire identification (DCTC) card; or a temporary license issued pursuant to § 822.1. Penalties for a violation of this provision may include license suspension, revocation, or non-renewal, a fine as provided in Chapter 20, or both.
- (b) An operator may make, and keep secured, a personal copy of his or her official government issued operator identification (Face) card or official government issued public vehicle for hire identification (DCTC) card in his or her personal files. This personal copy may not be carried in the vehicle or presented or displayed as proof of licensure.

Subsection 822.9 is amended to read as follows:

822.9 Duty to update DCTC with current information.

- (a) Every person holding an identification card shall maintain at the Office of Taxicabs their correct name, residence address and telephone number, and if affiliated with a company or association, the association, company, organization or owner for which they drive. In the event of any change in this information, the licensee shall inform the Office of the change within five (5) business days. The licensee may elect to provide this information by certified mail with return receipt requested or by hand delivery to the Office.
- (b) If the licensee delivers the information by hand delivery, the Office shall provide proof of filing to the licensee.

Section 823, MANIFEST RECORD, is amended as follows:

Subsection 823.1 is amended to read as follows:

823.1

- (a) An operator of a public vehicle-for-hire shall maintain a daily log record (manifest) of all trips made by the vehicle while under his or her control. A manifest may be in the format as provided for in Appendix 8-3 if in paper form, or electronic as part of a digital payment solution for taxicab dispatch and payment, or a digital payment solution for sedans.
- (b) An electronic manifest shall contain, at a minimum, all the information required by § 823.2, all information required for each receipt by § 803, and all information required by Chapter 16.
- (c) An electronic manifest for a taxicab must be capable of providing a printed record immediately upon demand by a District enforcement official.

Subsection 823.2 is amended to read as follows:

823.2

The manifest should contain, but not be limited to, the following:

- (a) The date, operator's identification card number, taxicab company, vehicle number, and license plate number;
- (b) The interstate mileage at the beginning and ending of an interstate trip;
- (c) The time and place of origin and time and place of destination of each trip;
- (d) The number of passengers and fare charged for each trip; and
- (e) The time and interstate mileage at the end of the workday.

Section 824, SANCTIONS AND PENALTIES, is amended as follows:

Subsection 824.1 is amended to read as follows:

824.1

A person that violates a Commission rule may, upon determination of liability, be subject to civil fines pursuant to Chapter 20 of this title or other sanctions pursuant to the Establishment Act as defined in Chapter 99 of this title and other applicable District of Columbia laws and regulations.

Subsection 824.5, subparagraph (a), is amended to read as follows:

- (a) The civil fines as set forth in Chapter 20 of this title;

Section 825, TABLE OF CIVIL FINES AND PENALTIES, is DELETED and RESERVED.

Chapter 9, INSURANCE REQUIREMENTS, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 907, PENALTY, is amended as follows:

Subsection 907.1, subparagraph (a), is amended to read as follows:

- (a) The fines as set forth in Chapter 20;

Chapter 10, PUBLIC VEHICLES FOR HIRE, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 1017, PENALTY, is amended as follows:

Subsection 1017.1 is amended to read as follows:

1017.1 A violation of this chapter shall be subject to:

- (a) The fine or penalty set forth in Chapter 20 of this title;
- (b) Impoundment of the vehicle pursuant to the provisions of the Taxicab and Passenger Vehicle for Hire Impoundment Act of 1992, effective March 16, 1993 (D.C. Law 9-199; D.C. Official Code § 50 -331)(2009 Repl. & 2011 Supp.);
- (b) License suspension, revocation, or non-renewal; or
- (c) Any combination of the sanctions listed in this subsection.

Chapter 12, LUXURY SERVICES – OWNERS, OPERATORS, AND VEHICLES, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 1201, GENERAL REQUIREMENTS, is amended as follows:

Subsection 1201.6 is amended to read as follows:

1201.6 The penalty for a violation of § 1201.4(i) by an operator providing LCS shall be a civil fine as set forth in Chapter 20.

Section 1202, LICENSING OF VEHICLE OWNERS, is amended as follows:

Subsection 1202.9 is amended to read as follows:

1202.9 Any LCS organization that fails to timely file information as required in § 1202.2 shall be subject to a civil fine as set forth in Chapter 20.

Subsection 1202.10 is amended to read as follows:

1202.10 Each vehicle owner that fails to timely renew its license under this section shall be subject to a civil fine as set forth in Chapter 20.

Section 1218, PENALTIES, is amended as follows:

Subsection 1218.1, subparagraph (a), is amended to read as follows:

1218.1 Each violation of this chapter by an operator shall subject the violator to:
(a) Fines as provided by Chapter 20 of this title;

Subsection 1218.2, subparagraph (a), is amended to read as follows:

1218.2 Each violation of this chapter by an LCS organization shall subject the violator to:
(a) Fines as provided by Chapter 20 of this title;

Chapter 13, LICENSING AND OPERATIONS OF TAXI METER COMPANIES, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 1331, TAXIMETER BUSINESS -- FINES FOR VIOLATIONS, is DELETED.

Chapter 14, OPERATION OF BLACK CARS, AND VEHICLES, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 1401, GENERAL PROVISIONS, is amended as follows:

Subsection 1401.2 is amended to read as follows:

1401.2 No person shall participate in providing black car service in the District without first having procured all applicable licenses and met all requirements of this title and other applicable laws. A violation of this subsection shall subject the violator to civil fines as provided under Chapter 20 of this title and any other penalty authorized by the Act or an applicable provision of this title.

Section 1402, OPERATING REQUIREMENTS, is amended is follows:

Subsection 1402.3 is amended to read as follows:

1402.3 Each operator and owner shall cooperate with the Office and District enforcement officials, including complying with all compliance orders issued orally and in writing. Failure to timely and fully comply with a compliance order shall subject the operator or owner to the civil penalties provided in Chapter 20.

Section 1404, PENALTIES, is amended as follows:

Subsection 1404.1, subparagraph (a), is amended to read as follows:

1404.1 Each violation of this chapter by a black car owner or operator shall subject the owner or operator to:

- (a) Civil fines as provided under Chapter 20 of this title;

Subsection 1404.2 is DELETED.

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

Section 1608, PENALTIES, is amended as follows:

Subsection 1608.1, subparagraph (a), is amended to read as follows:

1608.1 A dispatch service that violates this chapter shall be subject to:

- (a) Civil fines as provided by Chapter 20 of this title;

Subsection 1608.2 is DELETED.

Chapter 18, WHEELCHAIR ACCESSIBLE PARATRANSIT TAXICAB SERVICE, OF Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 1808, PENALTIES, is amended to read as follows:

1808.1 Each violation of this chapter by a company or operator shall subject the company or operator to a civil fine and/or other penalty as provided under Chapter 20, provided however, that any pattern of noncompliance with the provisions of this chapter by a company shall also subject the company to the suspension, revocation, and/or non-renewal of its CAPS-DC approval.

1808.2 The enforcement of any provision of this chapter shall be governed by the applicable procedures of Chapters 7 and 20.

Chapter 19, PRIVATE VEHICLES FOR HIRE, OF Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 1907, PENALTIES, is created and reads as follows:

1907 PENALTIES

- 1907.1 Each violation of this chapter by a private sedan operator shall subject the operator to:
- (a) A civil fine established by Chapter 20 of this title;
 - (b) Impoundment pursuant to the Impoundment Act, where a vehicle is operated without a document required by § 1904.1 (e);
 - (c) Enforcement action other than a civil fine, as provided in Chapter 7; or
 - (d) A combination of the sanctions enumerated in parts (a) through (c).
- 1907.2 Each violation of this chapter by a private sedan business shall subject the business to:
- (a) A civil fine established by Chapter 20 of this title;
 - (b) Enforcement action other than a civil fine, as provided in Chapter 7; or
 - (c) A combination of the sanctions enumerated in parts (a) and (b).
- 1907.3 The civil fines for violations of this chapter by a private sedan business or private sedan operator are set forth in Chapter 20 of this title.
- 1907.4 An operator charged with a violation of § 1906.7 for false dispatch may be adjudicated liable for the lesser-included violation of solicitation or acceptance of a street hail, in the discretion of the trier of fact based on the evidence presented, but shall not be held liable for both violations.
- 1907.5 In addition to any other penalty or action authorized by a provision of this title, the Office may report violations to another government agency for appropriate action which may include the denial, revocation or suspension of any license that may be issued by the other agency.

Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended by adding a new Chapter 20, FINES AND CIVIL PENALTIES, to read as follows:

2000 FINES AND CIVIL PENALTIES

2000.1 The following table of fines shall apply to violations of Title 31. For violations of any provision of Title 31 for which a fine is not specified, the fine shall be \$25 for operators and \$100 for entities.

2000.2 All fines listed in § 2000.4 shall be doubled for the second violation within a twenty-four (24) month period and tripled for the third violation within a twenty-four (24) month period. The fine amounts listed in § 2000.4 are maximum amounts.

2000.3 A warning may be issued in lieu of fines for any first violation.

2000.4 Schedules of Fines (4) are as follows:

Schedule 1 Fines For Entities And Owners Maximum Fines Based On Circumstances	
Digital Dispatch Services (Chapter 16)	
<ul style="list-style-type: none"> • Failure by a private sedan (“PS”) business to transmit the required one percent (1%) of gross receipts to OCFO (§ 1604.7) • Failure to provide required certification (§ 1608.2 (c)) 	\$25,000
Taximeter Service Violations <ul style="list-style-type: none"> • Fraud by taximeter business (§ 1313) • Bribery of Commission by taximeter business (§ 1317.1) • Acceptance of Bribe (§ 1317.3) 	\$25,000
Private Sedan Business (Chapter 19)	
Failure by a PS business to maintain adequate insurance coverage (§ 1905)	\$25,000
Taximeter Service Violations <ul style="list-style-type: none"> • Failure to report to Commission acceptance of unauthorized gratuity or bribe (§ 1317.2) 	\$10,000
<ul style="list-style-type: none"> • Allowing the registration of an operator where the private sedan business knew or should have known the operator was ineligible for registration (§ 1903.16) • Failure to conduct background check (§ 1903.16) 	\$7,500

<ul style="list-style-type: none"> • Failure by taximeter business to notify Commission of change in ownership (§ 1307.1) 	<p>\$5,000</p>
<p>Failure of a PS business to:</p> <ul style="list-style-type: none"> • Maintain a required zero tolerance policy (§§ 1903.9, 1903.11) • Investigate an alleged violation of these rules by a passenger (§ 1903.10) • Suspend an operator when required to do so under applicable law or regulation (§ 1903.10) • Maintain adequate business records (§ 1903.15) • Maintain a current and accurate registration of operators and vehicles associated with the business (§ 1903.15) • Prevent a private sedan operator from logging into the app of the private sedan business’s associate or affiliated digital dispatch service while the operator is suspended or after s/he has been terminated. (§ 1906.4) • Notify the Office upon suspension or termination of an operator (§ 1903.20) • Providing service while under the influence of intoxicants (§ 1906.5) • Maintain 24/7/365 communication for enforcement and compliance purposes (§ 1903.21) • Conduct an appropriate motor vehicle safety inspection or failure to verify that such an inspection has been completed (§ 1903.4) 	<p>\$3,000</p>

<p>Schedule 2 Fines For Entities And Owners Maximum Fines Based On Circumstances</p>	
<p>Fraudulent Actions</p>	
<p>Company allowing or inducing an individual to deface, alter, or remove a document posted pursuant to (§ 714.3)</p>	<p>\$2,500</p>
<p>Payment Service Providers (Chapter 4)</p>	

<p>Failure to do any of the following:</p> <ul style="list-style-type: none"> • Submit electronic trip data to the TCIS every twenty-four (24) hours; • Verify operator credentials through a required login process; • Submit updated vehicle and operator inventories to the TCIS every twenty-four (24) hours; • Pay each taxicab company or independent owner with which it is associated the portion of such PSP's revenue to which the taxicab company or independent owner is entitled within twenty-four (24) hours or one (1) business day of when such revenue is received by the PSP; • Ensure that the passenger surcharge is collected and paid to the District for each trip; • Maintain integration 	\$1,000
<p>Taximeter Business Violations:</p> <ul style="list-style-type: none"> • Unauthorized work (§ 1322) 	\$5,000
<p>Taximeter Business Violations:</p> <ul style="list-style-type: none"> • Failure to notify Commission of conviction or license suspension/revocation (§§ 1315, 1316) • Failure to notify Commission of occurrences specified in §§ 1322, 1324 • Defective certification/inspection/repair work (§§ 1322, 1324) • Inspection without certification or inspection (§ 1324) 	\$1,000
Digital Dispatch Services (Chapter 16)	
<ul style="list-style-type: none"> • Failure to ensure private sedan operator who is suspended or terminated is unable to log into app (§ 1608.2) • Failure to provide required certification (§ 1608.2) 	\$2,500 per day
Any violation of Chapter 16 not specifically enumerated	\$1,000
False Dispatch (§ 1404.2)	\$500
Unauthorized or unlicensed provision of L-class service (Chapter 12)	\$500
Violations not otherwise specified by LCS Organizations (Chapter 12)	\$500

Schedule 3 Fines For Entities, Owners, & Operators Maximum Fines Based On Circumstances	
Fraudulent actions	
<ul style="list-style-type: none"> • Falsifying or tampering with manifest (§ 823) • Displaying, possessing, or presenting a fraudulent copy or altered government issued operator identification (Face) card or vehicle inspection (DCTC) card (§ 814.7) • Tampering with meter or meter seals (§ 1323) • Knowingly operating with non-functioning meter or operating with • Improperly sealed meter (§ 1321) 	\$500
License, Registration and Insurance	
<ul style="list-style-type: none"> • Unlicensed District resident or non-resident operator (§ 828) • Operating without a valid Face card or permitting operation without possession of a valid Face card (§ 814) • Logging into a private vehicle for hire app if known that the app is not lawfully in operation (§ 1906.4) • Operating without insurance (§ 1905) • Fail to timely renew license (LCS vehicle owner) (§ 1202.9) • Providing black car service without license (§1401.2) 	\$500
Operating without a special event vehicle for hire permit (§ 1016)	\$500
Taximeter Business Violations (Chapter 13) <ul style="list-style-type: none"> • Installation, adjustment, correction, calibration, or repair of taximeter outside of premises of licensed taximeter business • Change in fee schedule without notification • Failure to pay bi-annual license fee • Unlicensed business activity • Failure to cooperate with Commission • Work by non-certified technician 	\$500
Failure to comply with compliance order (§ 702)	\$500
Violations of Chapter 18 by entities or owners (wheelchair accessible paratransit taxicab service)	\$500
Failure to timely renew vehicle license (§ 501)	\$500

Failure to report an accident to insurance company within a timely manner or to the Office of Taxicabs within 3 business days (§ 906)	\$500
<ul style="list-style-type: none"> • Use, threaten, attempted physical force (§ 817.1 and § 1906.2) • Threatening, harassing, or engaging in abusive conduct toward a District enforcement official (§ 817) • Refusal to haul (§ 819.4) • Private vehicle for hire operator using taxicab stand (§ 1906.6) • Accepting a street hail (§ 1906.7) 	\$500
Operating with off size wheels or tires (Chapter 6)	\$500
Operating without meter or with nonfunctional meter (§ 602)	\$500
Transport DC/CAPS DC violations by companies not otherwise specified (§ 1808.2)	\$500
Failure to decommission public vehicle for hire when operating under exclusive time contract (§ 800)	\$500
Digital Dispatch Service Violations not specified by chapter 16 (§ 1607)	\$500
<ul style="list-style-type: none"> • Unlawful discrimination by black car operator (§ 1404) • Conduct preventing surcharge from being collected (§ 1404) 	\$500
No keeper or proprietor of a licensed hotel shall exclude a District-license taxicab operator from picking a passenger at a taxicab stand or other location where taxicabs or regular allowed; Exclusion of DCTC licensed taxicab by proprietor, owner, or agent (§ 821)	\$300
Black Car Violations (§ 1402) <ul style="list-style-type: none"> • Failure to cooperate with Commission • Failure to comply with documentation requirements • Unlawful gratuity 	\$100

Schedule 4 Fines Owners & Operators Maximum Fines Based On Circumstances	
Warnings apply to first violation; for subsequent violations, a suspension for two (2) days applies when fine is ≤ \$250, or a suspension for a week applies when fine ≥ \$250	
Violations of Chapter 18 by operators (wheelchair accessible paratransit taxicab service)	\$250
Smoking while transporting passengers (§ 807.1)	\$250
Failure to render service to a CAPS-DC/ Transport DC Customer passenger (§ 1806.18)	\$250
Failure by a private sedan operator to: <ul style="list-style-type: none"> • Display trade address while providing service (§ 610.1) • Maintain proof of insurance (§ 1904.1) • Notify the Office within 3 business days where there has been an accident accompanied by the loss of human life or by serious personal injury (§ 1904.1) • Charge an unlawful fare or require an unlawful gratuity (§ 1604.4) 	\$250
Violations of Chapter 6 (Taxicab Parts and Equipment)	\$250
Taximeter business violations (Chapter 13) <ul style="list-style-type: none"> • Failure to comply with signage requirements • Overcharge • Failure to keep appropriate records 	\$250 for first two violations; \$100 for recordkeeping violations
Defective speedometer/odometer or operating without a meter (§§ 601.7 & 608)	\$250
Failure to charge proper fare (§ 602)	\$150
Improperly operating heating or A/C system (§ 601)	\$125
Transport D.C.	
Any violation of Chapter 16	\$100
Operator Conduct	
Service Animal violations (§ 801.10)	\$100

<p>Failure to:</p> <ul style="list-style-type: none"> • Display current inspection sticker or operate with valid sticker (Chapter 6) • Display face card (§ 814) • Report and deliver property left in vehicle to the Office of Taxicabs (§ 602) • Operate safe vehicle (§ 608) • Pick up or drop off at designated taxi or discharge stand (shared riding) (§§ 808.2 and 803.3) • Maintain correct/current information (§ 822.1) • Report accident to insurance carrier within specified time (§ 906) • Provide proof of insurance (§ 900.12) 	\$100
Improper Use of “On Call” or “Off Duty” Signs (§ 820)	\$100
Asking destination (§ 819.9)	\$100
Operating with an expired inspection sticker (Chapter 6)	\$150
<p>Cruising Lights (Chapter 8)</p> <ul style="list-style-type: none"> • Failure to have • Broken • Failure to use properly 	\$150 for failure to have \$50 for failure to use properly or broken
<ul style="list-style-type: none"> • Failure to report for inspection (Chapter 8) • Failure to replace lost/mutilated sticker • Failure to display current sticker 	\$75
Failure to Obey Compliance Order (§ 702)	\$50
Illegal Shared Ride (§ 808)	\$50
Loitering/Limousine parked on hack stand (§ 821)	\$50
<p>Manifest violations (§ 823) - failure to</p> <ul style="list-style-type: none"> • Have in approved form & possession; • Properly complete and maintain; • Provide to hack inspector 	\$0

Copies of this proposed rulemaking can be obtained at www.dcregs.dc.gov or by contacting the Secretary to the Commission, District of Columbia Taxicab Commission, 2235 Shannon Place, S.E., Suite 3001, Washington, D.C. 20020. All persons desiring to file comments on the proposed rulemaking action should submit written comments via e-mail to dctc@dc.gov or by mail to the DC Taxicab Commission, 2235 Shannon Place, S.E., Suite 3001, Washington, DC 20020, Attn: Secretary to the Commission, no later than thirty (30) days after the publication of this notice in the *D.C. Register*.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**NOTICE OF EMERGENCY RULEMAKING**

The Director of the Department of Consumer and Regulatory Affairs (DCRA), pursuant to Sections 104 and 105 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801.04 and 2-1801.05 (2012 Repl.)), Mayor's Order 1986-38, dated March 4, 1986, and Mayor's Order 2004-46, dated March 22, 2004, hereby gives notice of the adoption of the following emergency rulemaking to amend Sections 3306 and 3309 of Chapter 33 (Department of Consumer & Regulatory Affairs (DCRA) Infractions) and Section 3401 of Chapter 34 (Fire and Emergency Medical Service (EMS) Department Infractions) of Title 16 (Consumers, Commercial Practices, and Civil Infractions) of the District of Columbia Municipal Regulations (DCMR).

This emergency rulemaking is necessary to address a gap in the enforcement of compliance with the current District of Columbia Construction Codes, adopted March 28, 2014 (61 DCR 3251-Part 2), as amended (the "2013 Construction Codes"), since violations of the 2013 Construction Codes would not be subject to notices of violation and enforcement proceedings to the extent that the existing regulations refer to a previous version of the Construction Codes. Violations of the 2013 Construction Codes pose an immediate and continuing threat to the public health and safety. This emergency rulemaking is limited to changes in the numbering of provisions between the 2013 Construction Codes and the previous version of the Construction Codes, and does not change the substance or classification of infractions.

This emergency rulemaking does not apply to violations or infractions committed prior to March 28, 2014, whether the prosecution or adjudication of those violations or infractions is instituted before or after said date. Such violations or infractions will be adjudicated pursuant to the existing Title 16.

This emergency rulemaking was adopted on September 20, 2015, to become effective immediately, extending an emergency originally adopted on January 23, 2015 and extended on May 23, 2015. This emergency rulemaking will remain in effect for up to one hundred and twenty (120) days from the date of adoption, and will expire on January 18, 2016.

Chapter 33, DEPARTMENT OF CONSUMER & REGULATORY AFFAIRS (DCRA) INFRACTIONS, of Title 16 DCMR, CONSUMERS, COMMERCIAL PRACTICES, AND CIVIL INFRACTIONS, is amended as follows:

Section 3306 is amended to read as follows:

3306 BUILDING INSPECTION DIVISION INFRACTIONS

3306.1 CONSTRUCTION INSPECTION INFRACTIONS

The following abbreviations apply to this section:
IPMC- International Property Maintenance Code (2012 edition)

- 3306.1.1 Violation of any of the following provisions shall be a Class 1 infraction:
- (a) 12-A DCMR §§ 105.1, 105.1.1 and 105.1.3 (working without required permit);
 - (b) 12-A DCMR § 105.1 (exceeding scope of permit);
 - (c) 12-A DCMR § 115.1 (failure to remedy dangerous conditions or remove hazardous materials);
 - (d) 12-A DCMR §§ 114.1, 114.1.1, 114.6, 114.7 and 114.9 (failure to comply with terms of a 'Stop Work Order');
 - (e) 12-A DCMR § 114.3 (unauthorized removal of a posted stop work order);
 - (f) 12-A DCMR § 115.5 (failure to comply with terms of posted "Unsafe to Use" notice); or
 - (g) IPMC 302.1 (exterior of property not in clean or sanitary condition).

3306.2 PLUMBING INSPECTION INFRACTIONS

The following abbreviations apply to this section:

IPC- International Plumbing Code (2012 edition)

IPMC- International Property Maintenance Code (2012 edition)

- 3306.2.1 Violation of any of the following provisions shall be a Class 1 infraction:
- (a) 12-A DCMR §§ 114.1, 114.1.1, 114.6, 114.7 and 114.9 (failure to comply with terms of a Stop Work Order);
 - (b) 12-A DCMR § 105.1.6 (HVAC work performed by non-D.C. licensed mechanic);
 - (c) IPC 424.3; IPMC 505.1 (hot water exceeds 120 degrees °F.);
 - (d) 12-A DCMR § 114.3 (unauthorized removal of a posted stop work order);
 - (e) 12-A DCMR § 105.1.6 (plumbing work performed by non-D.C. licensed plumber); or

- (f) 12-A DCMR §§ 105.1, 105.1.1 and 105.1.3 (working without a permit).

3306.2.2 Violation of the following provisions shall be a Class 2 infraction:

- (a) 12-F DCMR §§ 301.3 and 712.3.5, 1101.2 (sump pump discharge into public space);
- (b) 12-F DCMR §§ 301.3 and 712.3.5, 1101.2 (discharge of water from sump pump directly to adjacent property); or
- (c) IPC 802.1.4 (swimming pool water discharge into public/park space).

3306.2.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) IPMC 506.2 (obstruction of drains);
- (b) IPMC 506.2 (plumbing system not maintained);
- (c) IPMC 603.1 (mechanical system not maintained);
- (d) 12-F DCMR § 1101.2 (downspout(s) not connected to terminals); or
- (e) IPMC 506.2 (main sewer line obstructed).

3306.2.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) IPMC 505.4 (no hot water at peak demand); or
- (b) IPC 604.7 (inadequate water pressure).

3306.3 ELECTRICAL INSPECTION INFRACTIONS

3306.3.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 12-A DCMR §§ 105.1, 105.1.1 and 105.1.3 (working without the required electrical permit);
- (b) 12-A DCMR § 105.1 (exceeding scope of permit);
- (c) 12-A DCMR §§ 114.1, 114.1.1, 114.6, 114.7 and 114.9 (failure to

comply with terms of a Stop Work Order); or

- (d) 12-A DCMR § 114.3 (unauthorized removal of a posted stop work order).

3306.4 BOILER INSPECTION INFRACTIONS

The following abbreviations apply to this section:
IMC- International Mechanical Code (2012 edition)

3306.4.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 12-A DCMR §§ 114.1, 114.1.1, 114.6, 114.7 and 114.8(failure to comply with terms of a Stop Work Order);
- (b) 12-A DCMR § 114.3 (unauthorized removal of a posted stop work order);
- (c) 12-E DCMR §§ 1003.1 and 1003.3 (failure to obtain a boiler Certificate of Inspection);
- (d) 12-E DCMR §§ 1003.17.1; 12-A DCMR § 115.5 (violation of conditions of posted Unsafe to Use notice);
- (e) 12-E DCMR §§ 1001.3 and 1004.7; 12-A DCMR §§ 105.1 and 105.1.1 (failure to obtain a boiler installation permit);
- (f) 12-E DCMR §§ 1001.3 and 1004.7; 12-A DCMR §§ 105.1 and 105.1.1 (no installations permit for boiler and/or unfired pressure vessels);
- (g) 12-E DCMR §§ 1001.4; 17 DCMR § 400.2 (operating engineering equipment without proper D.C. engineer's license); or
- (h) 12-E DCMR §§ 1001.3 and 1004.7; 12-A DCMR §§ 105.1 and 105.1.1 (alteration and repair of boilers without required permit).

3306.4.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) IMC 303.3 and 304.9, 1004.3 (improper location or clearance of a boiler); or
- (b) 12-E DCMR § 1018.1 (welder working without a D.C. authorization card).

3306.4.3 Violation of the following provision shall be a Class 3 infraction:
12-E DCMR § 1003.16 (failure to make a timely repair, alteration, or cleaning, to a boiler specified in a notice).

3306.4.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 12-E DCMR §§ 1001.2, 1001.4 and 1003.17 (improper boiler or pressure vessel operation);
- (b) 12-E DCMR § 1003.1 (certificate of inspection not properly posted); or
- (c) 12-E DCMR § 1005.3; IMC 1004.6; 12-A DCMR § 109.6.1 (denial of entry to boiler room).

3306.5 ELEVATOR INSPECTION INFRACTIONS

The following abbreviations apply to this section and identify referenced standards adopted by the 2013 District of Columbia Construction Codes:

ASME- American Society of Mechanical Engineers

NFPA- National Fire Protection Association

3306.5.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 12-A DCMR §§ 105.1 and 105.1.1 (installation of elevators, escalators, dumbwaiters, man lift(s), and other conveying systems without a permit);
- (b) 12-A DCMR §§ 114.1, 114.1.1, 114.6, 114.7 and 114.9 (failure to comply with terms of a Stop Work Order);
- (c) 12-A DCMR § 114.3 (unauthorized removal of a posted stop work order); or
- (d) 12-A DCMR §§ 115.5 and 3010.10.2 and 3010.10.3; 12-G DCMR §§ 108.5, 606.8.2 and 606.8.3 (failure to comply with terms of posted Unsafe to Use notice).

3306.5.2 Violation of any of the following provisions shall be a Class 2 infraction:

12-A DCMR §§ 3001.2 and 3010.5; 12-G DCMR §§ 606.3, 606.3.1-606.3.4 (failure to comply with any of the following maintenance, testing and inspection standards):

- (a) ASME A17.1- Rules 8.11.4.1, 8.11.2.1 and 8.6.8.15 (failure to have semi-annual inspections performed);
- (b) ASME A17.1- Rule 1002.3 (failure to schedule five year governor speed and safety test);
- (c) ASME A17.1- Rule 2.2.4.5(e), 2.7.3.4 and 8.11.2.1.2(b) (failure to provide required fire rated door at elevator machine room with self-closing and self-locking device);
- (d) ASME A17.1- Rules 2.2.4.5(e) and 2.7.3.4 (failure to provide a UL listed fire rated self-closing, self-locking, device at machine room door of elevators or pit doors);
- (e) ASME A17.1 – Rules 8.11.3.1.1(f) and 8.11.4.1(e) (failure to provide emergency light and bell operation); or
- (f) ASME A17.1 –Rules 2.27.1, 8.11.2.1.1(f) and 8.11.3.1.1(f) (failure to repair emergency phone on elevators).

3306.5.3 Violation of any of the following provisions shall be a Class 3 infraction:

12-A DCMR §§ 3001.2 and 3010.5; 12-G DCMR §§ 606.3 and 606.3.1-606.3.4 (failure to comply with any of the following maintenance, testing and inspection standards):

- (a) ASME A17.1- Rule 8.11.3.1.2(j) (failure to provide required class fire extinguisher in elevator machine room);
- (b) ASME A17.1- Rule 8.6.4.13.1(h) (failure of elevator to level at floor);
- (c) ASME A17.1- Rule 8.11.2.1.1(o) (failure to post fire emergency instruction pictograph adjacent to each non-egress hall push button);
- (d) NFPA 70 § 620-51(c) (main line disconnects unable to be locked in the off position);
- (e) ASME A17.1-Rule 8.6.4.7.1 (failure to remove all materials not related to the operation from the pit).

3306.5.4 Violation of any of the following provisions shall be a Class 4 infraction:

12-A DCMR §§ 3001.2 and 3010.5; 12-G DCMR §§ 606.3 and 606.3.1-606.3.4 (failure to comply with any of the following maintenance, testing and inspection standards):

- (a) ASME A17.1- Rule 8.6.4.7.1 (excessive lint and dust in hoist ways);
- (b) ASME A17.1- Rule 8.6.4.8.2 (non-related equipment in elevator machine room);
- (c) ASME A17.1- Rules 8.6.4.13.1(c); 8.6.4.13.1(k), and 8.6.4.13.1(l) (elevator door reopening device/closure button in disrepair); or
- (d) ASME A17.1-Rule 8.6.4.7.1 (unclean elevator pits)

Section 3309 is amended to read as follows:

3309 DCRA FIRE PROTECTION DIVISION INFRACTIONS

The following abbreviations apply to this section:

- IFC- International Fire Code (2012 edition)
- IBC- International Building Code (2012 edition)
- IPMC- International Property Maintenance Code (2012 edition)

The following abbreviation applies to this section and identifies referenced standards adopted by the 2013 District of Columbia Construction Codes:

NFPA- National Fire Protection Association

3309.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 12-A DCMR §§ 115 and 116; 12-H DCMR § 108.3 (failure to remedy dangerous conditions to remove hazardous materials);
- (b) 12-A DCMR §§ 114.1, 114.1.1, 114.6, 114.7 and 114.9 (failure to comply with terms of a stop work order);
- (c) 12-A DCMR § 114.3 (unauthorized removal of a posted stop work order);
- (d) RESERVED;
- (e) RESERVED;

- (f) IBC 709.3; IPMC 703, 703.1 and 703.2 (failure to maintain all required fire resistance rated doors or smoke barriers);
- (g) IFC 901.4.1; IPMC 704.1 and 704.1.1; IBC 904.1; 12-G DCMR §§ 704.1.2, 704.2 and 704.5 (failure to maintain in an operative condition at all times fire protection and life safety systems, devices, units, or service equipment);
- (h) 12-H DCMR § 906.1; 12-G DCMR § 704.1.2; 12-A DCMR § 906.1 (failure to provide fire extinguishers);
- (i) IFC 1003.1; IPMC 702.1 and 702.3 (failure to maintain in a safe condition and free of all obstructions the means of egress from each part of the building);
- (j) IBC 1004.3 (overcrowding or admitting persons beyond the established posted occupants load);
- (k) IFC 507.5.4; IBC 912.3 (fire hydrants, fire department inlet connections, or fire protection system control valves are obstructed in such manner as to interfere with firefighting access);
- (l) IFC 1006.1 and 1006.2; IBC 1006.1 and 1006.2; 12-G DCMR § 402.2 (failure to provide adequate lighting for stairways, hallways, and other means of egress); or
- (m) IBC 1027.1, 1027.2 and 1027.5 (exits fail to discharge directly at a public way or at a yard, court, or open space of the required width and size to provide all occupants with a safe access to a public way).

3309.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 12-G DCMR § 308.1 (permitting the accumulation of waste paper, wood, hay straws, weeds, litter, or combustible or flammable waste or rubbish of any kind);
- (b) IFC 904.11; IBC 904.11 (failure to provide or maintain an automatic activation kitchen hood fire extinguishing system);
- (c) IFC 904.11.1; IBC 904.11.1 (failure to provide or maintain a manual activation device for the hood fire extinguishing system);
- (d) NFPA 70 110.32 (failure to provide the required clearance between all electrical service equipment and storage);

- (e) IFC 904.11.5 (failure to provide a sufficient number of portable fire extinguishers for commercial cooking equipment);
- (f) IFC 906.2; 12-G DCMR § 704.1.2 (failure to maintain, test, or recharge hand-operated portable fire extinguishing equipment);
- (g) IFC 315.3.2 (storing combustible or flammable materials on any portion of an exit, elevator car, stairway, fire escape, or other means of egress);
- (h) IBC 1005.1 (door openings fail to meet the requirements of minimum width based upon occupant load);
- (i) IBC 1008.1.10 (doors are not equipped with approved panic hardware);
- (j) IBC 1008.1.2 (exit doors swing in the wrong direction);
- (k) 12-E DCMR § 1003.6 (failure to provide an oil burner emergency switch);
- (l) IBC 1011.6.3 (failure to provide emergency lights, alarms, or power back-ups);
- (m) IBC 1011.1 (permitting decorations, furnishings, or equipment that impairs the visibility of exit signs);
- (n) IBC 716.5.9, 707.1 and 709 (failure to maintain self-closing and automatic doors or to provide a fire or smoke barrier);
- (o) IBC 1004.3 (failure to conspicuously post sign stating the number of occupants permitted within such space for each place of assembly);
- (p) IBC 1011.1 (failure to maintain exit signs in theaters or other places of public assembly); or
- (q) IBC 806 (decorative materials are not non-combustible or flame resistant).

3309.3

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) IFC 904.1 and 904.4; IPMC 704.1.1; 12-G DCMR § 704.1.2 (extinguishing systems are not inspected and tagged);
- (b) IBC 1006.1; 12-G DCMR § 702.6 (exit signs are not maintained or clearly illuminated at all times when the building is occupied); or
- (c) Any provision of the District of Columbia Construction Codes adopted pursuant to the Construction Codes Approval and Amendment Act of

1986, effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code §§ 6-1401 *et seq.*) which is not cited elsewhere in this section shall be a Class 3 infraction.

Chapter 34, FIRE AND EMERGENCY MEDICAL SERVICES (EMS) DEPARTMENT INFRACTIONS, of Title 16 DCMR, CONSUMERS, COMMERCIAL PRACTICES, AND CIVIL INFRACTIONS, is amended as follows

Section 3401 is amended to read as follows:

3401 FIRE CODE INFRACTIONS

The following abbreviations apply to this section:
IFC- International Fire Code (2012 edition)

3401.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 12-H DCMR § 102.3 (change in occupancy that will subject the structure to special provisions of the Fire Code or Building Code without the approval of the code official);
- (b) 12-H DCMR § 105.1.1 (failure to obtain and maintain required permits on the premises, including operational or installation permits as described by 12-H DCMR §§ 105.1.2 and 105.6;
- (c) 12-H DCMR § 104.11.6.2 (obstructing operations of the Fire Department in connection with extinguishment or control of any fire, or action relating to other emergencies);
- (d) 12-H DCMR § 109.2.5 (failure to remedy dangerous condition or remove hazardous materials);
- (e) 12-H DCMR § 110.1.1 (failure to remedy hazardous conditions liable to cause or contribute to the spread of fire in, or on, the premises, building or structure, or endangering life or property);
- (f) IFC 5003.3.1.4 (failure to remedy hazardous conditions arising from defective or improperly installed equipment for handling or using combustible, explosive or otherwise hazardous materials);
- (g) 12-H DCMR § 110.5 (failure to maintain, on a structure, premises, or lot, the fire protection equipment, systems or devices, means of egress or safeguards required by the Fire Code);
- (h) 12-H DCMR § 109.2.4 (failure to remedy unsafe conditions in an existing structure or vacant structure, or a deficiency in a means of egress);

- (i) 12-H DCMR § 110.2 (refusal to leave, or interference with the evacuation of other occupants or continuance of any operation after receiving an evacuation order);
- (j) 12-H DCMR § 109.2.4 (failure to comply with a notice of violation issued by the code official);
- (k) IFC 311.2.1 (failure to secure exterior and interior openings of vacant premises);
- (l) IFC 603.4 (failure to prohibit the use of portable unvented heaters or fuel fired heating equipment in use groups A, E,I,R-1,R-2, R-3 and R-4);
- (m) IFC 604.1 (failure to maintain and inspect emergency and standby systems in accordance with the Fire Code, NFPA110 and NFPA111);
- (n) IFC 904.1 (failure to inspect, test and maintain automatic fire-extinguishing systems (except sprinkler systems) in accordance with the Fire Code and the applicable referenced standards);
- (o) IFC 1004.3 (failure to post occupant load);
- (p) 12-H DCMR § 107.6 (permitting overcrowding or admitting persons beyond the established occupant load); or
- (q) 12-H DCMR § 5609.1.1 (engaging in the manufacturing, possession, storage or display, sale, setting off, or discharge of prohibited fireworks).

3401.2 Violations of any of the following provisions shall be a Class 2 infraction:

- (a) 12-H DCMR § 308.1.4 (operating charcoal burners and other open-flame cooking devices on a balcony or within ten (10) feet of combustible construction);
- (b) IFC 308.2 (failure to obtain a permit for open flame use in an educational or assembly occupancy);
- (c) IFC 404.2 (failure to prepare and maintain a fire safety and evacuation plan in accordance with this section);
- (d) IFC 405.5 (failure to maintain emergency evacuation drill records);

- (e) IFC 406.3 (failure to ensure employees are provided with fire prevention, evacuation and fire safety training);
- (f) IFC 505.1 (failure to provide approved legible and visible building address identification);
- (g) IFC 507.5.4 (obstructing fire hydrants, department connections or other fire protection system control valves);
- (h) IFC 907.2.11 (failure to install approved single or multi-station smoke alarms in existing dwellings, congregate residences, and hotel and lodging house guestrooms); or
- (i) IFC 1029.1 (failure to maintain emergency escape windows operational).

3401.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) IFC 605.3 (failure to provide and maintain required clearance in front of electrical service equipment);
- (b) IFC 807.4.1 (obstruction of egress or exit access visibility by placement of furnishing or other objects in educational, assembly and in institutional group 4 occupancies);
- (c) IFC 906.1 (failure to provide fire extinguishers in required occupancies and locations); or
- (d) IFC 1026.1 (failure to ensure security bars, grilles and screens over emergency escape windows are releasable or removable from the inside without the use of a key or tool).

3401.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) IFC 304.1 (failure to prohibit accumulation of prohibited waste);
- (b) IFC 310.4 (removing, obscuring, defacing, mutilating or destroying “No Smoking” signs);
- (c) IFC 807.4.3.2 (failure to limit artwork and teaching material to not more than 20 percent on walls of corridors in educational occupancies);
- (d) IFC 806.1.1 (failure to prohibit display of natural cut trees in certain

occupancies); or

- (e) IFC 1022.9 (failure to provide stair identification of interior and exterior doors connecting more than three stories).

3401.5 Violation of any provisions of the Fire Code not otherwise listed in this section shall be a Class 5 infraction.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Director of the Department of Consumer and Regulatory Affairs (DCRA), pursuant to the authority under Mayor-Commissioner Regulation No. 74-39, effective December 13, 1974 (21 DCR 1285), as amended by the Vendors Regulation Amendments Act of 1978, effective June 30, 1978 (D.C. Law 2-82; 24 DCR 9293), Reorganization Plan No. 1 of 1986, effective August 21, 1986, the Vending Regulation Act of 2009, effective October 22, 2009 (D.C. Law 18-71; 56 DCR 6619), and Mayor's Order 2010-91, dated May 27, 2010; Sections 101(b), 2002(b), and 2 of the Omnibus Regulatory Reform Amendment Act of 1998, effective April 29, 1998 (D.C. Law 12-86; D.C. Official Code §§ 47-2851.04(c)(1), 47-2851.05(d), and 47-2851.12 (2005 Repl.; 2012 Supp.)); Sections 104 and 105 of the Department of Consumer and Regulatory Affairs Civil Infraction Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801.04 and 2-1801.05 (2012 Repl.)); and Mayor's Order 86-38, dated March 4, 1986, hereby gives notice of the intent to adopt, on an emergency basis, the following amendments to Chapter 5 (Vendors) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (DCMR).

This emergency rulemaking is necessary to address the continued sale of secondhand tickets from public space. The rulemaking establishes requirements for the sale of secondhand tickets from public space and the penalties for violation of the requirements. The rulemaking also amends the vending regulations in order to authorize the DCRA Director to revoke, suspend, or deny an application for the issuance of or renewal of a Vending Business License due to a violation of the secondhand ticket regulations. In addition, the rulemaking authorizes the DCRA Director to summarily suspend and seize a Vending Site Permit, without prior notice to the vendor or an opportunity to be heard.

This emergency rulemaking was adopted on September 4, 2015. This emergency rulemaking will remain in effect for up to one hundred and twenty (120) days from the date of effectiveness, and will expire on January 2, 2016. The Director also gives notice of the intent to take final rulemaking action to adopt these rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, or upon approval of this rulemaking by the Council of the District of Columbia, whichever occurs later.

Chapter 5, VENDORS, of Title 24 DCMR, PUBLIC SPACE AND SAFETY, is amended as follows:

Section 507, VENDING BUSINESS LICENSE: DENIAL, SUSPENSION, REVOCATION AND SEIZURE, is amended as follows:

Subsection 507.1 is amended to read as follows:

507.1 The DCRA Director may revoke or suspend a Vending Business License, or deny an application for the issuance or renewal of a Vending Business License, for any of the following:

- (a) Fraud, misrepresentation, or false statements contained in the license application;
- (b) Fraud, misrepresentation, or false statements made in connection with the selling of any product, service, or merchandise, as determined by the DCRA Director, or the misrepresentation or adulteration of food, as determined by the DOH Director;
- (c) Violation of any District law or regulation governing the operation of the vending business, including, but not limited to:
 - (1) The possession or sale of counterfeit merchandise; or
 - (2) The offering for sale of illegal goods, substances, or services;
- (d) The vendor is vending at a location other than the vendor's assigned Vending Location;
- (e) Violations of the Clean Hands Certification requirements;
- (f) Fraud committed against the District government, such as failure to pay required sales and use taxes, or attempting to transfer a Vending Business License, Vending Site Permit, or a Mobile Roadway Vending Site Permit to another person in violation of §§ 502.5, 510.4, and 514.3, respectively;
- (g) The vendor is found to have committed the same violation of the following sections of this chapter six (6) or more times in a continuous twelve (12) month period:
 - (1) §§ 544 through 554;
 - (2) §§ 556 through 568; or
 - (3) §571;
- (h) The vendor is found to have violated § 555 of this chapter; or
- (i) The vendor has violated §§ 573.9 or 573.15.

Section 573, SOLICITING: GENERAL PROVISIONS, is amended as follows:

Subsection 573.1 is amended to read as follows:

573.1 No person shall solicit any person from a street, sidewalk, or other public space, or in any way interfere with the free passage of any person along any street, sidewalk, or other public space, for the purpose of inducing that person to do any of the following:

- (a) Buy any merchandise, food, or service;
- (b) Patronize any hotel, motel, inn, or boarding house;
- (c) Patronize any place of entertainment or amusement; or
- (d) Sell tickets to an event at an entertainment venue that is located within one-half mile of the seller.

A new Section 573A is added to read as follows:

573A VENDING: TICKET SALES

- 573A.1 In consultation with the Metropolitan Police Department and after consultation with any associated entertainment venue, the DCRA Director may establish a Ticket Resale Zone (TRZ) on a sidewalk, street, or other public space within which the sale of tickets may be authorized by the DCRA Director after approval from DDOT pursuant to § 501.2(b).
- 573A.2 The Director of DCRA shall establish a TRZ by publishing a notice in the *D.C. Register* setting forth the location of the TRZ. The notice shall be published at least seven (7) days before the zone will be used for ticket sales.
- 573A.3 The Director of DCRA may rescind the designation of an area as a TRZ by publishing a notice of rescission in the *D.C. Register*; provided, that the DDOT Director may rescind the designation of an area as a TRZ before publication of such a notice by posting notices of rescission at the TRZ.
- 573A.4 DCRA may issue Vending Site Permits authorizing persons holding Class D Vending Licenses for ticket sales to sell tickets in a TRZ according to the provisions of this chapter.
- 573A.5 A Vending Site Permit authorizing the sale of tickets from a TRZ shall specify the:
- (a) Date(s) on which ticket sales are authorized;
 - (b) Time(s) during which ticket sales are authorized; and
 - (c) Ticket Resale Zone at which ticket sales are authorized.
- 573A.6 In order to obtain a Vending Site Permit, a person holding a Class D Vending License for ticket sales shall, by the fifteenth (15th) day of any calendar month, submit, on a form prescribed by the Director of DCRA, a request for any dates that the person desires Vending Site Permits to sell tickets in a TRZ, for the following month.

- 573A.7 If requests from licensees for Vending Site Permits exceed the number of available permits for a TRZ for a particular date and time, DCRA shall assign the available spaces through a lottery. DCRA shall publish the results of the lottery on the DCRA website.
- 573A.8 The venue associated with a TRZ shall, upon request, be granted one (1) Vending Site Permit for any requested event if the request is submitted by the fifteenth (15th) day of the previous calendar month or at the discretion of DCRA.
- 573A.9 A person may sell or offer to sell tickets from a TRZ if:
- (a) The person holds a Class D Vending License for ticket sales or is the venue associated with the TRZ;
 - (b) The person conspicuously displays his or her Vending Site Permit and Class D Vending License for ticket sales or an identification card provided to a venue by DCRA;
 - (c) The person has been issued a Vending Site Permit by DCRA authorizing him or her to sell tickets from the TRZ;
 - (d) The person is buying, selling, or offering to buy or sell tickets pursuant to the terms of the Vending Site Permit; and
 - (e) The person is buying, selling, or offering to buy or sell tickets for an event scheduled to begin within six hours of the time of sale.
- 573A.10 To conduct a sale in a TRZ, a ticket sale licensee must, in addition to operating in compliance with § 573A.9, provide a receipt to the non-licensee on a form prescribed by the Director of DCRA. If both the buyer and seller are licensees, each shall provide a receipt to the other party.
- 573A.11 An unlicensed person may sell tickets to a license holder who is operating in a TRZ in accordance with this chapter.
- 573A.12 Subject to the hearing provisions of § 573.18, the Director of DCRA may summarily suspend the Vending Site Permit of a person who violates §§ 573.9 or 573.15, and may further determine, in his or her reasonable discretion after providing notice to the person and an opportunity to be heard, that the person whose Vending Site Permit has been suspended shall for up to two (2) years be ineligible for a Vending Site Permit or any similar successor license or permit.
- 573A.13 A licensee may appeal a suspension of a Vending Site Permit pursuant to § 573.14 by:

- (a) Requesting a review from the Director of DCRA or his or her designate, which shall be provided within three (3) business days of receipt of a hearing request. The licensee may appeal any decision reached by DCRA in the review to the Office of Administrative Hearings; or
- (b) Requesting a hearing with the Office of Administrative Hearings, which shall be provided within three (3) business days of receipt of a hearing request.

All persons desiring to comment on these proposed regulations should submit comments in writing to Matt Orlins, Director of Legislative and Public Affairs, Department of Consumer and Regulatory Affairs, 1100 4th St. SW, 5th Floor, Washington, D.C. 20024, or via e-mail at matt.orlins@dc.gov, not later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of the proposed rules can be obtained from the address listed above. A copy fee of one dollar (\$1.00) will be charged for each copy of the proposed rulemaking requested. Free copies are available on the DCRA website at <http://dcra.dc.gov> by going to the “DCRA News” link and then clicking on the “Rulemaking” tab.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (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, on an emergency basis, of amendments to Section 1925, entitled “Individualized Day Supports” of Chapter 19 (Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Register (DCMR).

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

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

Individualized day supports services provide crucial habilitation supports in the community to ensure that a person’s community integration is increased and the particular skills necessary for independence and community involvement outside the home are developed and maintained in ways that enhance community integration outcomes. The current Notice of Final Rulemaking for 29 DCMR § 1925 (Individualized Day Supports) was published in the *D.C. Register* on March 7, 2014, at 61 DCR 001952. These rules amend the previously published final rules by: (1) clarifying the requirements for a person to participate in individualized day supports; (2) changing the requirements for what Medicaid reimbursable individualized day supports shall provide, including adding the provision of one nutritionally adequate meal per day for persons who live independently or with their families and select to receive this; (3) modifying the provider requirements; (4) adding documentation and reporting requirements, including detailed requirements for the initial community integration plan, ongoing community integration plan, and quarterly reports, as well as timeframes for reporting; (5) changing the requirements for a Direct Support Professional in individualized day supports; (6) requiring the development and review and revision, as needed, of a Positive Personal Profile and Job Search and Community Participation Plan; (7) adding minimum service authorization limits, and clarifying that the service may be authorized with other day or vocational supports, not to exceed a combined total of 40 services hours per week; (8) clarifying when transportation may be part of Medicaid

reimbursable individualized day supports; (9) describing limitations on individualized day supports; (10) clarifying that individualized day supports may commence at a facility-based day or vocational program, but that attendance at such program is not required; (11) allowing a DSP to be a relative of the person receiving services; (12) adding a 1:1 service ratio; and (13) reducing the rate for Individualized Day Supports small group service.

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

The emergency rulemaking was adopted on October 6, 2015, and became effective on that date. CMS has approved the corresponding amendment to the ID/DD Waiver with an effective date of September 24, 2015. The emergency rules shall remain in effect for not longer than one hundred and twenty (120) days from the adoption date or until February 2, 2016, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. If approved, DHCF shall publish the effective date with the Notice of Final Rulemaking. The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

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

Section 1925, INDIVIDUALIZED DAY SUPPORTS, is amended to read as follows:

1925 INDIVIDUALIZED DAY SUPPORTS

- 1925.1 This section establishes standards governing Medicaid eligibility for individualized day supports services for persons enrolled in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver), and shall establish conditions of participation for providers of individualized day supports services seeking Medicaid reimbursement.
- 1925.2 The following rules pertain only to Medicaid reimbursable individualized day supports services to be received by an individual enrolled in the ID/DD Waiver, hereinafter referred to as "person" or "persons".
- 1925.3 In order to receive Medicaid reimbursement for individualized day supports services, the person's Individual Support Plan (ISP) and Plan of Care, must document that the need for the service is consistent with the person's assessed needs and personally chosen goals including what is important to and for the person as documented in his or her Person-Centered Thinking and Discovery

Tools and recorded in the Individual Support Plan (ISP) and Plan of Care, and show at least one of the following:

- (a) That the person chooses to participate in habilitation services in a variety of integrated and inclusive community-based settings which enable the person to attain or maintain his or her maximum functional level and gain greater independence;
- (b) That the person is transitioning into retirement or is retired and chooses to continue habilitation services in a variety of integrated and inclusive community-based settings;
- (c) That the person has person-centered ISP goals for community integration and participation including building, strengthening and maintaining relationships with persons not paid to be with the person or vocational exploration that may lead to further employment services and supports;
- (d) That the person is likely to be successful in achieving one or more of his or her ISP goals through individualized day supports; or
- (e) That the person has a documented need for individualized day supports due to medical or safety issues that are consistent with the Health Care Management Plan (HCMP) and Behavioral Support Plan.

1925.4 Medicaid reimbursable individualized day supports services shall:

- (a) Be habilitative in nature;
- (b) Be delivered in integrated, inclusive community settings; and
- (c) Be provided in a group consisting of no more than two (2) persons.

1925.5 Medicaid reimbursable individualized day supports services shall provide:

- (a) Highly individualized, pre-planned activities and opportunities that occur within integrated and inclusive community settings and that emphasize the development of skills to support community participation and involvement, self-determination, community membership, community contribution, retirement or vocational exploration, and life skills training;
- (b) Activities that maximize the person's functional abilities for successful participation in integrated community activities and opportunities that match a person's interests and goals;
- (c) Activities that support the person's informed choice in identifying his or her own areas of interest and preferences;

- (d) Activities that provide community-based opportunities for personal and adult skill development through socialization, participation in membership-based community groups and associations, and forming and maintaining relationships with other community members;
- (e) Training in the safe and effective use of one or more modes of accessible public transportation and/or coordination and provision of transportation by the individualized day supports provider to support participation in community activities consistent with the intent of this service; and
- (f) For persons who live in their own home or with their family and who select this, IDS may include provision of one nutritionally adequate meal including preparation, packaging, and delivery, as needed. The provision of meals shall take place during typical lunchtime hours (11 am – 1 pm) prepared based on the person's specific needs as per the Level of Need Assessment (LON), and when necessary, the nutritionist/doctor's recommendation. This meal must be one-third (1/3) of a person's Recommended Dietary Allowance (RDA) and must be comprised of foods the person enjoys eating when not medically contraindicated.

1925.6 In order to be eligible for Medicaid reimbursement, each individualized day supports provider entity shall:

- (a) Comply with Section 1904 (Provider Qualifications) and Section 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 DCMR;
- (b) For current providers, provide verification of passing the Department on Disability Services (DDS) Provider Certification Review (PCR) for the last three (3) years. For providers with less than three (3) years of PCR certification, provide verification of a minimum of three (3) years of experience providing day, employment, residential or respite services to the ID/DD population, evidence of certification or licensure from the jurisdiction in which the service was delivered, and evidence of PCR certification for each year that the provider was enrolled as a waiver provider in the District of Columbia, if applicable;
- (c) Provide oversight, supervision and training of all Direct Service Personnel (DSP) providing individualized day supports; and
- (d) Maintain a staff-to-person ratio as indicated in the ISP and Plan of Care up to a maximum ratio of one to two (1:2), while always ensuring that services meet the person's needs and are provided appropriately and safely.

1925.7 Services shall only be authorized for Medicaid reimbursement if the following conditions are met:

- (a) DDS provides a written service authorization before service delivery begins;
- (b) The individualized day supports service name and enrolled provider are identified in the ISP, Plan of Care and Summary of Support Services;
- (c) The amount and frequency of services to be received is documented in the ISP, Plan of Care and Summary of Support Services;
- (d) Services shall not conflict with the service limitations described under Subsection 1925.12;
- (e) The staffing plan and initial community integration plan described under Subsection 1925.10 are submitted within three (3) business days of the start of services using the template required by DDS;
- (f) An on-going community integration plan, using the template required by DDS, and described under Subsection 1925.10 is submitted thirty (30) calendar days, plus seven (7) business days, from the start date of the individualized day supports service and then within seven (7) business days after the conclusion of each ISP quarter; and
- (g) A quarterly report, using the template required by DDS, is submitted within seven (7) business days after the conclusion of the each ISP quarter.

1925.8 Each Direct Support Professional (DSP) providing individualized day supports shall meet all of the requirements in Section 1906 (Requirements for Direct Support Professionals) of Chapter 19 of Title 29 DCMR, and requirements in Subsection 1925.9 in order to be eligible for Medicaid reimbursement.

1925.9 In order to be eligible for Medicaid reimbursement each **DSP** providing individualized day supports services shall meet the following requirements:

- (a) Have at least one year experience working with people with Intellectual and Developmental Disabilities;
- (b) Meet additional training requirements for an Individualized Day Supports DSP, as required by DDS policy and procedure, within one year of the effective date of the waiver amendment;
- (c) Assist with the development of the initial and on-going community integration plans to implement the individualized day supports services;
- (d) Coordinate the scheduled activities specified under the initial and on-going community integration plans;
- (e) Assist with the writing of quarterly reports; and

- (f) Utilize positive behavioral support strategies and crisis interventions as described in the approved Behavioral Support Plan to address emergency situations; and
- (g) Support persons enrolled in the Waiver to learn to use public transportation.

1925.10

Each provider approved to provide individualized day supports services shall, in order to be eligible for Medicaid reimbursement, maintain documents for monitoring and audit reviews as described under Section 1909 (Records and Confidentiality of Information) of Chapter 19, of Title 29 DCMR, and maintain the following additional records:

- (a) A contingency plan that describes how the individualized day supports will be provided when the primary DSP is unavailable; and, if the lack of immediate support poses a serious threat to the person's health and welfare, how the support will be provided when back-up DSPs are also unavailable;
- (b) An initial community integration plan, during the first thirty (30) days a person is receiving individualized day supports, utilizing the template required by DDS and containing the following information:
 - (1) The name of the person receiving the service;
 - (2) Service start date;
 - (3) The names of the primary and back-up DSPs that will be delivering the service during the first thirty (30) days of service;
 - (4) The back-up staffing plan if neither the primary or back-up DSPs are available to deliver the service;
 - (5) Goals in ISP that trigger authorization for individualized day supports;
 - (6) Schedule of service and calendar of activities for the first thirty (30) days;
 - (7) Back-up activities for the first thirty (30) days; and
 - (8) Goals to be achieved in the first thirty (30) days of service and methods that will be used to achieve the goals.

- (c) After a person has received individualized day supports for thirty (30) calendar days, an on-going community integration plan utilizing the template required by DDS and containing the following information:
- (1) The name of the person receiving the services;
 - (2) The names of the primary and back-up DSPs delivering services;
 - (3) The back-up staffing plan if neither the primary or back-up DSPs are available to deliver the service;
 - (4) Goals for the service falling under any of the following categories: Community Membership; Relationships & Natural Supports; Career Exploration & Employment; Retirement (for individuals 61 or older); Community Contribution; Self-Determination; Community Navigation; Wellness/Fitness, or others as listed in the community integration plan template;
 - (5) The highly individualized, integrated community activity/activities or opportunity/opportunities that will support achievement of the goals;
 - (6) Specific skills the person will be assisted to learn that can help with achievement of his/her goals and help the person participate successfully, and as independently as possible, in the Activities/Opportunities;
 - (7) Measureable outcomes promoting community integration which are expected and will indicate the goals have been achieved;
 - (8) Calendar of activities for the quarter and back-up activities for the quarter; and
 - (9) Teaching objectives, strategies and measurable outcomes for skill development goals;
- (d) Within seven (7) business days of the conclusion of each ISP quarter, submit to the DDS service coordinator a quarterly report, utilizing the template required by DDS and containing the following information:
- (1) Description of person's attendance and participation;
 - (2) Description of person's relationship with the assigned DSPs;
 - (3) Description of the person's relationships with others paired with the person to receive the service, if applicable;

- (4) Description of how the activities and opportunities offered through individualized day supports contributed to the achievement of the person's service goals;
 - (5) Description of skill development gains and next steps to continue progress on skill development; and
 - (6) Description of career and vocational exploration activities and outcomes for working-age participants in individualized day supports.
- (e) A Positive Personal Profile and Job Search and Community Participation Plan shall be developed annually and reviewed at least quarterly, and that is updated as needed, based upon what is being learned about the person's needs and interests by the individualized day supports provider. Positive Personal Profile and Job Search and Community Participation Plan shall be used to inform, and attached to, the initial and on-going community integration plans.

- 1925.11 In order to be eligible for Medicaid reimbursement, each Provider approved to provide individualized day supports services shall comply with Section 1908 (Reporting Requirements); Section 1909 (Records and Confidentiality of Information), except that quarterly reports shall meet the requirements within Subsection 1925.10, above; and Section 1911 (Individual Rights) of Chapter 19 of Title 29 DCMR.
- 1925.12 Medicaid shall only reimburse individualized day supports services for a minimum of two (2) and a maximum of six (6) hours per day; and a minimum of four (4) and a maximum of thirty (30) hours per week. This service may be offered in combination with Day Habilitation, Employment Readiness, Supported Employment services as a wraparound service in combination with any of the aforementioned services. When two or more of these services are offered, a person may not receive more than a combined total of forty (40) hours per week of services.
- 1925.13 Individualized day supports are an alternative to facility-based day programs and shall take place during regular Monday to Friday day program hours; except that individualized day supports may occur during non-traditional hours for persons who are employed during the day and would benefit from the service. Additional variances may be approved by the DDS Director, or his or her designee, based upon the person's assessed needs, schedule of other activities, and recommendations of the person's support team.
- 1925.14 Time spent in transportation to and from individualized day supports shall not be included in the total amount of services provided per day. However, individualized day supports may include the time a DSP spends accompanying

the person on public transportation (excluding Medicaid funded non-emergency transportation) for the purposes of training the person to travel independently using public transportation. Individualized day supports and Medicaid funded non-emergency transportation may not be billed during the same period of time. Medicaid funded non-emergency transportation may not be used during the provision of individualized day supports. Medicaid funded non-emergency transportation may be used to transport the person to and from individualized day supports; however, it should not preclude opportunities for the person to learn to use public transportation as part of participation in individualized day supports.

- 1925.15 Personal care/assistance may be a component of individualized day supports as necessary to meet the needs of a person but may not comprise the entirety of the service.
- 1925.16 This service shall not provide reimbursement to Senior Centers funded by the federal Older Americans Act authorized to provide services to older adults.
- 1925.17 The Individualized Day Program does not include activities that are the responsibility of the Supported Living, Residential Supports, Host Home or In-Home Supports provider, such as cooking or laundry activities.
- 1925.18 A person receiving individualized day supports may meet his or her DSP at a facility-based day habilitation or employment readiness setting, but only if this is necessary and appropriate for the person receiving the services. Individualized day services shall not occur in a facility-based setting. On site attendance at the facility-based day habilitation or employment readiness program is not a requirement to receive services that originate from that setting.
- 1925.19 A DSP may be the person's relative, but may not be legally responsible for the person, or the person's legal guardian.
- 1925.20 A DSP shall not perform individualized day support services with a person if he or she also provides the same person with the following ID/DD Waiver services:
- (a) Residential Habilitation;
 - (b) Supported Living;
 - (d) Host Home; or
 - (e) In-Home Supports.
- 1925.21 Each provider of Medicaid reimbursable individualized day supports services shall comply with the requirements under Section 1937 (Home and Community-Based Settings Requirements) of Chapter 19 of Title 29 DCMR.

- 1925.22 Individualized day supports may be authorized as either a one-to-one service for a person, or in in small group settings not to exceed 1:2 based upon the person's assessed needs; and for limited times, as approved by DDS, based on the ability to match the participant with an appropriate peer to participate with for small group IDS.
- 1925.23 Individualized day supports shall be billed at the unit rate established for the staffing ratio noted in the service authorization. The reimbursement rate for 1:1 staffing ratio shall be nine dollars and forty cents (\$9.40) per billable unit or thirty-seven dollars and sixty cents per hour (\$37.60). The reimbursement rate for 1:2 staffing ratio shall be five dollars and thirty-one cents (\$5.31) per billable unit or twenty-one dollars and twenty-four cents (\$21.24) per hour. For persons who live independently or with family and select to receive a meal, the rate is increased by seven dollars and thirty cents (\$7.30) per day that the person receives a meal. This service shall not exceed one thousand, five hundred and sixty (1,560) hours per year or ix thousand two hundred and forty (6,240) units annually. A standard unit of service is fifteen (15) minutes and the provider shall provide at least eight (8) continuous minutes of services to bill for one (1) unit of service.
- 1925.24 The individualized day supports rate includes funding for transportation and activities for the person and the DSP. When the person and/or his support team identifies activities with costs that would create a hardship for the individualized day supports provider, and the person has the ability to pay, the provider may submit a written request for approval from the DDS Director, or his or her designee, to have the person contribute to the cost of the individualized day supports activities.
- 1925.25 Persons receiving individualized day supports services may receive two (2) or more types of non-residential habilitation services, (*e.g.*, Supported Employment, Small Group Supported Employment, Employment Readiness, Companion, and/or Day Habilitation); however, more than one (1) service may not be billed during the same period of time (*e.g.*, the same fifteen (15) minute unit).

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

Community participation plan – A plan to achieve specific individualized goals for community integration, including vocational exploration or retirement, and to build skills that support the individualized goals for community integration, through a pre-planned schedule of structured community-based activities and practical community-based opportunities that best meet the person's interests, goals for community involvement, support needs and learning styles. Community integration plans can be Initial, for the first thirty (30) days of services, or ongoing, thereafter.

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA**ADMINISTRATIVE ISSUANCE SYSTEM**

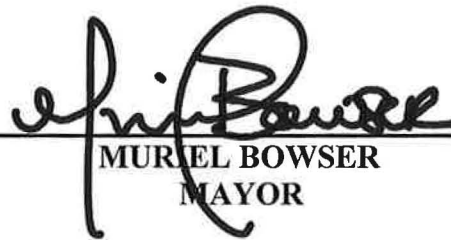
Mayor's Order 2015-226
October 2, 2015

SUBJECT: Appointments — State Advisory Panel on Special Education for the
District of Columbia

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), and in accordance with Mayor's Order 2012-48, dated April 5, 2012, it is hereby **ORDERED** that:

1. **DEON WOODS BELL** is designated as Chair of the State Advisory Panel on Special Education (the "**Panel**"), replacing Senora Simpson, and shall serve at the pleasure of the Mayor.
2. **AARON MCCORMICK** is designated as Vice-Chair of the Panel and shall serve at the pleasure of the Mayor.
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 2015-227
October 2, 2015

SUBJECT: Appointments — Advisory Board on Veterans Affairs for the District of Columbia


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), and in accordance with Mayor's Order 2001-92, dated June 22, 2001, as amended by Mayor's Order 2002-142, dated August 19, 2002, it is hereby **ORDERED** that:

1. **STEVE DALZELL** is appointed as a member of the Advisory Board on Veterans Affairs for the District of Columbia (hereinafter referred to as "Advisory Board"), replacing Anthony Dale, and shall serve in that capacity at the pleasure of the Mayor.
2. **KIM DAVIS** is appointed as a member of the Advisory Board, replacing Edgar Sheppard, and shall serve in that capacity at the pleasure of the Mayor.
3. **LUKE DIER** is appointed as a member of the Advisory Board, replacing Donald Brooks, and shall serve in that capacity at the pleasure of the Mayor.
4. **JAMAAL LAMPKIN** is appointed as a member of the Advisory Board, replacing Nathan Sable, and shall serve in that capacity at the pleasure of the Mayor.
5. **SIDNEY LOCKS** is appointed as a member of the Advisory Board replacing Charles Teague, Jr., and shall serve in that capacity at the pleasure of the Mayor.
6. **DEMETRIUS MACK** is appointed as a member of the Advisory Board, replacing Joseph Hairston, and shall serve in that capacity at the pleasure of the Mayor.
7. **ERIC PEREZ** is appointed as a member of the Advisory Board, replacing Ernest Postell, and shall serve in that capacity at the pleasure of the Mayor.

- 8. **VICTORIA PRIDEMORE** is appointed as Vice-Chair of the Advisory Board, replacing Roniel Fernando Aledo, and shall serve in that capacity at the pleasure of the Mayor.
- 9. **HARRY WINGO** is appointed as Chairperson of the Advisory Board, replacing Taro Kimura Jones, and shall serve in that capacity at the pleasure of the Mayor.
- 10. **SAIF KHAN** is reappointed as a member of the Advisory Board, and shall serve in that capacity at the pleasure of the Mayor.
- 11. **EFFECTIVE DATE:** This Order shall be 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 2015-228
October 2, 2015

SUBJECT: Appointments — Healthy Youth and Schools Commission

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 702 of the Healthy Schools Act of 2010, effective July 27, 2010, D.C. Law 18-209, D.C. Official Code § 38-827.02 (2012 Repl.), it is hereby **ORDERED** that:

1. **NANCY BRENOWITZ KATZ** is appointed to the Healthy Youth and Schools Commission (the "**Commission**"), replacing Sandra Schlicker, as a designee representative of the Office of the State Superintendent of Education, and shall serve in that capacity at the pleasure of the Mayor, for a term to end March 24, 2018.
2. **HONOR WILLIAMS** is appointed to the Commission, replacing Simone Banks-Mackey, as a student member, for a one year term to end March 24, 2016.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to March 24, 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 2015-229
October 7, 2015

SUBJECT: Delegation of Authority Pursuant to D.C. Law 20-205, the Paint Stewardship Act of 2014

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) and (11) of the District of Columbia Home Rule Act of 1973, as amended, approved December 24, 1973, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22(6) and (11) (2014 Repl.), and pursuant to section 7 of the Paint Stewardship Act of 2014 ("Act"), effective March 11, 2015, D.C. Law 20-205; D.C. Official Code § 8-233.01 *et seq.* (2015 Supp.), it is hereby **ORDERED** that:

1. The Director of the Department of Energy and Environment is delegated the Mayor's authority to implement and enforce the Act, including authority to review and determine whether to approve a submitted paint stewardship program plan; make approval of the plan contingent on revisions to the plan; request modifications to the plan; list producers and brands implementing or participating in the plan; impose an initial and annual fee for reviewing the plan, conducting inspections, and enforcing the Act.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



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, OCTOBER 14, 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-00080; CS Bond ST AB-S Holdings, LLC, t/a The Savoy
Suites Hotel, 2505 Wisconsin Ave NW, License #90804, Retailer CH
ANC 3C

**Substantial Change (Request an additional Summer Garden and
Entertainment Endorsement for the Summer Garden, Expand the Seating
inside the Restaurant)**

Protest Hearing (Status) **9:30 AM**
Case # 15-PRO-00081; MST Enterprises, Inc., t/a Churreria Madrid Restaurant
2505 Champlain Street NW, License #60806, Retailer CR, ANC 1C

**Substantial Change (Entertainment Endorsement to allow DJ, Karaoke and
Live Band)**

Protest Hearing (Status) **9:30 AM**
Case # 15-PRO-00077; District Distilling Company, Inc., t/a District Distilling
Company, 1414-1418 U Street NW, License #98271, Retailer CT, ANC 2B

Application for a New License

Protest Hearing (Status) **9:30 AM**
Case # 15-PRO-00079; DC Four Lessee, LLC, t/a Hotel Helix, 1430 Rhode
Island Ave NW, License #79243, Retailer CH, ANC 2F

Substantial Change (Rooftop Summer Garden)

Board's Calendar
October 14, 2015

Protest Hearing (Status) 9:30 AM

Case # 15-PRO-00078; Renaissance Centro M Street, LLC, t/a Hyatt Place Washington DC Georgetown, 2121 M Street NW, License #99352, Retailer CH ANC 2A

Application for a New License

Show Cause Hearing (Status) 9:30 AM

Case # 15-CMP-00284; Ultimo, LLC, t/a Divino Grill (Formerly-Ultimo Lounge), 1633 17th Street NW, License #93308, Retailer CR, ANC 2B
No ABC Manager on Duty, Failed to Post Pregnancy Sign, Failed to Post Legal Drinking Age Sign

Show Cause Hearing (Status) 9:30 AM

Case # 15-CC-00053; RiRa Georgetown, LLC, t/a RiRa Irish Pub, 3123-3125 M Street NW, License #92168, Retailer CR, ANC 2E
Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal Drinking Age

Show Cause Hearing (Status) 9:30 AM

Case # 15-CMP-00414; Yetenbi, Inc., t/a Noble Lounge (Formerly-Yetenbi Restaurant), 1915 9th Street NW, License #85258, Retailer CT, ANC 1B
No ABC Manager on Duty, Substantial Change without Boards Approval (Increase in Occupancy)

Show Cause Hearing (Status) 9:30 AM

Case # 15-251-00053; Makambo, Corp, t/a Awash, 2218 18th Street NW License #20102, Retailer CR, ANC 1C
Operating after Hours, No ABC Manager on Duty

Show Cause Hearing* 11:00 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

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

Fact Finding Hearing* 1:30 PM

**POW, LLC, t/a Show Bar; 1210 H Street NE, License #76233, Retailer CT AMC 6A
Request to Extend Safekeeping**

Board's Calendar

October 14, 2015

Protest Hearing*

2:00 PM

Case # 15-PRO-00023; Naomi's Ladder, LLC, t/a Touche, 1123 H Street NE

License #96779, Retailer CT, ANC 6A

Application to Renew the License

Protest Hearing*

2:00 PM

Case # 15-PRO-00038; Yoef, Inc., t/a Stanton Liquors, 1044 Bladensburg Road

NE, License #71601, Retailer A, ANC 5D

Application to Renew the License

Protest Hearing*

4:30 PM

Case # 15-PRO-00027; I Before E, LLC, t/a Trinity, 1606 7th Street NW,

License #98042, Retailer CT, ANC 6E

Application for a New 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
INVESTIGATIVE AGENDA**

**WEDNESDAY, OCTOBER 14, 2015
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

On October 14, 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-AUD-00051 Bandolero, 3241 M ST NW Retailer C Restaurant, License#: ABRA-075631

2. Case#15-CC-00059 Safeway, 2845 ALABAMA AVE SE Retailer B Retail - Grocery, License#: ABRA-060504

3. Case#15-251-00157 Madam's Organ, 2461 18TH ST NW Retailer C Tavern, License#: ABRA-025273

4. Case#15-AUD-00061 Churreria Madrid Restaurant, 2505 CHAMPLAIN ST NW Retailer C Restaurant, License#:ABRA-060806

5. Case#15-AUD-00058 Madrid Restaurant (formerly Odeon Café), 1714 CONNECTICUT AVE NW Retailer C Tavern, License#: ABRA-005811

6. Case#15-251-00159 Buffalo Billiards Corporation, 1330 19TH ST NW Retailer C Tavern, License#: ABRA-020480

7. Case#15-AUD-00052 Tackle Box, 3245 M ST NW Retailer C Restaurant, License#: ABRA-084952

8. Case#15-251-00158 Sign of the Whale, 1825 M ST NW Retailer C Tavern, License#: ABRA-085120

9. Case#15-CMP-00517 Hotel Monaco & Poste Restaurant, 700 F ST NW Retailer C Hotel, License#: ABRA-085256

10. Case#15-AUD-00054 Fuel Pizza & Wings, 600 F ST NW Retailer C Restaurant, License#: ABRA-088727

11. Case#15-CC-00110 Echostage, 2135 QUEENS CHAPEL RD NE Retailer C Nightclub, License#: ABRA-090250

12. Case#15-CMP-00503 DACHA BEER GARDEN, 1600 7TH ST NW Retailer D Tavern, License#: ABRA-092773

13. Case#15-CMP-00512 DACHA BEER GARDEN, 1600 7TH ST NW Retailer D Tavern, License#: ABRA-092773

14. Case#15-CMP-00521 DACHA BEER GARDEN, 1600 7TH ST NW Retailer D Tavern, License#: ABRA-092773

15. Case#15-CMP-00529 DACHA BEER GARDEN, 1600 7TH ST NW Retailer D Tavern, License#: ABRA-092773

16. Case#15-CMP-00576 DACHA BEER GARDEN, 1600 7TH ST NW Retailer D Tavern, License#: ABRA-092773

17. Case#15-CMP-00577 DACHA BEER GARDEN, 1600 7TH ST NW Retailer D Tavern, License#: ABRA-092773

18. Case#15-CMP-00248 Sip, 1812 Hamlin ST NE Retailer C Tavern, License#: ABRA-095164

19. Case#15-CC-00094 Sip, 1812 Hamlin ST NE Retailer C Tavern, License#: ABRA-095164

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, OCTOBER 14, 2015 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for Class Change from Retailer B to Retailer A. ANC 7F. SMD 7F02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **Texas Grocery Store**, 4350 Texas Avenue SE, Retailer B, License No. 094776.

2. Review Application for Class Change from Retailer CR to Retailer CT. ANC 2B. SMD 2B07. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **The Manor**, 1327 Connecticut Avenue NW, Retailer CR, License No. 099536.

3. Review Application for Class Change from Retailer DR to Retailer DT. ANC 2B. SMD 2B09. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **Amsterdam Falafelshop**, 1830 14th Street NW, Retailer DR, License No. 093449.

4. Review Request for Change of Hours. **Current Hours of Operation, Alcoholic Beverage Sales and Consumption, and Live Entertainment:** Sunday-Thursday 11am to 2am, Friday and Saturday 11am to 3am. **Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption:** Sunday-Thursday 9am to 2am, Friday and Saturday 9am to 3am. ANC 2C. SMD 2C01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **Laughing Man**, 1310 G Street NW, Retailer CT, License No. 079786.

5. Review Request for Change of Hours. **Current Hours of Operation:** Monday-Saturday 8am to 9pm. **Current Hours of Alcoholic Beverage Sales and Consumption:** Monday-Saturday 9am to 9pm. **Proposed Hours of Operation:** Sunday-Saturday 7am to 12am. **Proposed Hours of Alcoholic Beverage Sales and Consumption:** Sunday-Saturday 8am to 12am. ANC 7D. SMD 7D06. No outstanding fines/citations. No outstanding violations. No pending enforcement

matters. No Settlement Agreement. *Benning Heights Market*, 547 42nd Street NE, Retailer B Grocery, License No. 099470.

***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.**

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**DESIGNATION OF TICKET RESALE ZONE**

The Department of Consumer and Regulatory Affairs (DCRA) hereby gives notice that the northwest corner of 7th Street NW and F St. NW is designated as a Ticket Resale Zone pursuant to 24 DCMR 573A. The resale zone shall be active only at the times designated on a valid site permit issued by DCRA. DCRA shall indicate the perimeter of the Ticket Resale Zone through signage or barriers and in consultation with the District Department of Transportation.

CC2015-01 (April 10, 2015)

EAGLE ACADEMY PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS (RFP)****Accounting and Bookkeeping Services**

Eagle Academy Public Charter School (EAPCS) invites all interested and qualified Accounting firms to submit proposals. Must have experience in charter school non-profits; budgeting; strategic operating; financial and information risk management; compliance with GAAP, OMB A-133 circulars, CFDA; closing of books of accounts and internal audit.

Eagle Academy Public Charter School reserves the right to reject any and all bids at its sole discretion.

All proposals submitted in response to this RFP are due no later than 5 p.m. on Friday, October 23, 2015. Please send submissions via email only to: bids@eagleacademypcs.org

BOARD OF ELECTIONS**CERTIFICATION OF ANC/SMD VACANCIES**

The District of Columbia Board of Elections hereby gives notice that there are vacancies in five (5) Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

VACANT: 1B06, 3D07, 4B03, 5A04 and 7F07

Petition Circulation Period: **Monday, October 19, 2015 thru Monday, November 9, 2015**

Petition Challenge Period: **Thursday, November 12, 2015 thru Wednesday, November 18, 2015**

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

**D.C. Board of Elections
441 - 4th Street, NW, Room 250N
Washington, DC 20001**

For more information, the public may call **727-2525**.

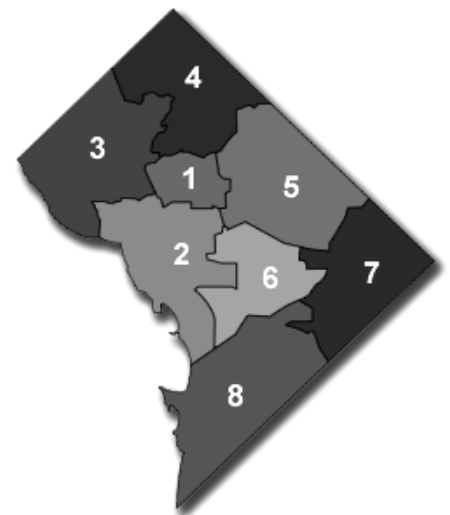
**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION SUMMARY
As Of SEPTEMBER 30, 2015**

WARD	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	40,133	2,572	680	135	114	10,497	54,131
2	26,196	5,053	195	163	93	9,366	41,066
3	33,730	6,211	344	127	87	10,032	50,531
4	44,567	2,084	498	76	118	8,293	55,636
5	47,540	2,007	541	89	140	8,213	58,530
6	48,759	6,108	485	178	150	12,027	67,707
7	44,966	1,175	397	32	109	6,292	52,971
8	41,011	1,133	357	27	131	6,611	49,270
Totals	326,902	26,343	3,497	827	942	71,331	429,842
Percentage By Party	76.05%	6.13%	.81%	.19%	.22%	16.59%	100.00%

DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF
VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS
AS OF THE END OF SEPTEMBER 30, 2015

COVERING CITY WIDE TOTALS BY:
WARD, PRECINCT AND PARTY

ONE JUDICIARY SQUARE
441 4TH STREET, NW SUITE 250N
WASHINGTON, DC 20001
(202) 727-2525
<http://www.dcboee.org>



D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 1 REGISTRATION SUMMARY
As Of SEPTEMBER 30, 2015

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
20	1,250	28	8	2	5	198	1,491
22	3,518	328	27	15	10	919	4,817
23	2,462	170	44	15	5	652	3,348
24	2,216	237	32	13	6	707	3,211
25	3,248	362	49	11	5	963	4,638
35	2,981	181	49	14	2	763	3,990
36	3,854	248	65	8	9	1,002	5,186
37	2,970	125	51	8	8	691	3,853
38	2,619	121	55	11	10	678	3,494
39	3,900	201	81	6	12	931	5,131
40	3,740	193	100	11	13	1,024	5,081
41	3,180	179	64	14	15	983	4,435
42	1,654	68	32	2	8	437	2,201
43	1,614	59	17	3	4	342	2,039
137	927	72	6	2	2	207	1,216
TOTALS	40,133	2,572	680	135	114	10,497	54,131

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 2 REGISTRATION SUMMARY
As Of SEPTEMBER 30, 2015**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
2	726	163	10	10	9	475	1,393
3	1,414	355	17	7	10	629	2,432
4	1,539	437	5	11	3	687	2,682
5	1,853	561	10	13	6	666	3,109
6	2,046	807	20	8	15	1,123	4,019
13	1,134	214	6	3	0	362	1,719
14	2,486	404	18	15	7	817	3,747
15	2,629	320	21	19	10	777	3,776
16	3,201	375	20	14	10	809	4,429
17	3,907	531	33	24	9	1,201	5,705
129	2,022	327	13	14	4	770	3,150
141	1,959	244	13	15	8	569	2,808
143	1,280	315	9	10	2	481	2,097
TOTALS	26,196	5,053	195	163	93	9,366	41,066

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 3 REGISTRATION SUMMARY
As Of SEPTEMBER 30, 2015**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
7	1,174	381	17	2	2	531	2,107
8	2,259	605	28	4	7	723	3,626
9	1,048	460	7	11	6	443	1,975
10	1,643	390	16	6	6	608	2,669
11	3,037	877	39	15	9	1,185	5,162
12	418	172	2	0	2	173	767
26	2,486	301	20	10	4	762	3,583
27	2,291	255	19	10	1	563	3,139
28	2,103	477	32	9	5	685	3,311
29	1,221	229	11	6	7	374	1,848
30	1,241	212	14	4	4	271	1,746
31	2,230	303	19	4	7	533	3,096
32	2,482	296	21	3	4	553	3,359
33	2,613	293	28	7	6	611	3,558
34	2,954	366	29	16	4	882	4,251
50	1,939	244	13	5	6	434	2,641
136	677	96	8	3	1	249	1,034
138	1,914	254	21	12	6	452	2,659
TOTALS	33,730	6,211	344	127	87	10,032	50,531

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 4 REGISTRATION SUMMARY
As Of SEPTEMBER 30, 2015**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
45	1,976	68	30	7	4	365	2,450
46	2,627	81	38	5	10	500	3,261
47	2,802	142	35	4	11	686	3,680
48	2,562	125	29	6	4	512	3,238
49	767	43	15	0	4	179	1,008
51	3,097	502	24	6	5	604	4,238
52	1,210	164	4	0	2	210	1,590
53	1,138	67	20	1	5	232	1,463
54	2,221	75	24	1	5	443	2,769
55	2,317	71	18	3	9	415	2,833
56	2,808	84	32	7	7	603	3,541
57	2,281	66	37	7	12	418	2,821
58	2,098	52	17	4	4	338	2,513
59	2,439	86	28	7	6	396	2,962
60	1,921	62	20	3	5	568	2,579
61	1,465	48	11	1	2	245	1,772
62	3,029	112	27	2	3	347	3,520
63	3,281	117	51	2	11	612	4,074
64	2,140	57	17	7	4	311	2,536
65	2,388	62	21	3	5	309	2,788
Totals	44,567	2,084	498	76	118	8,293	55,636

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 5 REGISTRATION SUMMARY
As Of SEPTEMBER 30, 2015**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
19	3,960	175	67	10	5	911	5,128
44	2,581	217	27	7	14	615	3,461
66	4,268	100	41	4	6	509	4,928
67	2,815	96	21	2	7	383	3,323
68	1,754	126	25	7	6	343	2,261
69	1,986	66	13	2	11	249	2,327
70	1,390	71	20	1	3	203	1,688
71	2,294	63	25	2	9	306	2,699
72	4,012	103	29	5	13	654	4,816
73	1,803	82	27	6	4	320	2,242
74	4,050	203	58	8	10	794	5,123
75	3,223	166	56	15	6	719	4,185
76	1,282	59	13	1	4	250	1,609
77	2,521	98	20	5	10	432	3,086
78	2,758	84	34	4	9	448	3,337
79	1,892	75	16	3	9	329	2,324
135	2,851	181	39	6	10	516	3,603
139	2,100	43	10	1	4	232	2,390
TOTALS	47,540	2,007	541	89	140	8,213	58,530

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 6 REGISTRATION SUMMARY
As Of SEPTEMBER 30, 2015**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	3,820	438	41	14	9	1,005	5,327
18	4,347	311	41	17	11	951	5,678
21	1,127	60	13	2	1	261	1,464
81	4,320	349	41	9	17	869	5,605
82	2,376	240	28	10	8	553	3,215
83	4,095	505	35	18	8	1,067	5,728
84	1,859	403	21	6	7	509	2,805
85	2,589	487	22	13	9	702	3,822
86	2,051	253	26	6	7	443	2,786
87	2,619	229	19	3	11	534	3,415
88	2,039	273	14	4	8	486	2,824
89	2,422	618	23	12	5	715	3,795
90	1,539	245	13	6	9	461	2,273
91	3,815	370	37	15	14	922	5,173
127	3,700	269	48	15	8	756	4,796
128	2,224	197	32	7	7	594	3,061
130	718	283	7	3	2	260	1,273
131	1,767	421	11	14	5	566	2,784
142	1,332	157	13	4	4	373	1,883
TOTALS	48,759	6,108	485	178	150	12,027	67,707

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 7 REGISTRATION SUMMARY
As Of SEPTEMBER 30, 2015**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
80	1,397	83	13	2	4	241	1,740
92	1,558	38	11	1	6	236	1,850
93	1,439	40	20	2	4	198	1,703
94	1,946	48	18	0	3	287	2,302
95	1,489	42	15	0	2	247	1,795
96	2,231	65	20	1	7	347	2,671
97	1,399	37	17	1	4	190	1,648
98	1,755	41	22	2	4	242	2,066
99	1,281	39	14	2	3	206	1,545
100	2,087	42	15	1	3	246	2,394
101	1,525	24	15	1	5	163	1,733
102	2,291	52	19	0	8	310	2,680
103	3,329	73	33	3	12	518	3,968
104	2,711	71	22	4	10	376	3,194
105	2,293	62	21	3	4	362	2,745
106	2,708	50	17	0	9	382	3,166
107	1,552	45	13	1	4	217	1,832
108	1,082	29	7	1	0	117	1,236
109	897	33	5	0	1	88	1,024
110	3,619	91	21	5	6	405	4,147
111	2,479	60	24	0	6	376	2,945
113	1,954	55	22	1	1	235	2,268
132	1,944	55	13	1	3	303	2,319
TOTALS	44,966	1,175	397	32	109	6,292	52,971

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 8 REGISTRATION SUMMARY
As Of SEPTEMBER 30, 2015**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
112	1945	56	10	0	7	277	2,295
114	2,965	103	23	1	18	494	3,604
115	2,627	63	19	8	6	592	3,315
116	3,731	92	35	3	11	575	4,447
117	1,862	44	19	0	7	300	2,232
118	2,457	59	25	0	4	396	2,941
119	2,694	102	34	0	11	517	3,358
120	1,790	33	16	2	3	277	2,121
121	2,955	70	25	1	9	430	3,490
122	1,538	38	14	0	8	208	1,806
123	1,971	94	25	5	11	289	2,395
124	2,354	54	14	1	4	316	2,743
125	4,103	96	31	2	9	661	4,902
126	3,243	104	31	2	11	601	3,992
133	1,175	33	10	0	2	158	1,378
134	1,937	38	21	1	3	271	2,271
140	1,664	54	5	1	7	249	1,980
TOTALS	41,011	1,133	357	27	131	6,611	49,270

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION ACTIVITY

For voter registration activity between 8/31/2015 and 9/30/2015

NEW REGISTRATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Beginning Totals	320,041	26,172	3,590	795	966	70,891	422,455
Board of Elections Over the Counter	44	4	0	0	0	15	63
Board of Elections by Mail	57	15	1	1	0	23	97
Board of Elections Online Registration	118	23	3	2	1	27	174
Department of Motor Vehicle	1,199	226	12	26	2	400	1,865
Department of Disability Services	3	0	0	0	0	0	3
Office of Aging	1	0	0	0	0	0	1
Federal Postcard Application	0	0	0	0	0	0	0
Department of Parks and Recreation	0	0	0	0	0	0	0
Nursing Home Program	0	0	0	0	0	0	0
Dept. of Youth Rehabilitative Services	1	0	0	0	0	0	1
Department of Corrections	0	0	0	0	0	0	0
Department of Human Services	22	1	0	0	0	3	26
Special / Provisional	0	0	0	0	0	0	0
All Other Sources	40	3	1	1	0	10	55
+Total New Registrations	1,485	272	17	30	3	478	2,285

ACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Reinstated from Inactive Status	237	24	3	0	0	53	317
Administrative Corrections	6,064	0	0	0	0	506	6,570
+TOTAL ACTIVATIONS	6,301	24	3	0	0	559	6,887

DEACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Changed to Inactive Status	726	82	12	1	1	219	1,041
Moved Out of District (Deleted)	2	0	0	0	0	0	2
Felon (Deleted)	0	0	0	0	0	0	0
Deceased (Deleted)	7	1	0	0	0	0	8
Administrative Corrections	400	70	103	22	4	135	734
-TOTAL DEACTIVATIONS	1,135	153	115	23	5	354	1,785

AFFILIATION CHANGES	DEM	REP	STG	LIB	OTH	N-P	
+ Changed To Party	349	77	18	27	0	107	
- Changed From Party	-139	-49	-16	-2	-22	-350	
ENDING TOTALS	326,902	26,343	3,497	827	942	71,331	429,842

DEPARTMENT OF ENERGY AND ENVIRONMENT

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue air quality permit #6901 to the Smithsonian Institution to operate a non-auto body paint spray booth at the Arthur M. Sackler Gallery and Freer Gallery of Art at 1050 Independence Ave SW, Washington DC. The contact person for the facility is Bill Bound, Production Manager, at (202) 633-0434.

The proposed emission limits are as follows:

- a. No person shall discharge into the atmosphere more than fifteen (15) pounds of volatile organic compound (VOC) emissions in any one (1) day, nor more than three pounds (3 lb.) in any one (1) hour, from any combination of articles, machines, units, equipment, or other contrivances at a facility, unless the uncontrolled VOC emissions are reduced by at least ninety percent (90%) overall capture and control efficiency. [20 DCMR 700.2]
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited [20 DCMR 903.1]
- c. Visible emissions shall not be emitted into the outdoor atmosphere from the paint spray booth. [20 DCMR 107 and 606]

The estimated potential emissions from the paint booth are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Total Particulate Matter (PM Total)	0.032
Volatile Organic Compounds (VOCs)	0.39

The permit application and supporting documentation, along with the draft permit are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a public hearing on this subject within 30 days of publication of this notice. The written comments must also include the person’s name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after November 16, 2015 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DEPARTMENT OF ENERGY AND ENVIRONMENT**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue air quality permit #6902 to the Smithsonian Institution to operate a non-auto body paint spray booth at the Hirshhorn Museum and Sculpture Garden at 7th Street and Independence Ave SW, Washington DC. The contact person for the facility is Scott Larson, Supervisory Exhibits Specialist, at (202) 633-2739.

The proposed emission limits are as follows:

- a. No person shall discharge into the atmosphere more than fifteen (15) pounds of volatile organic compound (VOC) emissions in any one (1) day, nor more than three pounds (3 lb.) in any one (1) hour, from any combination of articles, machines, units, equipment, or other contrivances at a facility, unless the uncontrolled VOC emissions are reduced by at least ninety percent (90%) overall capture and control efficiency. [20 DCMR 700.2]
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited [20 DCMR 903.1]
- c. Visible emissions shall not be emitted into the outdoor atmosphere from the paint spray booth. [20 DCMR 107 and 606]

The estimated potential emissions from the paint booth are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Total Particulate Matter (PM Total)	0.001
Volatile Organic Compounds (VOCs)	0.20

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DEPARTMENT OF ENERGY AND ENVIRONMENT**PUBLIC NOTICE**

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The proposed emission limits are as follows:

- a. No person shall discharge into the atmosphere more than fifteen (15) pounds of volatile organic compound (VOC) emissions in any one (1) day, nor more than three pounds (3 lb.) in any one (1) hour, from any combination of articles, machines, units, equipment, or other contrivances at a facility, unless the uncontrolled VOC emissions are reduced by at least ninety percent (90%) overall capture and control efficiency. [20 DCMR 700.2]
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited [20 DCMR 903.1]
- c. Visible emissions shall not be emitted into the outdoor atmosphere from the paint spray booth. [20 DCMR 107 and 606]

The estimated potential emissions from the paint booth are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Total Particulate Matter (PM Total)	0.001
Volatile Organic Compounds (VOCs)	0.13

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Comments on the proposed permit and any request for a public hearing should be addressed to:

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DEPARTMENT OF ENERGY AND ENVIRONMENT**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue air quality permit #6904 to the Smithsonian Institution's National Museum of American History to operate a non-auto body paint spray booth at 12th Street and Constitution Ave NW, Washington DC. The contact person for the facility is Ken Ricks, Painter, at (202) 633-3397.

The proposed emission limits are as follows:

- a. No person shall discharge into the atmosphere more than fifteen (15) pounds of volatile organic compound (VOC) emissions in any one (1) day, nor more than three pounds (3 lb.) in any one (1) hour, from any combination of articles, machines, units, equipment, or other contrivances at a facility, unless the uncontrolled VOC emissions are reduced by at least ninety percent (90%) overall capture and control efficiency. [20 DCMR 700.2]
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited [20 DCMR 903.1]
- c. Visible emissions shall not be emitted into the outdoor atmosphere from the paint spray booth. [20 DCMR 107 and 606]

The estimated potential emissions from the paint booth are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Total Particulate Matter, (PM Total)	0.0392
Volatile Organic Compounds (VOCs)	1.40

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Interested persons may submit written comments or may request a public hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

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DEPARTMENT OF ENERGY AND ENVIRONMENT**PUBLIC NOTICE**

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The proposed emission limits are as follows:

- a. No person shall discharge into the atmosphere more than fifteen (15) pounds of volatile organic compound (VOC) emissions in any one (1) day, nor more than three pounds (3 lb.) in any one (1) hour, from any combination of articles, machines, units, equipment, or other contrivances at a facility, unless the uncontrolled VOC emissions are reduced by at least ninety percent (90%) overall capture and control efficiency. [20 DCMR 700.2]
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited [20 DCMR 903.1]
- c. Visible emissions shall not be emitted into the outdoor atmosphere from the paint spray booth. [20 DCMR 107 and 606]

The estimated potential emissions from the paint booth are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Total Particulate Matter, (PM Total)	0.00047
Volatile Organic Compounds (VOCs)	0.03

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DEPARTMENT OF ENERGY AND ENVIRONMENT**PUBLIC NOTICE**

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The proposed emission limits are as follows:

- a. No person shall discharge into the atmosphere more than fifteen (15) pounds of volatile organic compound (VOC) emissions in any one (1) day, nor more than three pounds (3 lb.) in any one (1) hour, from any combination of articles, machines, units, equipment, or other contrivances at a facility, unless the uncontrolled VOC emissions are reduced by at least ninety percent (90%) overall capture and control efficiency. [20 DCMR 700.2]
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited [20 DCMR 903.1]
- c. Visible emissions shall not be emitted into the outdoor atmosphere from the paint spray booth. [20 DCMR 107 and 606]

The estimated potential emissions from the paint booth are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Total Particulate Matter, (PM Total)	0.000012
Volatile Organic Compounds (VOCs)	0.0014

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DEPARTMENT OF ENERGY AND ENVIRONMENT**PUBLIC NOTICE**

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The proposed emission limits are as follows:

- a. No person shall discharge into the atmosphere more than fifteen (15) pounds of volatile organic compound (VOC) emissions in any one (1) day, nor more than three pounds (3 lb.) in any one (1) hour, from any combination of articles, machines, units, equipment, or other contrivances at the facility. [20 DCMR 700.2]
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited [20 DCMR 903.1]
- c. Visible emissions shall not be emitted into the outdoor atmosphere from the paint spray booth. [20 DCMR 107 and 606]

The estimated potential emissions from the paint booth are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Total Particulate Matter (PM Total)	0.003
Volatile Organic Compounds (VOCs)	0.26

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For more information, please contact Stephen S. Ours at (202) 535-1747.

FRIENDSHIP PUBLIC CHARTER SCHOOL**NOTICE OF REQUEST FOR PROPOSALS**

Friendship Public Charter School is looking for a location to accommodate 100 to 800 people for various school events; overnight accommodations will be required for no more than 40 people per event. Request for Proposal can be found on FPCS website at <http://www.friendshipschools.org/procurement>. Proposals are due no later than 4:00 P.M., EST, November 2nd, 2015. No proposal will be accepted after the deadline. Questions can be addressed to: ProcurementInquiry@friendshipschools.org

NOTICE OF INTENT TO ENTER SOLE SOURCE CONTRACTS**TCI**

Friendship Public Charter School intends to enter into a sole source contract with TCI for *History Alive!* a social studies curriculum resource for middle school students. This decision to sole source is due to the fact that TCI is the exclusive provider of the *History Alive!* curricula upon which the instructional model is built. TCI provides online access to students and teachers and provides a variation of tools to meet the needs of different learning styles. The cost of the contract will be approximately \$60,000.00.

HEALTH BENEFIT EXCHANGE AUTHORITY**NOTICE OF PUBLIC MEETING****Executive Board of the Health Benefit Exchange Authority**

The Executive Board of the Health Benefit Exchange Authority, pursuant to the requirements of Section 6 of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-0094), hereby announces a public meeting of the Executive Board. The meeting will be held at 1225 I Street, NW, 4th Floor, Washington, DC 20005 on **Monday, October 19, 2015 at 5:30 pm**. The call in number is 1-877-668-4493, Access code 733 397 821.

The Executive Board meeting is open to the public.

If you have any questions, please contact Debra Curtis at (202) 741-0899.

INSPIRED TEACHING DEMONSTRATION PUBLIC CHARTER SCHOOL**NOTICE OF INTENT
TO ENTER INTO A SOLE SOURCE CONTRACT**

Inspired Teaching Demonstration Public Charter School. Notice Of Intent To Enter Into A Sole Source Contract. The Inspired Teaching Demonstration Public Charter School intends to enter into a Sole Source Contract with Center for Inspired Teaching to select, place, and train Teaching Residents in its classrooms. As outlined in its charter, the Inspired Teaching School serves as a training site for teachers in Center for Inspired Teaching's Inspired Teacher Certification Program; the Teaching Residents are a critical component of the school's mission and academic program. The cost of the contract for 2015-2016 is expected to be \$420,000 for fourteen (14) Teaching Residents.

MERIDIAN PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Education Legal Services**

Meridian Public Charter School (“MPCS”) is seeking proposals for providing education legal services with an emphasis on special education rules under IDEA and ADA. The school properties are located at 2120 13th Street, NW and 3029 14th Street, NW. The contract will be assigned to a successful bidder to provide special education and other legal services for the period of one year.

Proposals are due via email to Darin Knicely no later than 5:00 PM on Friday, October 16, 2015. We will notify the final vendor of selection by October 23rd and the work will begin October 26th. For additional questions or to submit proposal documents contact:

Darin Knicely
Meridian Public Charter School
Email: dknicely@meridian-dc.org

THE NOT-FOR-PROFIT HOSPITAL CORPORATION**BOARD OF DIRECTORS****NOTICE OF CLOSED EMERGENCY MEETING**

The Board of Directors of the Not-For-Profit Hospital Corporation, an independent instrumentality of the District of Columbia Government, will hold a closed emergency meeting at 10:30am on Friday, October 9, 2015. The emergency meeting will be held via conference call. Notice will be published in the D.C. Register, posted in the Hospital, and/or posted on the Not-For-Profit Hospital Corporation's website (www.united-medicalcenter.com).

DRAFT AGENDA

- I. CALL TO ORDER**
- II. DETERMINATION OF A QUORUM**
- III. APPROVAL OF AGENDA**
- IV. BOARD DISCUSSION**
 1. Contract/Legal Matters/Personnel - (D.C. Official Code §§ 2-575(b)(2)(4A)(10)(11))
- V. ANNOUNCEMENT**
 1. The next Governing Board Meeting will be held 8:00 a.m., October 24, 2015 at Frank W. Ballou Senior High School.
- VI. ADJOURNMENT**

THE NOT-FOR-PROFIT HOSPITAL CORPORATION**BOARD OF DIRECTORS****NOTICE OF CANCELLATION – OCTOBER 22, 2015**

The Board of Directors of the Not-For-Profit Hospital Corporation, an independent instrumentality of the District of Columbia Government, has canceled the October 22, 2015 regular meeting. This Notice, and any Notice of a rescheduled date, will be published in the D.C. Register, posted in the Hospital, and/or posted on the Not-For-Profit Hospital Corporation's website (www.united-medicalcenter.com).

The next scheduled Governing Board Meeting will be the Annual Community Meeting, to be held Saturday, November 21, 2015. Notice to follow.

**DISTRICT OF COLUMBIA PUBLIC LIBRARY
BOARD OF LIBRARY TRUSTEES**

NOTICE OF PUBLIC BOARD MEETINGS

**Meeting Schedule
2016**

Month	Meeting	Date	Time	Location
January 2016	Board of Library Trustees Meeting	Wednesday, January 27	6:00 p.m.	Martin Luther King Jr. Memorial Library 901 G St. NW Washington, DC 20001
March 2016	Board of Library Trustees Meeting	Wednesday, March 23	6:00 p.m.	Martin Luther King Jr. Memorial Library 901 G St. NW Washington, DC 20001
May 2016	Board of Library Trustees Meeting	Wednesday, May 25	6:00 p.m.	Martin Luther King Jr. Memorial Library 901 G St. NW Washington, DC 20001
July 2016	Board of Library Trustees Meeting	Wednesday, July 27	6:00 p.m.	Martin Luther King Jr. Memorial Library 901 G St. NW Washington, DC 20001
September 2016	Board of Library Trustees Meeting	Wednesday, September 28	6:00 p.m.	Martin Luther King Jr. Memorial Library 901 G St. NW Washington, DC 20001

November 2016	Board of Library Trustees Meeting	Wednesday, November 16	6:00 p.m.	Martin Luther King Jr. Memorial Library 901 G St. NW Washington, DC 20001

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 November 15, 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 October 28, 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

Effective: November 15, 2015

Recommendations for appointment as DC Notaries Public

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Acosta	Cara L.	Tobin, O'Connor & Ewing 5335 Wisconsin Avenue, NW, Suite 700	20015
Alavijeh	Arman Shafiei	The UPS Store 4401A Connecticut Avenue, NW	20877
Alford	Shannon	Akin, Gump, Strauss, Hauer & Feld, LLP 1333 New Hampshire Avenue, NW	20036
Allen	Gloria	Shapiro, Lifschitz & Schram, PC 1742 N Street, NW	20036
Allen-Williams	Debra Ann	Self 2819 32nd Street, SE	20020
Amos	Regina F.	Dentons US LLP 1301 K Street, NW, Suite 600 East Tower	20005
Anderson	Nicole M.	Ballard Spahr LLP 1909 K Street, NW, 12th Floor	20006
Anderson	Christopher	Center For Science in the Public Interest 1220 L Street, NW, Suite 300	20005
Andrews	Shannah R.	Williams & Connolly LLP 725 12th Street, NW	20005
Bahraminejad	Bahman	The UPS Store 4401A Connecticut Avenue, NW	20877
Baker	Dale Ross	Stewart Title Group 11 Dupont Circle, NW	20036
Barnhart	Linda Marie	Schagrin Associates 900 7th Street, NW, Suite 500	20001
Bateman	Kimberley D.	Paige Industrial Services, Inc 2828 10th Street, NE	20017
Beale	Amanda	TD Bank, N.A. 1489 P Street, NW	20005

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Recommendations for appointment as DC Notaries Public**

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Beardsley	Melissa	Fidelity Investments 1900 K Street, NW, Suite 110	20006
Beck	Taylor Dong	Bonstra Haresign Architects 1728 14th Street, NW, Suite 300	20009
Best	Cherly L.	Crowell & Moring LLP 1001 Pennsylvania Avenue, NW LLP	20004
Blake	Debra L.	Monumentals Sports & Entertainment 601 F Street, NW	20004
Blakeslee	Elizabeth L.	Self 1325 13th Street, NW, Room 53	20005
Blitz	Karen	Polsinelli PC 1401 Eye Street, NW	20005
Boston	Camelle Jones	Ballard Spahr LLP 1909 K Street, NW, 12th Floor	20006
Boyd	Jocelyn	Bank of Georgetown 1115 30th Street, NW	20007
Brooks	Sherry Lynn	Capital Reporting Company 1821 Jefferson Place, NW	20036
Brown	Darralyn D.	Obergh and Berlin 1300 Pennsylvania Avenue, NW, Suite 700	20004
Brown Sr.	Ronald C.	Christian Love Baptist Church 818 Bladensburg Road, NE	20002
Buckman	Steven M.	Palisades Title Company/Buckman Legal PLLC 4530 Wisconsin Avenue, NW, Suite 300	20016
Bunner	Colleen	Schulte Roth & Zabel 1152 15th Street, NW, Suite 850	20005
Camejo	Rheana Keva	Children's National Medical Center 111 Michigan Avenue, NW	20010

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Recommendations for appointment as DC Notaries Public

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Capotosto	Catherine J.	Cox Enterprises, Inc. 975 F Street, NW, Suite 300	20004
Carlton	Nicole	Fidelity Investments 1900 K Street, NW, Room 110	20006
Carter	Matilda	Self 2006 E Street, NE	20002
Cho	Claire	National Geographic Society 1145 17th Street, NW	20036
Cooper	Ericia Johnson	Eckert Seamans Cherin & Mellott, LLC 1717 Pennsylvania Avenue, NW, 12th Floor	20006
Cortes	Walter	United Nations Foundations, Inc. 1750 Pennsylvania Avenue, NW	20006
Crawford	Avril	Creative Associates International 5301 Wisconsin Avenue, Suite 700	20015
Dacres	Nicole G.	RSC Electrical & Mechanical Contractors, Inc. 6035 Dix Street, NE	20019
Dickerson	Lola C.	Holland & Knight 800 17th Street, NW, Suite 1100	20006
Dorange-Edmond	Jennifer J.	Treasury Department FCU 1101 2nd Street, NE	20002
Echanique	Deanna R.	Alphatec PC 1525 18th Street, NW	20036
Edwards	Brenda D.	Sibley Memorial Hospital 5255 Loughboro Road, NW	20016
Ekekwe-Kauffman	Olekanma	Law Offices of Olekanma A. Ekekwe, PC 2426 L'Enfant Square, SE, Suite 100	20020
Englehart	Laura Jeanne	Eckert Seamans Cherin & Mellott, LLC 1717 Pennsylvania Avenue, NW	20006
Epps	Lisa Denise	Total Building Solutions Inc.	

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		2408 Minnesota Avenue, SE	20020
Evans	Olivia J.	Williams & Connolly LLP 725 12th Street, NW	20005
Fernandez	Elizabeth	Wingfield & Gingsburg, P.C. Attorneys at Law 700 5th Street, NW, Suite 300	20001
Fisher	Jennifer M.	The Margolius Law Firm, LLP 4201 Connecticut Avenue, NW, Suite 600	20008
Fleishell	Patricia A.	Associated Press 1100 13th Street, NW	20005
Fox	Derek	Planet Depos, LLC 1100 Connecticut Avenue, NW, Suite 950	20036
Fruscella	Stacy Leigh	OTJ Architects 1412 Eye Street, NW	20005
Gainer	Seth Allen	Self 4100 W Street, NW	20007
George	Joan Pamela	Self 2021 3rd Street, NE	20002
Glover	Jelissa	Justice Federal Credit Union 935 Pennsylvania Avenue, NW, Room 8676	20004
Gonzalez	Sonia X.	Diversified Reporting Services, Inc. 1101 16th Street, NW, 2nd Floor	20036
Gorman	Andrew A.	Self (Dual) 3110 Quebec Place, NW	20008
Gormly	Charles F.	Rosenthal Gormly, Attorney at Law 5101 Wisconsin Avenue, NW, Suite 302	20016
Green	Shaene N.	SunTrust Bank 1100 G Street, NW	20005
Haney	Danielle Marie	Three Crowns (US) LLP	

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		2001 Pennsylvania Avenue, NW, 11th Floor	20006
Harmonson	John L.	TSG Reporting, Inc. 1875 I Street, NW, Suite 500	20006
Harris	Karen	DC Housing Finance Agency 815 Florida Avenue, NW	20001
Henderson	Vanessa M.	The Fund for American Studies 1706 New Hampshire Avenue, NW	20009
Hess	Duane K.	Cathedral Park Condominium Association, Inc. 3100 Connecticut Avenue, NW	20008
Hood	Yvonne C.	DC Department of Employment Services 4058 Minnesota Avenue, NE, Suite 4300	20019
Horcasitas	Ana Cristina	Self 77 H Street, NW, Unit 264	20001
Hubert	Susan A.	Shapiro, Lifschitz & Schram, PC 1742 N Street, NW	20036
Jenkins	Ellen M.	JBG/COMMERCIAL MGMT, LLC 955 L'Enfant Plaza North, SW, Suite 1208	20024
Jones	Dawan Sylvester	OCFO- DC Office of Tax and Revenue 1101 4th Street, SW, W550	20024
Juge	Stephen Douglas	Heenan Paris LLP 2200 Pennsylvania Avenue, NW, Suite 400E	20037
King	Kenicka	Premier Bank Inc. 1604 17th Street, NW	20009
Kinne	Vicki A.	Skadden, Arps, Slate, Meagher & Flom LLP & Affiliates 1440 New York Avenue, NW	20005
Laing	Lorna B.	Boies, Schiller & Flexner LLP	

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		5301 Wisconsin Avenue, NW	20015
Larson	Dawn K.	Alderson Court Reporting 1155 Connecticut Avenue, NW, Suite 200	20036
Lewis	Avery	Self 2515 R Street, SE, Room 101	20020
Lewis	Kimberly D.	Cato Institute 1000 Massachusetts Avenue, NW	20001
Lobban	Christine H.	Clyde's Restaurant Group 3236 M Street, NW	20007
Madrid	Robert	Gensler 2020 K Street, NW, Suite 200	20006
Manzanarez	Rose	Wells Fargo Bank 801 Pennsylvania Avenue, NW	20004
Marsh	Alicia	American University 4400 Massachusetts Avenue, NW	20016
Mason	Darcell	TD Bank 905 Rhode Island Avenue, NE	20018
Mattingly	Peter James	Georgetown University Law Center--Criminal Justice Clinic 600 New Jersey Avenue, NW, Room 123	20001
McCrea	Sharon H.	Self 3918 S Street, SE	20020
Mckinney	Sherry	Jones Walker LLP 499 South Capitol Street, SW, Suite 600	20003
Murphy	Paula	Saul Ewing LLP 1919 Pennsylvania Avenue, NW, Suite 550	20006
Newman	Robert P.	Self 6629 13th Place, NW	20012

D.C. Office of the Secretary
Recommendations for appointment as DC Notaries Public

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Nguyen-Erbacher	Monique K.	Self 1431 33rd Street, NW	20007
Noblezada	Lennie L.	NARUC 1101 Vermont Avenue, NW, Suite 200	20005
Norwich	Heather	Pier Associates 2132 Wisconsin Avenue, NW	20007
Nuth	Shannon	Price Benowitz, LLP 409 7th Street, NW	20004
O'Neal	Deborah L.	Silver, Freedman, Taff & Tierman LLP 3299 K Street, NW, Suite 100	20007
Osborn	Rena L.	Klein Hornig LLP 1325 G Street, NW, Suite 770	20005
Osondu-Anyanwu	Chino	TD Bank 905 Rhode Island Avenue, NE	20018
Peters	Jennifer L.	Morris, Manning & Martin LLP 1401 Eye Street, NW, Suite 600	20005
Phillips	Bryant Kyle	Casey Trees 3030 12th Street, NE	20017
Pinzon-Martinez	Mabel	Fort Myer Construction Corporation 2237 33rd Street, NE	20018
Pomar	Trinity	Capital Reporting Company 1821 Jefferson Place, NW	20036
Pournader	Ali	Self 2425 L Street, NW, Unit 239	20037
Primo	Allister	Allister Primo State Farm 1054 31st Street, NW, Suite 417	20007
Quinn	Joeller G.	Federal Energy Regulatory Commission 888 1st Street, NE, Room 42-17	20426
Quinn	Kathleen	The Barker Adoption Foundation 1066 30th Street, NW	20007

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Reed	Richard D,	Schulle Roth & Zabel, LLP 1152 15th Street, NW, Suite 850	20005
Renehan	Kelly	Three Crowns (US) LLP 2001 Pennsylvania Avenue, NW, 11th Floor	20006
Rivera-Cortegana	Keyla Lupita	Creative Associates International 5301 Wisconsin Avenue, NW, Suite 700	20015
Robinson	Sherry J.	Holland and Hart, LLP 975 F Street, NW, 9th Floor	20004
Robles	Jessica	SunTrust Bank 3300 New Mexico Avenue, NW	20016
Sefko	Nancy E.	Albright Stonebridge Group 601 13th Street, NW, 10th Floor	20005
Sidbury	Johnny V.	Self 1479 Bangor Street, SE, #4	20020
Smith-Huemer	Madalene	Atlantic Council 1030 15th Street, NW, 12th Floor	20005
Streeter	Spencer	Ballard Spahr LLP 1909 K Street, NW	20006
Terrell	Drucilla V.	Treasury Department Federal Credit Union 1300 Pennsylvania Avenue, NW, Room C-1-43	20004
Thomas II	William C.	Wells Fargo Bank 1934 14th Street, NW	20009
Thompson	Joel	Highland Title & Escrow, LLC 1701 O Street, NW	20009
Thompson	Tonya	International Association of Fire Fighters 1750 New York Avenue, NW	20006
Vasquez	Iveth R.	Bank of America 722 H Street, NE	20002

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Recommendations for appointment as DC Notaries Public****Effective: November 15, 2015****Page 10**

Vlissides	Nicholas D.	New World Title & Escrow 888 16th Street, NW, Suite 800	20004
Vo	Diedre T.	Cuff and Company Realtors 1701 Pennsylvania Avenue, NW	20006
Weiss	Sadie	Peace Corps 1111 20th Street, NW	20526
Whitehead Jr.	Willie T.	DC Department of General Services/ DC Protective Services Division 64 New York Avenue, NE, 4th Floor	20009
Williams-Bonilla	Martha H.	Federal Labor Relations Authority 1400 K Street, NW	20424

TWO RIVERS PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****ASL Interpretation Services**

Two Rivers Public Charter School is seeking a company to provide ASL Interpretation services for family conferences, special education meetings, and after-school events. Two Rivers may choose to work with one or more companies. Individuals are welcome to apply as independent contractors. For a copy of the RFP, please contact Laura Lorenzen at procurement@tworiverspcs.org.

WILLIAM E. DOAR JR. PUBLIC CHARTER SCHOOL FOR THE PERFORMING ARTS**NOTICE: REQUEST FOR PROPOSALS**

The William E. Doar Jr. Public Charter School for the Performing Arts, in compliance with Section 2204 (c) of the District of Columbia School Reform Act of 1995 (“Act”), hereby solicits expressions of interest from Vendors or Consultants for the following service:

Legal Services - W. E. Doar Jr. Public Charter school is soliciting a vendor to provide legal services for the 2015-2016 year.

Proposal Submission

A Portable Document Format (pdf) election version of your proposal must be received by the school no later than **2:00 p.m. EST on October 25, 2015** unless otherwise stated in associated RFP’s. Proposals should be emailed to bids@wedjschool.us

For information regarding the school please see: www.wedjschool.us

No phone call submission or late responses please. Interviews, samples, demonstrations will be scheduled at our request after the review of the proposals only.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18923 of Geng Chen Enterprise, Inc., pursuant to 11 DCMR § 3104.1 for a special exception under § 733 of the Zoning Regulations to allow use as a fast food establishment in the C-2-A District at premises 2918 Martin Luther King, Jr. Avenue, S.E. (Square 5951, Lot 30).

HEARING DATE: February 24, 2014
DECISION DATE: February 24, 2014

DECISION AND ORDER

This application was submitted on November 7, 2014, by Neng-Hsiang Wang, CPA, on behalf of Geng Chen Enterprise, Inc. (the “Applicant”), the tenant of the property that is the subject of the application. The application requests a special exception under § 733 of the Zoning Regulations to allow use as a fast food establishment in the C-2-A District at 2918 Martin Luther King, Jr. Avenue, S.E. (Square 5951, Lot 30) (the “Subject Property”). Following a public hearing on February 24, 2015, the Board of Zoning Adjustment (the “Board”) voted to deny the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated November 18, 2014, the Office of Zoning provided notice of the application to the Office of Planning (“OP”); the District Department of Transportation (“DDOT”); the Councilmember for Ward 4; Advisory Neighborhood Commission (“ANC”) 8C, the ANC for the area in which the Subject Property is located; and Single Member District/ANC 8C03. Pursuant to 11 DCMR § 3113.13, the Office of Zoning mailed letters on December 2, 2014, providing notice of the hearing to the Applicant, ANC 8C, and the owners of all property within 200 feet of the Subject Property. Notice of the hearing was published in the *D.C. Register* on December 12, 2014 (61 DCR 12607).

Party Status. The Applicant and ANC 8C were automatically parties to this proceeding. No other persons requested party status.

OP Report. By memorandum dated February 18, 2015, OP recommended approval of the application. Based on issues raised by ANC 8C regarding the Establishment’s condition and sanitation issues, OP recommended that approval be for one year only with the condition that the Applicant continue to meet with the ANC to regularly address these issues. (Exhibit 25.) With respect to dumpsters used by the Establishment that are left unenclosed in a nearby alley, OP stated in its report and at the hearing that, because the Subject Property has no direct access to the alley, the requirement of § 733.4 that dumpsters used by the Establishment be kept in an enclosure does not apply to the Applicant. OP stated that, due to the lack of direct alley access,

BZA APPLICATION NO. 18923
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any enclosure of the dumpsters is a public space issue to be addressed by the Public Space Committee. OP further stated that it had inquired with the Public Space Committee as to whether this issue would require that Committee's review, but had yet to receive any response. However, upon further discussion at the public hearing, OP changed its position and stated that the Applicant was, in fact, required to provide an enclosure for any dumpsters used by the Establishment under § 733.4.

DDOT Report. By memorandum dated February 18, 2015, DDOT indicated that it had no objection to approval of the relief requested. (Exhibit 24.)

ANC Report. By letter dated February 20, 2015, ANC 8C indicated that it discussed the application at its regularly scheduled, properly noticed meeting on February 4, 2015, and, with a quorum present, voted 6-0-1 to oppose the application. In its letter, the ANC explained that it had concerns about the Establishment's dilapidated and unsanitary condition. (Exhibit 26.) Specifically, the ANC was concerned about the following: a leak dripping from the ceiling of the Establishment; an infant crying behind the counter; the unclean condition of the floor and plexiglass in the Establishment; a missing ceiling tile; and a foul odor in the Establishment.

Persons in support. No additional persons appeared in support of the application.

Persons in opposition. No additional persons appeared in opposition to the application.

FINDINGS OF FACT

1. The Subject Property is an interior, rectangular lot located on the east side of the street at 2918 Martin Luther King, Jr. Avenue, S.E., between Malcolm X Avenue, S.E. and Lebaum Street, S.E. (Square 5951, Lot 30).
2. The Subject Property is improved with a one-story structure and is zoned C-2-A.
3. The Subject Property has been providing carry-out and delivery service for over ten years, although it does not currently possess a valid certificate of occupancy.
4. The Subject Property has no rear alley access. There is an alley to the northeast of the Subject Property; to access the alley one must exit the Subject Property to the front and walk around the neighboring property to the north.
5. The dumpsters used by the Establishment are located in the alley and are not enclosed.

CONCLUSIONS OF LAW AND OPINION

The Applicant requests special exception relief under § 733 of the Zoning Regulations to allow use as a fast food establishment in the C-2-A. The Board is authorized under § 8 of the Zoning

BZA APPLICATION NO. 18923**PAGE NO. 3**

Act, D.C. Official Code § 6-641.07(g)(2) (2012 Repl.), to grant special exceptions as provided in the Zoning Regulations where it will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to adversely affect the use of neighboring property, subject to specific conditions. (11 DCMR § 3104.1.) The Applicant bears the burden of proof to demonstrate that all of the requirements for a special exception have been met. (*Id.* § 3119.2.)

Among the specific conditions stated in § 733 is that “any dumpsters used by the fast food establishment will be housed in a three-sided brick enclosure equal in height to the dumpster or six feet high, whichever is greater.” The application does not satisfy § 733.4, because the dumpsters used by the Establishment are not enclosed and the Applicant does not propose to construct any enclosure.

In deciding to grant or deny applications for zoning relief, the Board must give “great weight” to the issues and concerns that the affected ANC raises in its written report. Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)). 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 “issues and concerns” raised by the ANC. (D.C. Official Code § 1-309.10(d)(3)(A) and (B).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” *Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).

Here, ANC 8C voted unanimously to oppose the application. In its report, the ANC expressed concern regarding the Establishment’s internal condition and issues of sanitation. Such assertions would only be relevant where they pertained to the external impacts of the use. However, the Board did not reach that issue, but denied the application solely because the dumpsters used by the Establishment were non-compliant with § 733.4. Therefore, the ANC’s issues and concerns were not legally relevant to the Board’s disposition of this case.

The Board is also required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04), to give “great weight” to OP’s recommendations. The Board must demonstrate in its findings that it considered OP’s views and must provide a reasoned basis for any disagreement with those views. *Glenbrook Rd. Ass’n v. D.C. Bd. of Zoning Adjustment*, 605 A.2d 22, 34 (D.C. 1992) (internal citation omitted).

OP’s report recommended that the Board approve the requested relief, with two conditions aimed at addressing ANC 8C’s concerns: (1) that approval be for one year only; and (2) that the Applicant regularly meet with the ANC to address its concerns. At the public hearing, OP testified that the purpose of limiting approval to a term of one year would be to provide sufficient time for the Applicant to resolve the issues raised by the ANC. With respect to the

BZA APPLICATION NO. 18923
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Establishment's dumpsters, OP made inconsistent statements in its report and at the public hearing regarding the applicability of § 733.4 to this case. Both in the report and at the outset of the hearing, OP stated that § 733.4 does not apply to the Applicant because the Establishment does not have direct access to the alley in which the dumpsters are located. OP stated that the issue of enclosing the dumpsters is a public space issue to be addressed by the Public Space Committee. However, upon further discussion at the hearing, OP changed its position and affirmed that an enclosure is required for any dumpsters used by the Establishment.

The Board disagrees with OP's initial position that § 733.4 does not apply to the Applicant, and therefore declines to adopt OP's recommendation of temporary approval because it was based upon OP's misassumption that § 733.4 did not apply. By its terms, § 733.4 is not limited to dumpsters located in an alley directly accessible by the Subject Property or to any specific location. Rather, the provision applies to "any refuse dumpsters" used by the Applicant. (11 DCMR § 733.4.) The applicability of § 733.4 does not depend upon whether the Public Space Committee has jurisdiction over dumpsters. The Zoning Act recognizes that both a District regulation and a Zoning Regulation may impose standards on the same subject matter. (D.C. Official Code 6-641.11.) When that is the case, the higher standard applies. (*Id.*)

Accordingly, it is **ORDERED** that the application is **DENIED**.

VOTE: **3-0-2** (Lloyd J. Jordan, Anthony J. Hood, Marnique Y. Heath to Deny; Jeffrey L. Hinkle not participating; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: October 7, 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.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18924 of David Gullick, pursuant to 11 DCMR § 3103.2, for variances from the lot occupancy requirements under § 772.1, the rear yard requirements under § 774.1, and parking space requirements under § 2101.1, to allow the conversion of a flat to a three-unit apartment house in the GA/C-2-A District at premises 705 Kenyon Street, N.W. (Square 2892, Lot 804).¹

HEARING DATE: February 24, 2015
DECISION DATE: March 24, 2015

DECISION AND ORDER

This application was submitted on November 12, 2014 by David Gullick (the “Applicant”), the owner of the property that is the subject of the application. The application requested variances from requirements pertaining to lot occupancy under § 772.1, rear yard under § 774.1, and parking under § 2101.1 of the Zoning Regulations to allow the conversion of a two-family flat to a three-unit apartment house, by interior alteration, in the GA/C-2-A District at 705 Kenyon Street, N.W. (Square 2892, Lot 804). Following a public hearing, the Board of Zoning Adjustment (“Board”) voted to deny the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated November 20, 2014, the Office of Zoning provided notice of the application to the Office of Planning (“OP”); the District Department of Transportation; the Councilmember for Ward 1; Advisory Neighborhood

¹ The caption has been revised to reflect a request for a variance from the parking requirements use under § 2101.1. Consistent with the referral memorandum from the Office of the Zoning Administrator, the Applicant requested, in addition to the two area variances, a variance from § 2100.1. Subsection 2100.1 requires that each building erected on or after May 12, 1958 must be provided with parking spaces to the extent specified in § 2101 (with exceptions not relevant to this application). The record does not reflect when the Applicant’s building was erected; however, as a nonconforming structure, the building presumably predates May 12, 1958, and thus § 2100.1 would not apply. The Applicant proposed to establish a new apartment house use in the building, which is presently used as a flat. Pursuant to § 2100.4, when the use of a building is changed to another use that requires more parking spaces than required for the immediately prior use, parking spaces must be provided for the additional requirement in the amount necessary to conform to § 2101. Pursuant to § 2101, a flat in the C-2-A zone must provide one parking space for the two dwelling units. An apartment house in C-2-A must also provide one parking space for each two dwelling units, and any fraction of one-half or over requires one parking space (see § 2118.6). Thus, the conversion of the building from a flat to a three-unit apartment house would increase the off-street parking requirement at the subject property. Because the schedule of parking requirements is set forth in § 2101 and the Applicant proposed to provide no off-street parking at the subject property for the apartment house use, the Board considered the request a variance from § 2101.1. The Applicant indicated that the off-street parking requirement for the apartment house use at the subject property would be one space. (Exhibit 14.)

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Commission (“ANC”) 1A, the ANC in which the subject property is located; and Single Member District/ANC 1B09. Pursuant to 11 DCMR § 3112.14, on December 2, 2014, the Office of Zoning mailed letters providing notice of the hearing to the Applicant, ANC 1A, and the owners of all property within 200 feet of the subject property. Notice was published in the *D.C. Register* on December 12, 2014 (61 DCR 12607).

Party Status. The Applicant and ANC 1A were automatically parties in this proceeding. The Board denied a late request for party status in opposition to the application from Romeo Morgan, the owner of property abutting the Applicant’s property.

Applicant’s Case. The Applicant described his proposal to convert a building from a two-family flat into a three-unit apartment house by creating a new dwelling unit in the basement level. The conversion would require non-structural internal improvements but no external changes or additions to the existing building.

OP Report. By memorandum dated February 17, 2015, the Office of Planning recommended approval of the application.²

DDOT. By memorandum dated February 6, 2015, the District Department of Transportation (“DDOT”) indicated no objection to approval of the application. (Exhibit 33.)

ANC Report. By report submitted November 21, 2014, ANC 1B indicated that, at a public meeting held November 12, 2014, with a quorum present, the ANC voted 8-0-0 in support of the application, stating no issues or concerns. The report stated that ANC 1B “supports the requested relief” because the Applicant’s proposal to convert the two-family flat to a three-unit apartment house “is the highest and best use that can be made of the existing structure and the Commission does not see that [it] will have an adverse impact to the surrounding area.” (Exhibit 15.)

Persons in opposition. The Board heard testimony in opposition to the application from Romeo Morgan, the owner of property abutting the subject property to the east. He asserted that the Applicant’s proposal would cause adverse impacts with respect to traffic, parking, and trash in the vicinity.

FINDINGS OF FACT

The Subject Property

1. The subject property is located on the north side of Kenyon Street near its intersection with Georgia Avenue (Square 2892, Lot 804). The rectangular lot is 25 feet wide and 50

² The Office of Planning considered the application as including a request for a parking variance from the requirements of § 2101.1 rather than § 2100.1.

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- feet in depth, providing a lot area of 1,250 square feet. There is no apparent change in grade.
2. The subject property is located within the Georgia Avenue (GA) commercial overlay District and is zoned GA/C-2-A. Nearby properties along Georgia Avenue are also zoned GA/C-2-A, while the majority of Square 2892 is located in the R-4 District.
 3. The subject property is improved with a two-story building now used as a two-family flat, with one dwelling unit per floor. The Applicant obtained a certificate of occupancy authorizing use of the first and second floors of the building as a two-family dwelling on February 28, 2014. Each of the existing dwelling units at the subject property has three bedrooms; the building currently houses the Applicant and a total of five tenants.
 4. The Applicant's building was constructed to the lot lines on both sides, and thus lacks side yards. A small rear yard is located behind the building. The subject property has no curb cuts or alley access.
 5. The subject property is nonconforming with respect to lot occupancy. The existing lot occupancy is 80% where a maximum of 60% is allowed as a matter of right. (11 DCMR § 772.1.)
 6. The subject property is nonconforming with respect to rear yard. The existing rear yard is 10 feet deep, where a minimum of 15 feet is required. (11 DCMR § 774.1.)
 7. The subject property is nonconforming with respect to parking. The lot provides no off-street parking, where a minimum of one space is required for use as a two-family flat. (11 DCMR § 2101.1.)
 8. The neighborhood in the vicinity of the subject property is characterized by commercial and mixed-use development along Georgia Avenue. A planned unit development, a mixed-use building 80 feet in height, is located along Georgia Avenue directly north of the subject property. A residential neighborhood with row dwellings and some small apartment houses is located to the west.

The Applicant's Project

9. The Applicant proposed to convert the two-family flat to a three-unit apartment house by creating a new dwelling unit in the basement level of the building at the subject property. The conversion project would not require any enlargement or changes to the exterior of the building but would create a new three-bedroom apartment in the basement through a renovation of the interior of the building.

BZA APPLICATION NO. 18924**PAGE NO. 4****Harmony with Zoning**

10. The C-2-A zone classification is a Community Business Center district that permits shopping, housing, and mixed uses in developments to medium proportions, located in low- and medium-density residential areas. (11 DCMR §§ 720.2 – 720.4.)
11. The purposes of the Neighborhood Commercial overlay district include encouraging a scale of development, a mixture of building uses, and other attributes, such as safe and efficient conditions for pedestrian and vehicular movement. (11 DCMR § 1300.3(a).)

CONCLUSIONS OF LAW AND OPINION

The Applicant seeks a parking variance and area variances from the requirements for lot occupancy under § 772.1 and to rear yard under § 774.1 of the Zoning Regulations to allow the conversion of a two-family flat to a three-unit apartment house, by interior alteration, in the GA/C-2-A District at 705 Kenyon Street, N.W. (Square 2892, Lot 804). The Board is authorized under § 8 of the Zoning Act to grant variance relief where, “by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,” the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, provided that relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. (*See* 11 DCMR § 3103.2.)

Based on the findings of fact, the Board concludes that the application does not satisfy the requirements for variance relief in accordance with § 3103.2. The Board does not find that the subject property is faced with an exceptional situation or condition, or that the strict application of the Zoning Regulations would create a practical difficulty to the Applicant as the owner of the property. The Applicant contended that “the size and depth of the Site, combined with its lack of access to a public alley, create an exceptional situation and condition that directly impacts the requested relief.” (Exhibit 10.) The Office of Planning asserted that, with respect to lot occupancy and rear yard, the “existing building already has 80% lot occupancy and a 10’ rear yard,” and, with respect to parking, that the lot “has no opportunity to provide onsite parking” because the “subject property has no alley access and is landlocked on the east, west and north by other properties,” while the “existing building occupies the entire property frontage, leaving no room for a curb cut and driveway.” (Exhibit 26.)

The Board does not find these assertions persuasive because neither the Applicant nor the Office of Planning has demonstrated that the subject property is in any way characterized by an extraordinary or exceptional situation or condition. The subject property is rectangular in shape, without any apparent change in grade. The record does not reflect that the property is

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exceptionally narrow or shallow, or in any manner significantly different from other properties in the vicinity. The property is improved with a building that is now nonconforming with respect to lot occupancy and rear yard, but its nonconforming aspect does not alone create an exceptional condition or situation. See *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990) (The rationale behind the uniqueness test is that difficulties that are common to or affect an entire neighborhood, or a substantial portion thereof, are properly addressed by seeking amendment of the regulations from the Zoning Commission; if such problems were addressed through individual variances, the effect would be a *de facto* amendment of the zoning regulations by the Board because requests by other owners similarly situated would have to be granted as a matter of equal protection under the due process clause. The Zoning Commission, and not the Board, is empowered to make such amendments to the overall zone plan.), citing *Capitol Hill Restoration Society v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 939, 942 (D.C. 1987); see also *Taylor v. District of Columbia Bd. of Zoning Adjustment*, 308 A.2d 230, 234 (D.C. 1973) and *Myrick v. District of Columbia Bd. of Zoning Adjustment*, 577 A.2d 757, 760 (D.C. 1990). The Board concludes that the subject property is not faced with any extraordinary or exceptional situation or condition such that the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to the Applicant as the owner of the property.

The Applicant and the Office of Planning both asserted that the requested variance relief could be granted without substantial detriment to the public good. The Applicant contended that the “addition of one apartment to the neighborhood will have a very small effect on traffic and parking and it will provide needed housing to a growing neighborhood.” (Exhibit 10.) The Office of Planning noted that the Applicant did not propose to enlarge the existing building, “so no new impacts would be created that would affect the light, air or privacy of adjacent properties.” OP also asserted that “the addition of one car on the street should not have a great impact on the parking situation in the neighborhood.” (Exhibit 26.)

The Board does not agree, and concludes instead that approval of the requested variance relief could result in substantial detriment to the public good. Although the building would not be enlarged as part of its conversion to an apartment house, the creation of an additional dwelling unit in the building would increase the intensity of the use of the subject property attendant to the addition of another three-bedroom apartment on the site. The Applicant’s property lacks space for any off-street parking, and does not meet current requirements for lot occupancy or rear yard. The Board does not find a basis in the record in this proceeding to allow an increase in those nonconforming aspects of the Applicant’s property. The Board did not find the Applicant’s testimony to be creditable regarding the number of vehicles used by current residents of the building, nor what the projected use of vehicles would be if relief is granted. The Board did not find creditable the Applicant’s testimony regarding the impact the additional tenant will have on the community, in that the evidence shows the Applicant’s present management of the property presents a problem on the community. The Board heard credible testimony from the person in opposition about the unmet demand for parking in the neighborhood, and the impact of relief on the community. Approval of the requested relief would also run counter to the purposes of the

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Neighborhood Commercial overlay district which include encouraging attributes such as safe and efficient conditions for pedestrian and vehicular movement.

The Board is required to give “great weight” to the recommendation of the Office of Planning. D.C. Official Code § 6-623.04 (2012 Repl.). For the reasons discussed above, the Board does not find OP’s recommendation persuasive in this proceeding.

The Board is also required to give “great weight” to the issues and concerns raised by the affected ANC. Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2001)). To satisfy the great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” *Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).

In this proceeding ANC 1B indicated its support for the application and raised no issues or concerns. However, the ANC’s report did not address the grounds for variance relief as stated in the Zoning Act but was based in part on the ANC’s conclusion that the Applicant’s proposal to convert the two-family flat to a three-unit apartment house would be “the highest and best use” for the building at the subject property, a factor that is not germane to the Board’s deliberations in this proceeding.

Based on the findings of fact and conclusion of law, the Board concludes that the Applicant has not satisfied the burden of proof with respect to the request for a parking variance and area variances from the requirements for lot occupancy under § 772.1 and to rear yard under § 774.1 of the Zoning Regulations to allow the conversion of a-family flat to a three-unit apartment house, by interior alteration, in the GA/C-2-A District at 705 Kenyon Street, N.W. (Square 2892, Lot 804). Accordingly, it is **ORDERED** that the application is **DENIED**.

VOTE: **3-0-2** (Lloyd J. Jordan, Marnique Y. Heath, and Anthony J. Hood (by absentee ballot) to Deny; Jeffrey L. Hinkle not participating; one Board seat vacant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: October 7, 2015

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PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18943 of Myrtle Avenue LLC, pursuant to § 3103.2 for a variance from the lot area requirements under § 401.3, to allow the construction of a detached one-family dwelling in the R-1-B District, at premises 2608 Myrtle Avenue, N.E. (Square 4315, Tax Lot 834).¹

HEARING DATES: March 17, 2015 and April 28, 2015
DECISION DATE: April 28, 2015

DECISION AND ORDER

On December 12, 2014, Myrtle Avenue LLC, (the “Applicant”) filed an application with the Board of Zoning Adjustment (the “Board”) requesting an area variance from the lot width requirements of § 401.3 of the Zoning Regulations, to allow the construction of a one-family dwelling on a substandard lot in the R-1-B zone district. Following a public hearing spanning two dates, the Board voted to grant the application.

PRELIMINARY MATTERS

Authorization

The Applicant in this case is Myrtle Avenue LLC, owner of the subject property. The Applicant was represented by Gabriel Nathaniel, from the firm of I.S. Enterprises Inc.

The Application

The application was filed by Mr. Nathaniel on December 12, 2014, seeking a variance from the lot width requirements under § 401.3 of the Zoning Regulations to allow the construction of a one-family dwelling on a “newly created lot with the proposed address of 2610 Myrtle Avenue, NE”. (Exhibit 1.)

Notice of Public Hearing

Notice. Pursuant to 11 DCMR § 3113.13, notice of the hearing was sent by the Office of Zoning to the Applicant, all owners of property within 200 feet of the subject site, Advisory Neighborhood Commission (“ANC”) 5C, and the District of Columbia Office of Planning (“OP”).

¹ As will be explained further, the caption describes the property location as “2608 Myrtle Avenue” at “Square 4315, Tax Lot 834”. During the course of the proceedings, the Applicant stated that the address for the newly proposed dwelling would actually be “2610 Myrtle Avenue”, and that the dwelling would be located within an existing “record” lot that is part of “Tax Lot 834”. However, since the Board does not possess a survey or deed referencing a “record” lot, the Board will identify the property with the tax lot description and the 2608 Myrtle Avenue location.

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Posting. The Applicant posted placards at the property regarding the application and public hearing in accordance with 11 DCMR §§ 3113.14 through 3113.20. (Exhibit 25.)

ANC 5C Report and Testimony

The subject site is located within the jurisdiction of ANC 5C, which is automatically a party to this application. The full ANC submitted a report to the Board. The ANC indicated that, at a properly noticed meeting on March 11, 2015, with a quorum present, the ANC voted 5-1-1 to recommend denial of the variance. (Exhibit 30.) In its report, the ANC noted concerns regarding water drainage, reduced street parking, the disturbance and destruction of vegetation, and crowding, all of which would allegedly result from the proposed project. Ms. Gail Brevard testified on behalf of the ANC, reiterating the concerns that were raised in the ANC's report. (Hearing Transcript of March 17, 2015, ("Tr.") p. 8-10.)

Ms. Brevard also stated that although the Applicant attended an ANC meeting, he never presented plans to the ANC regarding the proposed project. The Applicant maintained, on the other hand, that he had attempted to present plans, but was prevented from doing so by the ANC. (Tr., March 17, 2015, p. 14-15). The Board continued the public hearing to April 28, 2015 to allow the Applicant an opportunity to present its plans at an additional ANC meeting. (Tr., March 17, 2015, p.15.)

SMD ANC 5C01 Report

The Board received nothing further from the ANC 5C. However, prior to the continued hearing, the Single Member District ("SMD") ANC 5C01 submitted a report to the Board dated April 13, 2015. (Exhibit 34.) In its report, the SMD stated that a meeting was held on April 2, 2015 with the Applicant, the SMD ANC 5C01 and SMD 5C02 Commissioners, and 19 neighbors. The SMD report reiterated the concerns expressed in the report by the full ANC. It also proposed that the Applicant take various measures to protect the neighborhood, such as: conducting an environmental study to determine "water displacement," preserving vegetation and landscaping of the abutting property owner, or compensating the abutting property owner for his losses, and insuring against losses to neighboring property owners due to damage from excavation. (Exhibit 34.) At the continued hearing on April 28, the Applicant indicated he would comply with these requests. (Hearing Transcript of April 28, 2015, ("Tr.") p. 11.)

Requests for Party Status

The Board received no requests for party status.

Persons in Support

No persons appeared at the hearing to testify in support of the application. Nor were any letters

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received from persons in support of the application.

Persons in Opposition

The Board received letters in opposition attached to a submission from the SMD, i.e., letters from: (1) Ms. Greata Grene Hicks, residing at 2618 Myrtle Avenue, Kevin and Karri Meldorf (address not disclosed), and an unidentified neighbor who wrote that she wished to keep her identity confidential. (Exhibit 32.) The Board received additional letters in opposition from Carolyn Wilson, residing at 2619 Myrtle Avenue, and Corrine and John Pressley, residing at 2634 Myrtle Avenue. (Exhibit 33.)

The Board also heard testimony from two neighbors in opposition. Mr. Steven Clay, residing at 2606 Myrtle Avenue, testified of his concerns relating to parking and crowding, stating the proposed dwelling would be larger than other homes on the block and would result in less available parking. (Tr., April 28, 2015, p. 13-14.) Ms. Janice Adams, residing at 2616 Myrtle Avenue, testified of her concerns relating to parking and environmental impacts of the proposed construction. (Tr., April 28, 2015, p. 15-17.)

Government Reports**Office of Planning (OP) Report**

OP reviewed the application and initially prepared a report recommending denial of the application. (Exhibit 26.) In its report, OP explained that the proposed relief would allow for the subdivision of a lot with significant land area that is already developable without relief. As a result, it reasoned, there is no exceptional situation resulting in a practical difficulty that impedes development of the lot.

However, OP later changed its position and submitted a supplemental report recommending that the application be granted. (Exhibit 29.) In its supplemental report, OP explained that the subject property was not one large lot, as it had previously thought. Rather, the large lot had been subdivided long ago, and consisted of two lots of record, each having a nonconforming width. OP reasoned that because the relief would allow the Applicant to develop an existing nonconforming lot which could not otherwise be developed, OP supported the application. (Exhibit 29). OP's representative, Brandice Elliott, explained OP's position during testimony at the public hearing.

District of Columbia Department of Transportation (DDOT) Report

DDOT submitted a report stating that it had no objection to the variance sought by the Applicant. (Exhibit 27.)

BZA APPLICATION NO. 18943**PAGE NO. 4****FINDINGS OF FACT****The Subject Property**

1. The application concerns a tax lot, Tax Lot 834, of approximately 10,326 square feet in area, with frontage along Myrtle Avenue.
2. Tax Lot 834 is located within Square 4315.
3. The survey plat in this record shows Tax Lot 834 and a “proposed” new property line dividing Lot 834 into two lots. (Exhibit 3.) According to this plat, the proposed eastern lot would have a lot width of 42.5 feet along Myrtle Avenue, and a lot width of 41.23 feet at the rear of the lot. (*See, also*, Self-Certification calculations, Exhibit 28.)
4. According to OP, the Applicant provided a survey plat showing that two record lots were created in 1911. (Exhibit 29.)² Although the plat was not provided to the Board and is not part of this record, the Board finds that there are two record lots within the Tax Lot, based upon OP’s representation that it reviewed the plat.
5. According to the Applicant, the western lot (Lot 28) has a one-family dwelling on it, that was recently renovated. The eastern lot (Lot 26 or 27) is a substandard lot upon which the Applicant proposes to construct a new one-family dwelling. (Tr., April 28, 2015, p. 8.)
6. The Applicant testified that the two lots have been separate lots under single ownership since the early 1900s. (Tr., April 28, 2014, p. 6.)
7. No deeds were provided to the Board showing ownership of either of the lots at any point in time.
8. It is undisputed by the ANC or any of the witnesses in this proceeding that the western lot is currently improved with a one-family dwelling and that the eastern lot is currently vacant.

The Area

9. The average lot width of properties in Square 4315 is 47.6 feet, which is less than the 50 feet required in the zone. (Exhibit 26.)
10. Only 10 of the existing 45 lots in Square 4315 conform to the lot width requirements. (Exhibit 26.)

² This assertion contradicts the original filings which state that a single family dwelling is proposed for the “newly created lot”. (Application, Exhibit 1.)

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The Proposal and the Relief Required

11. The Applicant plans to construct a one family dwelling on the vacant eastern lot.
12. According to OP's supplemental report, the eastern and western lot width dimension will be 46.34 feet each. (Exhibit 29.)³
13. Subsection 403.1 requires a minimum lot width of 50 feet in the R-1-B zone district. Thus, an area variance is needed from the requirements of § 403.1.

Exceptional Condition

14. The survey plat in evidence reflecting one oversized tax lot, and the representations of two undersized record lots, are in conflict.
15. A photograph submitted by the Applicant depicts the vacant eastern portion of the tax lot as appearing akin to a "missing tooth" along Myrtle Avenue. (Exhibit 6.)
16. Assuming this portion of the tax lot is actually a record lot, it is a vacant lot that is only a few feet shy of the required lot width in the R-1-B zone.

Practical Difficulty

17. The Board credits OP's finding that there do not appear to be opportunities to re-subdivide the eastern lot and the adjacent western lot to make this lot conforming. (Exhibit 29.)
18. The eastern lot is not otherwise buildable without zoning relief.

The Impact of the Proposed Dwelling

19. The Board credits OP's finding that the proposed dwelling will conform to all of the bulk and setback requirements and that the lot will exhibit characteristics that are typical of the surrounding neighborhood. (Exhibit 26.)
20. The proposed dwelling will have a footprint that is consistent with other dwellings on the block. (Tr., April 28, p. 15.)

CONCLUSIONS OF LAW

Zoning Relief is Required

The threshold question raised in this matter is whether zoning relief is required, or whether the development of the lot is allowed as a matter of right under § 401.2 of the Regulations.

³ This figure is slightly more than the width calculation that was initially submitted of 42.25 feet.

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Subsection 401.2 states:

Except as provided in § 401.3, in the case of an unimproved lot in single ownership on November 1, 1957, that has a lot area or width of lot less than specified in § 401.3 for the district in which it is located and that does not adjoin another unimproved lot in the same ownership, a structure may be erected on the lot if both the lot area and width of lot are at least eighty percent (80%) of the lot area and width of lot specified under § 401.3; provided, that the structure shall comply with all other provisions of this title.

(11 DCMR § 401.2.)

The Board has examined the meaning of this provision before. In *Appeal No. 17034 of Advisory Neighborhood Commission 2E* (2004), the Board explained that § 401.2 was an exception to the minimum lot requirements contained in § 401.3. In order for this exception to apply, however, **all** of the criteria of § 401.2 must be met. Interpreting the language of § 401.2, the Board explained that, in addition to meeting 80% of the width and area requirements and not **currently** being improved or in common ownership with an adjoining unimproved lot, the subject property **must have been both unimproved and in single ownership on November 1, 1957**, in order to get the benefit of the exception. (*Id.*, at 5 (emphasis supplied).)

In this case, the record is devoid of several material facts that might establish eligibility for the exception. For instance, proof of ownership was not submitted for either the western lot or the eastern lot, for either the current time period or the period of time prior to 1957. Nor was any evidence submitted that reflects the history of improvements at the two adjacent lots. While it appears that the current lot width may meet the 80% ceiling that is prescribed in § 401.2, that calculation was not proffered by the Applicant. In sum, the Board lacks sufficient information to determine whether the Applicant is eligible to apply the exception allowed under § 401.2. As a result, the Board cannot conclude that the property may be developed as a matter of right, and relief from the lot width requirements is necessary.

The Requested Variance

The Board is authorized under § 8 of the Zoning Act of 1938, D.C. Official Code §6-631.07(g) (3) (2008) to grant variance relief from the strict application of the Zoning Regulations. As noted by the Court of Appeals, the Applicant must meet a three-prong test for the Board to grant relief:

An applicant must show, first, that the property is unique because of some physical aspect or “other extraordinary or exceptional situation or condition” inherent in the property; second, that strict application of the zoning regulations will cause undue hardship or practical difficulty to the applicant; and third, that granting the variance will do no harm to the public good or to the zone plan.

Capitol Hill Restoration Society v. District of Columbia Bd. of Zoning Adjustment, 534 A.2d 939, 941 (D.C. 1987).

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An applicant for a use variance must show that strict compliance with the applicable regulation will result in an undue hardship while an applicant for an area variance must meet the less stringent standard that compliance will result in exceptional practical difficulties. (11 DCMR § 3103.7.)

As noted, the Applicant is seeking an area variance from the lot width requirement under § 401.3. Therefore, the “practical difficult[y]” standard will be applied.

The Board finds that the peculiar subdivision history regarding the single oversized tax lot and the two undersized record lots constitutes an exceptional condition, especially when the result is a “missing tooth” like appearance along the block. (See, Findings of Fact 14-16.)

This exceptional condition leads to a practical difficulty in that the vacant lot is not buildable without zoning relief. As stated by the Court of Appeals, when evaluating practical difficulty, the Board may assess the “weight of the burden of compliance” with the Zoning Regulations. *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164 (D.C. 1990). In this case, the burden is weighty indeed. In contrast to an application for setback relief -- where the project could potentially be scaled down -- the burden of having to comply with the lot width requirements means no development at all.

Turning to the third prong of the variance test, the Board concludes that the proposed project will not impair the public good or the zone plan. As discussed by the Applicant and by OP, the requested relief would allow for the construction on a lot that is only a few feet shy of the width that is required, and is also consistent with the width of other properties in the Square. (Exhibit 26, Findings of Fact 9 & 10.) Moreover, as noted by OP, the footprint of the proposed dwelling will be consistent with other dwellings on the block. (Tr. April 28, 2015, p. 14-15.) (Photographs of nearby properties tend to confirm this fact. Exhibits 5, 11 & 12.)

Finally, the construction of the proposed dwelling will fill in the “missing tooth” (Finding of Fact 15) and create a more pleasing appearance on the block.

Advisory Neighborhood Commission

Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)(3)(B)) requires that the Board’s written orders give “great weight” to the issues and concerns raised in the recommendations of the affected ANC.

In this case ANC 5C recommended denial of the application. However, most of the issues and concerns raised by the ANC are outside of this Board’s purview. Issues cited by the ANC, such as environmental impacts and construction issues, are not within the Board’s purview as they do not relate to the Zoning Regulations. See, *Appeal No. 17769 of Advisory Neighborhood Commission 6A* (2008); (Zoning Regulations do not require environmental compliance). *Appeal*

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No. 17468 of Advisory Neighborhood Commission 6A (2006) (Issues relating to Building Code are not within Board's jurisdiction). As such, the portion of the ANC report which speaks to these issues is not "legally relevant" and, thus, will not be afforded great weight. *See, Concerned Citizens of Brentwood v. District of Columbia Bd. of Zoning Adjustment* (D.C. 1993). Nor will the Board address the conditions proposed by the SMD, as they relate to the same issues and concerns which have no relevance to this application.

On the other hand, the concern raised by the ANC relating to potential "crowding" is legally relevant, as this concern relates to the third prong of the variance test; i.e., whether the proposal will result in a substantial detriment to the public good. While the Board acknowledges this concern, the Board does not agree with the ANC's position. As explained above, the Board concludes that the dwelling will comply with all height, bulk, and setback provisions, and the proposed dwelling will be in keeping with development patterns on the street.

Office of Planning

The Board is also required under D.C. Official Code § 6-623.04(2001) to give "great weight" to OP recommendations. For reasons stated in this Decision and Order, the Board finds OP's advice, as revised, to be persuasive.

Therefore, for the reasons stated above, it is hereby **ORDERED** that the application, as amended, is hereby **GRANTED**, to allow an area variance from the lot area requirements, **SUBJECT TO THE APPROVED PLANS AT EXHIBIT 7.**

VOTE: **4-0-1** (Marnique Y. Heath, Jeffrey L. Hinkle, Lloyd J. Jordan,
and Robert E. Miller to Approve; one Board seat vacant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: October 2, 2015

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR

BZA APPLICATION NO. 18943**PAGE NO. 9**

GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19021 of Amazing Love Health Services, as amended,¹ pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under § 2101.1, to allow a medical office in the HS-A/C-2-A District at premises 702 15th Street N.E. (Square 1050, Lot 33).

HEARING DATES: June 23 and September 29, 2015
DECISION DATE: September 29, 2015

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

On April 7, 2015, the Applicant filed a request for relief, accompanied by a memorandum, dated March 31, 2015, from the Zoning Administrator (“ZA”), which stated that Board of Zoning Adjustment (“Board” or “BZA”) approval is required for a special exception pursuant to 11 DCMR §§ 3104.1 and 2108 to provide fewer off-street parking spaces than required for medical office use. (Exhibit 8.)

After consultation with Office of Planning (“OP”), the ZA determined that the appropriate relief for this application would be a variance, pursuant to 11 DCMR § 3103.2, from the off-street parking requirements under § 2101.1. The Applicant submitted a revised memorandum from the ZA to the record, (Exhibit 35), and subsequently amended its request for relief to a variance from § 2101.1. At the Board’s request, the Applicant posted revised signage on the property to give notice of its amended request for relief. (Exhibit 36.)

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to the Applicant, Advisory Neighborhood Commission (“ANC”) 6A, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A, which is automatically a party to this application.

ANC 6A submitted a report indicating that at its regularly scheduled and properly noticed public meeting of July 9, 2015, at which a quorum was in attendance, it considered the Applicant’s amended request for variance relief under § 2101.1. At its meeting, the ANC voted 7-0 in

¹ The Applicant’s original request was for a special exception pursuant to the off-street parking space reduction requirements under § 2108. (Exhibit 8.) After the public hearing on June 23, 2015, the Applicant submitted a revised memorandum from the Zoning Administrator indicating that a variance from the off-street parking requirements under § 2101.1 is required. (Exhibit 35.) The caption has been revised accordingly.

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support of application, with nine conditions. (Exhibit 33). The Board considered the conditions proposed by the ANC, but found that the conditions were beyond the scope of mitigating the requested relief from the off-street parking requirements. Further, the Applicant testified that he would continue to provide incentives for employees and patients to use public transit, as requested by the ANC, and indicated that the ANC has a point of contact for the Applicant, in the event that there are any issues. Therefore, the Board did not adopt the ANC's proposed conditions as part of this order granting relief.

The Office of Planning ("OP") submitted a timely report and testified at the hearing in support of the amended application for variance relief. (Exhibit 26.) The District Department of Transportation ("DDOT") filed a report expressing no objection to the approval of the application, but noted that the Applicant's original plans provide nine parking spaces in public space that were not approved by the Public Space Committee and not supported by DDOT. (Exhibit 27.) At the public hearing on September 29, 2015, the Applicant testified that the public space issue had been resolved with DDOT. The Applicant also provided revised plans that eliminate the nine parking spaces in public space previously proposed. (Exhibit 38.) In its report, DDOT also offered two conditions; however, the Board elected not to adopt either condition.

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for variances under § 3103.2, from the strict application of the off-street parking requirements under § 2101.1, to allow a medical office in the HS-A/C-2-A District. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3103.2 and 2101.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 38.**

VOTE: 5-0-0 (Lloyd J. Jordan, Jeffrey L. Hinkle, Marnique Y. Heath, Frederick L. Hill, and Michael G. Turnbull to APPROVE.)

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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: October 7, 2015

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19028 of Maria Sorto-Chacon, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, to allow the construction of a one-story storage shed in the R-5-A District at premises 3250 15th Place, S.E. (Square 5890, Lot 203).

HEARING DATE: Applicant waived right to a public hearing
DECISION DATE: July 28, 2015¹ and September 29, 2015 (Expedited Review Calendar)

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

This application was accompanied by a memorandum, dated April 14, 2015, from the Zoning Administrator certifying the required relief. (Exhibit 5.)

Pursuant to 11 DCMR § 3118, this application was tentatively placed on the Board of Zoning Adjustment (“Board”) expedited review calendar for decision without hearing as a result of the Applicant’s waiver of its right to a hearing. (Exhibit 2.)

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 8E, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8E, which is automatically a party to this application. ANC 8E did not file a report for the application.

The Office of Planning (“OP”) submitted a timely report in support of the application. (Exhibit 18.) The District Department of Transportation (“DDOT”) submitted a timely report expressing no objection to the approval of the application. (Exhibit 12.)

No objections to expedited calendar consideration were made by any person or entity entitled to do by §§ 2118.6 and 2118.7. The matter was therefore called on the Board’s expedited calendar for the date referenced above and the Board voted to grant the application.

¹ This case was originally scheduled for Expedited Review on July 28, 2015, but was postponed to enable the Applicant to meet the posting requirements. The Applicant submitted the required affidavit of posting on August 31, 2015. (Exhibit 19.) At the decision meeting, the Board confirmed that an affidavit of posting was submitted.

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As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under §§ 223 and 403.2. No parties appeared at the public meeting in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 223, and 403.2, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case. It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO APPROVED PLANS AS SHOWN ON THE SURVEYOR'S PLAT AT EXHIBIT 9.**

VOTE: **5-0-0** (Lloyd J. Jordan, Frederick L. Hill, Marnique Y. Heath, Jeffrey L. Hinkle, and Michael G. Turnbull to APPROVE).

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: October 1, 2015

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO- YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

BZA APPLICATION NO. 19028**PAGE NO. 3**

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19042-A of District Properties.com Inc., pursuant to 11 DCMR § 3103.2, for variances from the lot area and width requirements under § 401, and the side yard requirements under § 405, to allow the construction of a new two-story, one-family dwelling on a vacant lot in the R-5-A District at premises 4275 6th Street S.E. (Square 6207, Lot 48).

HEARING DATES: July 14, 2015¹ and September 22, 2015
DECISION DATE: September 22, 2015

CORRECTED SUMMARY ORDER²

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 16.)

The Board of Zoning Adjustment ("Board" or "BZA") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 8D and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8D, which is automatically a party to this application. A letter was submitted from the ANC which stated that it had voted (5:2) to support the application. However, while acknowledging the ANC letter, the Board noted that the ANC's letter did not meet all the requirements of 11 DCMR § 3115.1 for it to receive great weight. The ANC did not appear at the hearing to give testimony.

The Office of Planning ("OP") submitted a timely report recommending approval of the application with two conditions. (Exhibit 19.) OP in its report indicated that the Applicant agreed to amend the site plan, per the recommended conditions.

The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application. (Exhibit 18.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2 for an area variance from the lot area and width requirements under § 401, and the

¹ On July 14, 2015, the public hearing in this case was continued before any testimony was taken in order for the Applicant to comply with the posting requirements and have additional time for outreach to the neighbors and the ANC.

² The Order No. has been added to the caption. This is the only change to the Summary Order.

BZA APPLICATION NO. 19042-A
PAGE NO. 2

side yard requirements under § 405, to allow the construction of a new two-story, one-family dwelling on a vacant lot in the R-5-A District. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the OP report filed in this case, the Board concludes that in seeking variances from 11 DCMR §§ 401 and 405, the Applicant has met the burden of proof under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED SUBJECT TO THE APPROVED PLANS AT EXHIBIT 6, AS MODIFIED BY THE FIRST FLOOR PLAN AT EXHIBIT 25,³ AND WITH THE FOLLOWING CONDITIONS:**

1. The Applicant shall make improvements to the landscaping and privacy screening for the property, including replacement of the stockade fencing (north and south) with metal fencing and evergreen shrubbery up to 42 inches tall planted along the fencing.
2. The Applicant shall plant a fast growing shade tree in the rear yard to reduce the heat effect to the home, consistent with the District's Urban Forestry tree guidelines.

VOTE: **5-0-0** (Lloyd J. Jordan, Marnique Y. Heath, Frederick L. Hill, Jeffrey L. Hinkle, and Peter G. May to APPROVE.)

³ During deliberations on September 22nd, the Board requested revised plans based on the Applicant's testimony that he would provide a rear window on the first floor. Prior to the Order being issued, the Applicant submitted revised first floor plans that although they did not provide a rear window, the Board accepted them as appropriately modifying the approved plans because they provided additional light into the kitchen which met the intent of the Board's original requirement. The Board voted 3:0:2 on October 6, 2015 to accept the revised first floor plans at Exhibit 25.

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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: October 8, 2015

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR

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PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19053 of Ridge Lofts, LLC, as amended,¹ pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under § 2101.1, to allow the construction of four flats on four vacant lots in the R-4 District at premises 446, 448, 450, and 452 Ridge Street N.W. (Square 513, Lots 825-828).²

HEARING DATE: July 28, 2015
DECISION DATE: September 29, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 5.)

The Board of Zoning Adjustment ("Board" or "BZA") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 6E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6E, which is automatically a party to this application. The ANC submitted a report in support of the application. In its report, dated July 10, 2015, the ANC indicated that at its duly scheduled and noticed public meeting of July 7, 2015, with a quorum present, the ANC voted 4-2-no abstentions to support granting the relief in this case. However, the Single Member District ("SMD") Commissioner for ANC 6E04 submitted a letter in opposition, noting that the residents within the SMD are not supportive of the project. (Exhibit 40.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 37.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application. (Exhibit 38.)

Letters in support of the application from six neighbors (Exhibits 34 and 43-45) were submitted to the record.

¹ The caption was amended to reflect that the Applicant, as indicated in its application (Exhibit 1), sought relief from § 2101.1 to allow the construction of four flats on four vacant lots in the R-4 District, not construction of eight one-family dwellings on the four vacant lots in the R-4 District, as initially stated. (Exhibit 4.) The caption has been changed accordingly.

² The Board, in Application No. 18893 of Ridge Lofts LLC, first approved variance relief, with conditions, from the parking requirements for the same Applicant as here to construct four flats. The Applicant withdrew Case No. 18893 before the issuance of the order and filed the current application to pursue the same relief without conditions that restrict parking.

BZA APPLICATION NO. 19053

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Letters in opposition from eight neighbors (Exhibits 41 and 42) and SMD 6E04 (Exhibit 40) were submitted to the record.

Letters from the Senior Vice President of Colombo Bank (Exhibit 32) and from the Senior Vice President of Sandy Spring Bank (Exhibit 29) stating that access to street parking would be a necessary requirement before either financial institution would consider extending financing for the project were submitted to the record.

At the July 28, 2015 hearing, a neighbor, Deering Kendrick, testified in opposition to the application. At the end of the hearing, the Board closed the record but for a parking study. A parking study was submitted by the Applicant together with a motion to waive the time requirement. (Exhibits 49 and 50.) Although the Board did not formally grant the Applicant's motion to allow the late filing of the parking study, it accepted it into the record and considered it in its deliberations.

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2 for a variance from the off-street parking requirements under § 2101.1, to allow the construction of four flats on four vacant lots in the R-4 District. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking a variance from 11 DCMR § 2101.1, the Applicant has met the burden of proof under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED SUBJECT TO THE APPROVED PLANS AT EXHIBIT 31**.

VOTE: **4-0-1** (Lloyd J. Jordan, Marnique Y. Heath, Jeffrey L. Hinkle, and Michael G. Turnbull to APPROVE; Frederick L. Hill, not participating or voting.)

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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: October 2, 2015

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT.

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DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED.
VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 02-38E
Z.C. CASE NO. 02-38E**

**Waterfront 375 M Street, LLC and Waterfront 425 M Street, LLC
(Two-Year Time Extension for First-Stage PUD
for East and West M Street Office Buildings @ Square 542, Record Lot 89)
February 23, 2015**

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia ("Commission") was held on February 23, 2015. At the meeting, the Commission approved a request from Waterfront 375 M Street, LLC and Waterfront 425 M Street, LLC (collectively, the "Applicant") for a time extension for an approved first-stage planned unit development ("PUD") for property consisting of Lots 825 and 826 in Square 542, which is a portion of Record Lot 89 in Square 542 ("Property"), pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR").

FINDINGS OF FACT

1. By Z.C. Order No. 02-38A, the Commission approved a modification to a first-stage PUD ("First-Stage PUD"), a second-stage PUD ("Second-Stage PUD"), and a related zoning map amendment for the Property. The First-Stage PUD provides for the development of eight buildings including residential, office, and ground-floor retail uses and includes open spaces as well as the re-opening of the 4th Street right-of-way. The Second-Stage PUD includes the four buildings through the center of the Property and their adjacent open spaces. These four buildings include the East and West 4th Street Office Buildings with ground-floor retail space, including a Safeway grocery store, flanking the east and west side of 4th Street and the East and West Residential Towers, which have a continuous open space connecting them to 4th Street. Z.C. Order No. 02-38A became effective upon its publication in the *D.C. Register* on January 25, 2008.
2. Condition No. 28 of Z.C. Order No. 02-38A approved the Second-Stage PUD for a period of two years from the effective date of the order, which was January 25, 2008. Within such time, the property owner was required to file for a building permit as specified in 11 DCMR § 2409.1. The Applicant was required to start construction within three years of the effective date of Z.C. Order No. 02-38A.
3. Condition No. 29 of Z.C. Order No. 02-38A provided that the approval for the First-Stage PUD was valid for a period of five years from the effective date of the Order (i.e., January 25, 2008). Accordingly, by January 25, 2013, the second-stage PUD application(s) for the Northwest Building, the Northeast Building, and the West M Street Office Building were required to be filed. These second-stage applications were permitted to be submitted individually, at the same time, or in any combination thereof. The timeframe for filing the second-stage PUD application for the East M Street Office Building was separate and was based upon the date that Safeway vacated the premises,

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which was April 15, 2010. Accordingly, the second-stage PUD application for the East M Street Office Building had to be filed by April 15, 2015.

4. Building permits for the East and West 4th Street Office Buildings were issued on or around July 17, 2008. Construction commenced in September, 2008.
5. By Z.C. Order No. 02-38B, the Commission approved a two-year extension of the Second-Stage PUD with respect to the East and West Residential Buildings. That Order required that the property owner file for a building permit no later than January 25, 2012, and commence construction by January 25, 2013. The developer of those buildings filed building permits for both the East and West Residential Buildings in advance of January 25, 2012. Construction commenced on both the East and West Residential Buildings prior to January 25, 2013.
6. By Z.C. Order No. 02-38C, the Commission approved an extension of the validity of the First-Stage PUD approval for the West M Street Office Building and the Northeast Building for a period of approximately two years and three months, requiring that a second-stage PUD application for the West M Street Office Building and the Northeast Building be filed no later than April 15, 2015.
7. By Z.C. Order No. 02-38D, the Commission approved a second-stage PUD application for the Northwest Building. Condition No. 18 of Z.C. Order No. 02-38D states that an application for a building permit must be filed for the Northwest Building no later than December 6, 2015, and construction must start by December 6, 2016. The full building permit application for the Northwest Building was filed in August, 2014, and construction commenced in January, 2015.
8. By letter dated December 30, 2014, the Applicant submitted a request to the Commission for an extension of the timeframe by which it must file second-stage PUD applications for the East and West M Street Office Buildings for a period of two years.
9. The Applicant submitted evidence that it has faced great difficulty securing initial financing for the development of the East and West M Street Office Buildings. This difficulty is due to a confluence of issues that continues to limit financing and leasing opportunities for commercial office projects in the Washington, D.C. region, including, among others, the very limited market for initial financing of office buildings and requirements for substantial preleasing to obtain financing. Waterfront also presented evidence of the numerous steps it has taken to actively market the East and West M Street Office Buildings to potential tenants as well as evidence of vacancy rates which have further hindered Waterfront's ability to secure the required preleasing.

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10. The Applicant served a copy of the request on all parties, including Advisory Neighborhood Commission 6D ("ANC 6D"), Tiber Island Cooperative Homes, Inc., and Carrollsburg Square Condominium Association on December 30, 2014.
11. By letter dated January 13, 2015, the Applicant requested that the Commission defer consideration of the application in order to provide additional time for the Applicant to work with ANC 6D.
12. On February 11, 2015, the Applicant submitted a letter summarizing its work with ANC 6D and providing concept plans for both site maintenance and site activation during the requested extension period, including opportunities for temporary use and activation prior to construction of the East and West M Street Office Buildings.
13. On February 13, 2015, the Office of Planning ("OP") submitted a report supporting the application.
14. On February 15, 2015, ANC 6D submitted a resolution in support of the application, based on the Applicant's work with ANC 6D and the Applicant's agreement to work with ANC 6D on-site maintenance and site activation issues.
15. The Commission finds that the Applicant cannot move forward at this time with second-stage PUD applications for the East and West M Street Office Buildings, despite the Applicant's diligent, good faith efforts, because of changes in the economic and market conditions beyond the Applicant's control. Therefore, this request for extension satisfies the sole criterion for good cause shown as set forth in § 2408.11(a) of the Zoning Regulations and the Commission finds that the request should be granted.

CONCLUSIONS OF LAW

1. The Commission may extend the validity of a first-stage PUD in accordance with the standard and process for second-stage PUD extensions set forth in §§ 2408.10 through 2408.12. (11 DCMR § 2407.11.) Subsection 2408.10 provides that the Commission may extended the validity of a PUD for good cause shown upon a request made before the expiration of the approval, provided: (a) the request is served on all parties to the application by the applicant, and all parties are allowed 30 days to respond; (b) there is no substantial change in any material fact upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the original PUD; and (c) the applicant demonstrates with substantial evidence that there is good cause for such extension as provided in § 2408.11. Subsection 2408.11 provides the following criteria for good cause shown: (a) an inability to obtain sufficient project financing for the PUD, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control; (b) an inability to secure all required governmental agency approvals

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- for a PUD by the expiration date of the PUD order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or (c) the existence of pending litigation or such other condition or factor beyond the applicant's reasonable control which renders the applicant unable to comply with the time limits of the PUD order.
2. The Commission concludes that the application complied with the notice requirements of 11 DCMR § 2408.10(a) by serving all parties with a copy of the application and allowing them 30 days to respond.
 3. The Commission concludes there has been no substantial change in any material fact that would undermine the Commission's justification for approving the original PUD.
 4. The Commission finds that the Applicant presented substantial evidence of good cause for the extension based on the criteria established by 11 DMCR § 2408.11(a). Specifically, the Applicant has been unable to obtain sufficient project financing or required pre-leasing for the East and West M Street Office Buildings, following the Applicant's diligent good faith efforts, because of changes in economic and market conditions beyond the Applicant's reasonable control.
 5. Subsection 2408.12 of the Zoning Regulations provides that the Commission must hold a public hearing on a request for an extension of the validity of a PUD only if, in the determination of the Commission, there is a material factual conflict that has been generated by the parties to the PUD concerning any of the criteria set forth in § 2408.11.
 6. The Commission concludes a hearing is not necessary for this request since there are not any material factual conflicts generated by the parties concerning any of the criteria set forth in § 2408.11 of the Zoning Regulations.
 7. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the affected ANC's recommendations. The Commission has carefully considered ANC 6D's support for the application and has given that support great weight.
 8. 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. The Commission has carefully considered OP's support for the project and has given that support great weight.
 9. The Commission concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations.

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DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for a two-year time extension for the First-Stage PUD approval of the East M Street Office Building and the West M Street Office Building approved in Z.C. Case No. 02-38A and Z.C. Case No. 02-38C, respectively. The First-Stage PUD for these two buildings approved by the Commission shall be valid until April 15, 2017, within which time second-stage PUD applications for both building shall be filed. These second-stage applications may be submitted individually or at the same time. Should the Applicant file a second-stage application for only one of the buildings within this timeframe, the first-stage approval will only expire as to the building for which no application was filed.

The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. 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 identify or expression, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, genetic information, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On February 23, 2015, upon the motion made by Chairman Hood, as seconded by Commissioner, the Zoning Commission **ADOPTED** this Order 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 § 3028.8, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on October 16, 2015.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 05-38B
Z.C. Case No. 05-38B
Mill Creek Residential Trust, LLC
(PUD Modification @ Square 499, Lots 855-859)
July 13, 2015

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on June 11, 2015, to consider an application from Mill Creek Residential Trust, LLC ("Applicant"), for modifications to an approved planned unit development ("PUD") for Lots 855-859 in Square 499 ("Property"). The Commission considered the application 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 Property, Application, Parties, and Hearings

1. The Property is located in the southwest quadrant of the District and is bounded by K Street to the north, Square 542 to the east, M Street to the south, and 6th Street to the west. The Property is rectangular in shape, consists of approximately 135,263 square feet of land area, and is located in Ward 6. The Property has approximately 220 linear feet of frontage along K Street and M Street, and approximately 614.83 linear feet of frontage along 6th Street. Lots 856 and 858 are each presently improved with a recently renovated nine-story apartment house designed by I.M. Pei. Surface parking lots occupy the northern and southern ends of the Property. The Property is approximately 0.1 miles from the entrance to the Waterfront Metrorail station, which services the Green Line, and is in close proximity to multiple Metrobus Lines.
2. Pursuant to Z.C. Order No. 05-38, dated May 14, 2007, and effective October 26, 2007, the Commission approved a PUD and related Zoning Map amendment to rezone the Property from the R-5-D Zone District to the C-3-C Zone District (the "Initial PUD Approval"). Z.C. Order No. 05-38 authorized up to 570 residential units spread across four residential buildings, including two existing buildings on Lots 856 and 858 designed by the noted architect I.M. Pei ("Pei Towers"); a new building on Lot 859 ("North Residential Tower"); and a new building on Lot 855 ("South Residential Tower"). The North and South Residential Towers were approved at a maximum height of 112 feet each, with a total of 569 vehicle parking spaces located in below-grade structures. The overall density approved as part of the Initial PUD Approval was 4.38 floor area ratio ("FAR"), or 592,471 square feet of gross floor area, with approximately 8,900 square feet of gross floor area devoted to ground-floor retail and residential amenities.
3. Pursuant to Z.C. Order No. 05-38A, dated December 8, 2008, and effective on January 2, 2009, the Commission approved modifications to the Initial PUD Approval (the "Modified PUD Approval"). The Modified PUD Approval authorized the following

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- amendments to the initial PUD: (i) refinements to the approved façades and roof structures of the various buildings; (ii) removal of the previously approved for-sale residential component; (iii) relocation of a pool; (iv) an increase in the maximum number of units to 580 (256 existing units plus 324 new units); and (v) modifications to the communities amenities package. (*See* Z.C. Order No. 05-38A, Finding of Fact No. 2.)
4. On December 22, 2014, the Applicant filed the current application with the Commission for modifications to the approved PUD. The modified project reduces the height of the North and South Residential Towers to 85 feet each, and reduces the PUD's overall density from 4.38 FAR to 3.40 FAR. The North and South Residential towers will contain a combined total of approximately 242,450 square feet of gross floor area, with approximately 231,385 square feet of gross floor area devoted to residential and residential amenity uses, approximately 5,220 square feet of gross floor area devoted to retail use, and approximately 5,845 square feet of gross floor area devoted to service space. The overall gross floor area for the new buildings and the Pei Towers combined is approximately 459,890 square feet. The number of residential units for the overall project will be reduced from 580 units to 516 units (256 existing units and 260 new units, plus or minus 10%). Parking will be located in three levels of below- grade parking in each of the North and South Residential Towers, and will include approximately 290 parking spaces.
 5. By report dated February 27, 2015, the Office of Planning ("OP") recommended setdown of the application. (Exhibit ["Ex"] 11.) On March 9, 2015, the Commission voted to schedule a public hearing on the application.
 6. On April 7, 2015, the Applicant submitted a prehearing statement. (Ex. 14-14J.) On May 1, 2015, a description of the application and the notice of the public hearing in this matter were published in the *D.C. Register*. (Ex. 17.) On April 22, 2015, the notice of the public hearing was mailed to all property owners within 200 feet of the Property, as well as to Advisory Neighborhood Commission ("ANC") 6D, the ANC in which the Property is located.
 7. On May 5, 2015, the Applicant submitted a supplemental statement in support of the application, which provided: (i) updated architectural plans and elevations; (ii) a rationale for not providing a green roof; (iii) a transportation memorandum prepared by Gorove/Slade Associates, Inc., the Applicant's transportation consultant; and (iv) an update regarding the Applicant's engagement with and support from ANC 6D. (Ex. 24-24B.)
 8. By report dated June 1, 2015, OP submitted its final report recommending approval of the application once the Applicant addressed the comments set forth in the OP report. (Ex. 25.) OP also noted that the proposed development is not inconsistent with the Comprehensive Plan and the Zoning Regulations.

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9. By report dated June 1, 2015, the District Department of Transportation (“DDOT”) submitted a report indicating that it had no objection to the application with the following conditions: (i) the Applicant should redesign the South Residential Tower such that all loading needs can be accommodated on site; (ii) the Applicant should provide at least eight short-term bicycle parking spaces in the public space; and (iii) the Applicant should offer a one time, one year Capital Bikeshare membership or one year car-share membership to all new residents of the project for the first three years that the buildings are open. (Ex. 26.)
10. By report dated June 4, 2015, the District Department of Energy and Environment (“DOEE”) submitted a report that provided comments specific to the project, offered guidance on regulations and other DOEE areas of interest, and recommended areas where the Applicant could exceed guidelines as a public benefit or amenity for the project. (Ex. 27.)
11. The public hearing on the application took place on June 11, 2015. The parties to the case were the Applicant and ANC 6D. No requests for party status were filed for this case and no individuals appeared at the public hearing to testify in support of or in opposition to the application. Dennis Connors of SK+I Architecture was accepted as an expert in architecture. Josh Posnick addressed the Commission on behalf of the Applicant.
12. At the conclusion of the public hearing, the Commission voted to take proposed action to approve the application.
13. On June 22, 2015, the Applicant submitted a post-hearing filing in response to comments from the Commission made at the public hearing. (Ex. 40-40C.) The post-hearing filing included a response to the DOEE report, a summary of the existing affordability controls for the affordable units in the Pei Towers, and revised architectural sheets.
14. The application was referred to the National Capital Planning Commission (“NCPC”) for review pursuant to § 492 of the District’s Home Rule Act.
15. The Executive Director of NCPC, by delegated action dated July 2, 2015, found that the proposed PUD and related map amendment would not be inconsistent with the Comprehensive Plan for the National Capitol, nor would it affect any other federal interests. (Ex. 44.)
16. The Zoning Commission took final action to approve the PUD on July 13, 2015.

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PUD Modification

17. The Applicant seeks approval to modify the architectural plans and elevations approved in Z.C. Case No. 05-38 and 05-38A to construct two new residential buildings on the Property, consistent with the architectural plans and elevations (Ex. 24A1-24A5), as modified by the supplemental plans (Ex. 31, 40C) (together, the “Plans”).
18. The North and South Residential Towers will each be 85 feet in height, will contain a combined total of approximately 242,450 square feet of gross floor area, with approximately 231,385 square feet of gross floor area devoted to residential and residential amenity uses, approximately 5,220 square feet of gross floor area devoted to retail use, and approximately 5,845 square feet of gross floor area devoted to service space. The overall gross floor area for the new building and the Pei Towers combined is approximately 459,890 square feet (3.40 FAR). The project will have a combined total of 516 residential units (256 existing units and 260 new units, plus or minus 10%).
19. A total of 290 on-site vehicular parking spaces will be provided in a below-grade parking garage in each of the North and South Residential Towers. Loading facilities will include one 30-foot loading berth and one 200-square-foot loading platform in each of the North and South Residential Towers.
20. The original PUD application was approved and Z.C. Order No. 05-38 became effective prior to the August 14, 2009 effective date of the Inclusionary Zoning (“IZ”) Regulations set forth in Chapter 26 of Title 11 DCMR. Instead, the PUD included an affordable housing proffer. Pursuant to that proffer, Condition No. 12 of Z.C. Order No. 05-38 required that 16,000 square feet of gross floor within the entire PUD be reserved as affordable units to households having an income not exceeding 80% of Area Median Income for the Washington, DC Metropolitan Statistical Area (adjusted for family size), and consistent with the eligibility requirements and enforcement mechanisms enumerated in Exhibit G of Exhibit 26 of the record in that case. That exhibit established a 20 year control period for rental units beginning on the date that the certificate of occupancy was issued for the building in which the affordable units were located. Thus far, 10,587 square feet has been provided, all in the Pei Towers. The earliest certificate of occupancy was dated July of 2010, so that the control period for these units would expire in July 2030.
21. The Applicant does not dispute that the IZ regulations apply to this modification. Pursuant to § 2603.2 of those regulations, the North and South Residential Towers are required to set aside a minimum of eight percent of each building’s residential gross floor for inclusionary units. This results in minimum set-aside requirements of 9,389 square feet of gross floor area for the North Residential Building and 7,648 square feet of gross floor area for the South Residential Building. Subsection 2603.4 requires that 100% of

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- the inclusionary units resulting from the set-asides be reserved for essentially the same income level as was required under Z.C. Order No. 05-38.
22. As will be discussed in Finding of Fact No. 28(d), the Applicant has requested pursuant to § 2607 that it be able to use the 10,587 square feet of constructed affordable rental units in the Pei Towers to account for a portion of the IZ requirements of the North and South Residential Tower.
 23. The North and South Residential Towers create two volumes on each vacant lot, which is appropriate for the scale and character of the neighborhood. Each new tower is comprised of two volumes: the first is a taller, lighter box that is supported by a tall recessed ground floor with exposed columns along the primary streets and corners; the second is a lower mass that meets the ground and is pulled back and tapered from the corners between the proposed and existing buildings along the street edge. The simple design emphasizes the importance of the surrounding streets and corners, reinforces the Pei Towers' architectural importance, and achieves a sense of openness for the green spaces between the proposed and existing buildings.
 24. The North and South Residential Towers will incorporate ground-floor residential units with access directly to the street. The design provides landscaping and setbacks to ensure privacy for the street-facing units. Ground-floor retail will be located in the two-story space at the corner of M and 6th Streets in the South Residential Tower, across from the Arena Stage. The North Residential Tower will have a two-story lobby and amenity space that will visually connect from the street to the pocket parks in between the existing and proposed buildings.
 25. The materials of the North and South Residential Towers will be of a contemporary palette with light and dark contrasting elements. The M and K Street façade will be a light color frame with the fenestration reading as two-story elements that stagger to add vibrancy to the streetscape.
 26. In the center of the Property is a central courtyard ("Great Lawn"), which the Applicant will enhance as part of this application. The Great Lawn is presently half landscaping and half landscaping with a pool for residents. The Applicant will remove and replace portions of the existing pool deck and will improve the amenity area throughout the Great Lawn.
 27. The Applicant offered a new set of conditions that would replace the conditions stated in Z.C. Order No. 05-38 as modified in Z.C. Order No. 05-38A. Several of the existing conditions were modified or eliminated. The most substantive of these modifications are stated in the table below along with the rationale for each:

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Conditions from Z.C. Case No. 05-38A	Conditions from Z.C. Case No. 05-38	Current Proposed Condition for Modification Application	Explanation
<p>2.e. Study of the Potential Renovation of the Town Center West Park: The Applicant shall engage the original designers of this park (Wallace Roberts Todd) to assess the current condition of the park and recommend steps to utilize the park as a true community amenity at a cost of \$15,000.</p>	<p>2.d. Study of the Potential Renovation of the Town Center West Park: The Applicant will engage the original designers of this park (Wallace Roberts Todd) to assess the current condition of the park and recommend steps to utilize the park as a true community amenity at a cost of \$15,000. The Applicant will pay for and undertake the renovations for the Town Center West Park outlined in the WRT study, up to a value of \$250,000 (\$178,500 for the proposed work with contingency funds of up to \$71,500). This work will be completed prior to the issuance of a certificate of occupancy for the new south residential tower.</p>	<p>B.4d. Payment for Renovation of the Town Center West Park: The Applicant shall pay Wallace Roberts Todd (“WRT”) or another landscape architecture firm selected by the Applicant to undertake the renovations for the Town Center West Park outlined in the WRT Study, included at Exhibit 33 of Z.C. Case No. 05-38B, up to a value of \$250,000 (\$178,500 for the proposed work with contingency funds of up to \$71,500).</p>	<p>The WRT Study was completed on December 21, 2007 (Ex. 33), and therefore the only remaining obligation is to make the contribution. Moreover, additional flexibility added to pay WRT <u>or another landscape architecture firm selected by the Applicant</u> to undertake renovations to the Town Center West Park (payment for renovation unchanged).</p>
<p>No discussion of Shuttle-Bug proposal in Z.C. Order No. 05-38.</p>	<p>e. Shuttle-Bug Proposal: The Applicant will make a financial contribution of \$50,000 to the DMPED Shuttle-Bug proposal as described in paragraph 12 in the Findings of Fact</p>	<p>Not included in current proposed order.</p>	<p>Contribution removed since Shuttle-Bug no longer exists. The value of the TDM package for the current modification application has increased due to costs associated with the Applicant’s new commitments to providing transit screens, bicycle parking spaces, electric car-charging stations, and Capital Bikeshare memberships.</p>
<p>14. The Applicant shall enter into a memorandum of understanding (“MOU”) with the Office of Local Business</p>	<p>Not included in Z.C. Order No. 05-38A.</p>	<p>Not included in current proposed order.</p>	<p>Condition removed because the Department of Small and Local Business Development (“DSLBD”) no longer</p>

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<p>Development (“OLBD”) in substantial conformance with the memorandum of understanding submitted as Exhibit I of Exhibit 26 of the record. A fully signed MOU between the Applicant and OLBD must be filed with the Office of Zoning prior to the issuance of a building permit for the new south building.</p>			<p>accepts the forms put forth by OLBD, and the Applicant did not proffer execution of a current DSLBD agreement due to the scope of many provisions that are included in the current agreement that were not part of the old agreement.</p>
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Flexibility under the PUD Guidelines

28. The Applicant requested flexibility in the following areas:

- a. Loading (§ 2201.1). The Applicant is providing two 30-foot loading berths and two 200-square-foot loading platforms where two 50-foot berths, two 200-square-foot platforms, and two 20-foot service/delivery spaces are required. The requested flexibility is directly in accordance with the Comprehensive Plan’s recommendations to consolidate loading areas within new developments, minimize curb cuts, and provide shared loading spaces in mixed-use buildings. Given the nature and size of the residential units, it is unlikely that the building will ever be served by 55-foot long trucks. The loading areas will be used by residents during move-ins/move-outs, and any other use by residents will be infrequent and can be restricted to times which pose the least potential conflict with retail users;
- b. Compact Parking Spaces (§ 2115.4). The Applicant requests flexibility from § 2115.4 since some of the proposed compact parking spaces will not be in groups of five or more spaces. Providing the proposed compact spaces will maximize the garage space and the number of off-site parking spaces, including spaces for vans and for persons with disabilities. The compact spaces are also necessary to permit adequate drive aisle widths and to fit the rows of parking spaces within the column structure of the buildings. Providing groupings of less than five will not result in negative impacts to the garage or its use by building residents;
- c. Roof Structures (§ 411). The project includes three roof structures on each of the North and South Residential Towers. The structures are located above the stair towers and the elevator core. Separating the structures will minimize their visibility from the street and will not result in negative impacts; and

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- d. Inclusionary Zoning (§ 2607). As noted, the Applicant is requesting that the 10,587 square feet of affordable rental units already constructed in the Pei Towers be used to account for a portion of the IZ requirements of the North and South Residential Towers (five percent of each building's residential gross floor area.) The Applicant is seeking flexibility from meeting certain of the requirements of § 2607 of the IZ regulations, which permits the Board of Zoning Adjustment (or in this case the Commission) to allow some or all of the set-aside requirements of § 2603 to be constructed off-site. Ordinarily, an Applicant seeking off-site compliance pursuant to § 2607 must provide proof, based upon a specific economic analysis, that compliance on-site would impose an economic hardship. The Applicant seeks the flexibility not to make this showing and also seeks flexibility from the requirements that the off-site building consist of new construction (§2607.2 (b)) and that the off-site inclusionary units be comparable in type and number to the market-rate units being created in their place (§ 2606.2(f).) Further, although the Applicant will enter into the covenant required by § 2607.5, it did not attach an executed covenant to its PUD application. Given the fact that the Pei Towers were constructed and over 10,000 square feet of affordable housing provided prior to the effective date of the IZ regulations, the Commission considers this flexibility warranted. Condition 12 of Z.C. Order No. 15-38, which set forth the original affordable housing requirement, is therefore replaced by Condition A.3.d of this Order, which allows for the off-site compliance requested.

Flexibility under the Order.

29. The Applicant requests flexibility with the design of the PUD in the following areas:
- a. To be able to provide a range in the number of residential units of plus or minus 10%;
 - b. To vary the number, location, and arrangement of parking spaces and the number of parking garage levels, provided that the total number of parking spaces is not reduced below the minimum number required by the Zoning Regulations;
 - c. To vary the sustainable design features of the buildings, provided the total number of LEED points achievable does not decrease below 50 points (LEED-Silver equivalent) under the LEED-2009 for New Construction and Major Renovations rating system;
 - d. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms,

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elevators, and toilet rooms, provided that the variations do not change the exterior configuration of the structures;

- 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;
- f. To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit; and
- g. To vary the number and location of exterior doors at street level.

Compliance with PUD Evaluation Standards

- 30. The modified PUD will continue to meet the area requirement under 11 DCMR § 2401.1(c) and the height and FAR provisions of 11 DCMR §§ 2405.1 and 2405.2. None of the proposed changes to the PUD impact the Commission's prior findings that (i) development of the Property will result in a number of benefits and amenities (*see* Z.C. Case No. 05-38, Finding of Fact No. 35, and Z.C. Order No. 05-38A, Conclusions of Law Nos. 1-6); (ii) the PUD is consistent with many of the Comprehensive Plan's major themes (*see* Z.C. Order No. 05-38, Finding of Fact No. 36); and (iii) the project will further the specific objectives and policies of many of the Comprehensive Plan's major elements, and fulfills and furthers specific objectives for Ward 6 and other District Plans. (*See* Z.C. Order No. 05-38, Findings of Fact Nos. 37 and 38.)
- 31. The OP report filed in this application indicates that because the modified project is smaller in scale than the approved PUD, and would be in conformance with the Comprehensive Plan, the project would likely have minimal impact on city services. (*See* Ex. 25, p. 10.)
- 32. Accordingly, the Commission finds that the modified PUD continues to meet the applicable PUD evaluation standards of 11 DCMR § 2405.

Updates to Approved Public Benefits and Amenities

- 33. The Applicant proposes the following public benefits and project amenities as part of the modified PUD application:
 - a. Urban Design, Architecture, and Open Space (11 DCMR § 2403.9(a)) – The revised project will reduce the height of the new residential buildings from 112 feet to 85 feet each, and will reduce the PUD's overall density from 4.38 FAR to

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3.40 FAR. The North Residential Tower will have six stories, including a mezzanine on the ground floor and the South Residential Tower will have seven stories, including mezzanines on the ground and top floors. The North and South Residential Towers will contain a combined total of approximately 242,450 square feet of gross floor area, with approximately 231,385 square feet of gross floor area devoted to residential and residential amenity uses, approximately 5,220 square feet of gross floor area devoted to retail use, and approximately 5,845 square feet of gross floor area devoted to service space. The overall gross floor area for the new Residential Towers and the Pei Towers combined is approximately 459,890 square feet. The number of residential units for the overall project will be reduced from 580 to 516 (256 existing units plus 260 new units, plus or minus 10%);

- b. Environmental Benefits (11 DCMR § 2403.9(h)) – The Applicant will ensure environmental sustainability through the implementation of sustainable design features and strategies to enhance the sustainable nature of the Property’s mixed-use, transit-rich location and to promote a healthy lifestyle for the project’s residents. The North and South Residential Towers will be designed to achieve the equivalent of a LEED-Silver designation, as shown on the theoretical LEED score sheet submitted with the Plans; and (Ex. 24A5.)
- c. Transportation Benefits (11 DCMR § 2403.9(c)) – The Applicant incorporated a number of elements designed to promote effective and safe vehicular and pedestrian access to the site, convenient connections to public transit services, and on-site amenities such as bicycle parking and sufficient vehicular parking. The Applicant will provide vehicular access to the Pei Towers and the North and South Residential Towers pursuant to the Declaration of Permanent Easements and Covenants, dated August 17, 2011, and recorded in the Land Records of the District of Columbia as Document No. 20110866041. In order to mitigate concerns regarding the potential for retail curbside loading, the Applicant will abide by the Loading Management Plan, dated June 11, 2015, and included in the record at Exhibit 35. In addition, the Applicant will implement the following transportation demand management (“TDM”) strategies:
 - i. Unbundle on-site parking from the costs of leasing apartments, and price it at market rates at minimum, defined as the average cost for parking in a quarter-mile radius of the Property;
 - ii. Install a transit information screen in the residential lobby of each new Residential Tower;
 - iii. Provide 248 long-term bicycle parking spaces with 124 spaces located in the garage of each new Residential Tower;

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- iv. Provide at least eight short-term bicycle parking spaces in the public space adjacent to the Property on either M, 6th, or K Streets;
 - v. Install one electric car-charging station in each of the new Residential Towers; and
 - vi. For the first three years of the North and South Residential Towers, offer either a one year Capital Bikeshare membership or a one year car-share membership to all new residents of the North and South Residential Towers.
34. First Source Employment Agreement (11 DCMR § 2403.9(j)) – The Applicant will submit to DCRA evidence that it has submitted a First Source Employment Agreement to the Department of Employment Services (“DOES”), executed by the Applicant, and in substantial conformance with the First Source Employment Agreement submitted at Exhibit 26I in Z.C. Case No. 05-38.
35. Uses of Special Value to the Neighborhood and the District of Columbia as a Whole (11 DCMR § 2403.9(I)) – The Applicant will make the following contributions to local community organizations:
- a. Jefferson Middle School: The Applicant will make a financial contribution of \$22,000 to Jefferson Middle School to be used for enhancement of the school’s computer and technological development capabilities;
 - b. Amidon Elementary School: The Applicant will make a financial contribution of \$22,000 to Amidon Elementary School for renovation of its library;
 - c. Friends of the Southwest Library: The Applicant will make a financial contribution of \$22,000 to the Friends of the Southwest Library to be used to expand their resource collection; and
 - d. Payment for Renovation of the Town Center West Park: The Applicant will pay Wallace Roberts Todd (“WRT”) or another landscape architecture firm selected by the Applicant to undertake the renovations for the Town Center West Park outlined in the WRT Study, included at Exhibit 33 of Z.C. Case No. 05-38B, up to a value of \$250,000 (\$178,500 for the proposed work with contingency funds of up to \$71,500).
36. The Applicant will abide by the development and construction management plan included at Exhibit 32 in Z.C. Case No. 05-38.

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Office of Planning Reports

37. By report dated February 27, 2015, OP recommended setdown of the application. (Ex. 11.) The OP report noted that the proposed development is not inconsistent with the Comprehensive Plan, would further a number of Guiding Principles of the Comprehensive Plan, and is consistent with major policies from various elements of the Comprehensive Plan. The OP report also noted that maintaining the approved C-3-C zoning for the Property is not inconsistent with the Property's designations on the Future Land Use Map and Generalized Policy Map.
38. By report dated June 1, 2015, OP recommended approval of the application, so long as the Applicant addressed the issues set forth on page 10 of the report. (Ex. 25.) At the public hearing the Applicant adequately addressed each of OP's concerns as follows: (i) the density for the project is 3.40 FAR; (ii) ground-floor units along M Street will incorporate doors and lighting that create a sense of privacy; (iii) the façades on some portions of the buildings are interspersed with dynamic façades on other portions of the buildings; (iv) the Applicant provided five color options for the upper-level terrace; (v) the Applicant will incorporate as many sustainable elements to the project as possible; (vi) the Applicant will provide 17,037 square feet of gross floor area to affordable housing units; (vii) loading and trash will be managed appropriately; and (viii) a list of proffered benefits and amenities is included at Exhibit 34 in Z.C. Case No. 05-38B. The OP report restated that the project is consistent with many of the Guiding Principles and policies of various Elements of the Comprehensive Plan, and that the existing C-3-C zoning is appropriate based on the Property's designations on the Future Land Use and Generalized Policy Maps.
39. The Commission agrees with OP's findings that the project is not inconsistent with the Comprehensive Plan and concurs with OP's recommendation to approve the application. The Commission also finds that the Applicant adequately addressed each of OP's concerns set forth on page 10 in OP's report. (Ex. 25.)

DDOT Report

40. By report dated June 1, 2015, DDOT submitted a report indicating that it has no objection to the application with the following conditions: (i) the Applicant should redesign the South Residential Tower such that all loading needs can be accommodated on site; (ii) provide at least eight short-term bicycle parking spaces in the public space; and (iii) offer a one time, one year Capital Bikeshare membership or one year car-share membership to all new residents of the project for the first three years that the buildings are open. (Ex. 26.) At the public hearing the Applicant agreed to each of DDOT's conditions. Namely, the Applicant submitted a revised ground-floor plan to include an elevator such that loading deliveries can be accommodated directly from the loading facilities to the retail space without going through the lobby. The Applicant also

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submitted a loading management plan to mitigate any impacts from loading operations at the Property. The Commission concurs with DDOT's finding of no objection to the application.

DOEE Report

41. By report dated June 4, 2015, DOEE submitted a report that provided comments specific to the project, offered guidance on regulations and other DOEE areas of interest, and recommended areas where the Applicant could exceed guidelines as a public benefit or amenity for the project. (Ex. 27.) The Applicant responded to the DOEE report in its post-hearing submission, by explaining its rationale for providing LEED-Silver and setting forth its sustainability goals for the design, construction, and operations of the project. (Ex. 40A.) The Commission concludes that the Applicant's response to DOEE's report adequately addresses DOEE's comments.

Community Support

42. On May 11, 2015, at its regularly scheduled, properly noticed public meeting, with a quorum present, ANC 6D voted unanimously (7-0-0) to support the application. (Ex. 21.) The Commission concurs with the ANC's recommendation to approve the project.

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 project "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 consider this application as a modification to a previously approved consolidated PUD. Any modifications proposed to an approved PUD that cannot be approved by the Zoning Administrator shall be submitted to and approved by the Commission. The proposed modification shall meet the requirements for and be processed as a second-stage application, except for minor modifications and technical corrections as provided for in 11 DCMR § 3030. (11 DCMR § 2409.9.) The Commission treated this modification request as a second-stage PUD application.
3. The Commission may 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, yards, or courts.

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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 that 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 PUD modification 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 new buildings are fully appropriate for the Property, and the impact of the use on the surrounding area and the operation of city services is acceptable given the quality of the public benefits in the project.
6. Approval of the PUD modification is appropriate because the proposed use is consistent with the present character of the area and is not inconsistent with the Comprehensive Plan. In addition, the proposed use will promote the orderly development of the Property 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.
7. The Commission is required under § 3 of the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-135; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and conditions expressed in the written report of an affected ANC. In this case, ANC 6D voted unanimously to support the modification application and recommended that the Commission approve the Application. The Commission has given ANC 6D's recommendation great weight in approving the modification Application.
8. 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 concurs with OP's recommendation for approval and has given the OP recommendation the great weight it is entitled.
9. The PUD modification is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

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 to modify an approved planned unit development for Lots 855-859 in Square 499. For the purposes of these conditions, the term "Applicant" shall mean the person or entity then holding title to the Property. If there is more than one owner, the obligations under this Order shall be joint and several. If a person or entity no longer holds title to the Property, that party shall have no further obligations under this Order; however, that party remains liable for any violation of these

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conditions that occurred while an Owner. The approval of this PUD modification is subject to the guidelines, conditions, and standards set forth below, which replace those set forth in Z.C. Order Nos. 05-38 and 05-38A.

A. Project Development

1. The PUD shall be developed in accordance with the architectural plans and elevations, marked as Exhibits 24A1-24A5 in Z.C. Case No. 05-38B, as modified by the supplemental plans marked as Exhibits 31 and 40C (together, the “Plans”), and as further modified by the guidelines, conditions, and standards of this Order. The color scheme for the 6th floor terrace on the South Residential Tower shall be that identified as Option 4 as shown on Sheets A18h and A18i of the Plans (Ex. 40C).
2. In accordance with the Plans, the North and South Residential Towers shall have a maximum building height of approximately 85 feet, not including roof structures. The North and South Residential Towers shall contain a combined total of approximately 242,450 square feet of gross floor area, with approximately 231,385 square feet of gross floor area devoted to residential and residential amenity uses, approximately 5,220 square feet of gross floor area devoted to retail use, and approximately 5,845 square feet of gross floor area devoted to service space. The overall gross floor area for the new buildings and the Pei Towers combined shall be 459,890 square feet (3.40 FAR). A total of 516 residential units shall be provided for the overall project (plus or minus 10%).
3. The Applicant shall have the flexibility in the following areas:
 - a. Loading (§ 2201.1). To provide two 30-foot loading berths and two 200-square-foot loading platforms where two 50-foot berths, two 200 square foot platforms, and two 20-foot service/delivery spaces are required. The Commission finds that the proposed loading facilities will adequately serve the needs of the proposed uses for the Property and will not result in any adverse impacts;
 - b. Compact Parking Spaces (§ 2115.4). To provide compact parking spaces in groupings of less than five spaces. The Commission finds that the layout of the garages will maximize space to provide an appropriate number of parking spaces and will not cause negative impacts to the garage or its use by building residents;
 - c. Roof Structures (§ 411). To provide three roof structures on each of the North and South Residential Towers. The Commission finds that

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separating the structures will minimize their visibility from the street and will not result in negative impacts; and

- d. Inclusionary Zoning (§ 2607). Pursuant to § 2607 the Commission has granted the Applicant’s request to account for 10,587 square feet of the combined Inclusionary Zoning set-aside requirements of the North and South Residential Towers through the existing affordable units within the Pei Tower. The Applicant is granted flexibility from complying with the § 2607 requirements that the off-site building consist of new construction (§ 2607.2 (b)) and that the off-site inclusionary units be comparable in type and number to the market-rate units being created in their place (§ 2606.2 (f)). Further, as a result of this flexibility, § 2607.8, which governs the construction of the off-site units, is inapplicable. In all other respects, compliance with all § 2607 conditions is required. Thus, among other things, each off-site unit is to be deemed an inclusionary unit as defined in § 2602. Further, pursuant to § 2607.5, this grant of off-site compliance shall not become effective until a covenant, found legally sufficient by the Office of the Attorney General, has been recorded in the land records of the District of Columbia between the owner of the Pei Towers and the Mayor. Such covenant shall include all of the declarations required by § 2607.5, except to the extent the declarations concern construction. As a result of this approval of off-site compliance, upon the effective date of this condition, the Inclusionary Zoning set-aside requirements of the North and South Residential Towers shall be as follows:

North Residential Tower

Residential Unit Type	GFA & Percentage	Income Type	Affordable Control Period	Affordable Unit Type
Total	117,365 SF residential GFA (100%)			
Market Rate	113,817 SF residential GFA (97%)	Market Rate		
IZ Requirement Satisfied in Building	3,548 (3%)	“Moderate-income households” as defined at 11 DCMR § 2602.	For so long as the North Residential Tower exists	Rental / Ownership

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South Residential Tower

Residential Unit Type	GFA & Percentage	Income Type	Affordable Control Period	Affordable Unit Type
Total	95,600 SF residential GFA (100%)			
Market Rate	92,695 SF residential GFA (97%)	Market Rate		
IZ Requirement Satisfied in Building	2,905 (3%) (3%)	“Moderate-income households” as defined at 11 DCMR § 2602.	For so long as the South Residential Tower exists	Rental / Ownership

IZ Set-Aside Requirements of the North and South Towers to be accounted for in the Pei Towers

Residential Unit Type	GFA & Percentage of combined North and South Residential Towers GFA	Units	Income Type	Affordable Control Period	Affordable Unit Type
IZ Requirement Satisfied in Building	10,587 (5%)	11	“Moderate-income households” as defined at 11 DCMR § 2602.	For so long as the Pei Towers exist	Rental

4. The Applicant shall also have flexibility with the design of the PUD in the following areas:
 - a. To be able to provide a range in the number of residential units of plus or minus 10%;

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- b. To vary the number, location, and arrangement of parking spaces and the number of parking garage levels, provided that the total number of parking spaces is not reduced below the minimum number required by the Zoning Regulations;
- c. To vary the sustainable design features of the buildings, provided the total number of LEED points achievable does not decrease below 50 points (LEED-Silver equivalent) under the LEED-2009 for New Construction and Major Renovations rating system;
- d. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration of the structures;
- 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;
- f. To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the Construction Codes or that are otherwise necessary to obtain a final building permit; and
- g. To vary the number and location of exterior doors at street level.

B. Public Benefits

1. Environmental Benefits (11 DCMR § 2403.9(h)). **For the life of the North and South Residential Towers**, the North and South Residential Towers shall be designed to include no less than the 50 points necessary to be the equivalent of a LEED-Silver designation, as shown on the theoretical LEED score sheet submitted with the Plans. (Ex. 24A5.) The Applicant shall put forth its best efforts to design the buildings to satisfy such LEED standards, but the Applicant shall not be required to register or to obtain a certification from the United States Green Building Council.
2. First Source Employment Agreement (11 DCMR § 2403.9(j)). **Prior to the issuance of a building permit for the South Residential Tower**, the Applicant shall submit to DCRA evidence that the Applicant has submitted a signed First Source Employment Agreement to DOES in substantial conformance with the First Source Employment Agreement submitted at Exhibit 26I in Z.C. Case No. 05-38.

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3. Uses of Special Value to the Neighborhood and the District of Columbia as a Whole (11 DCMR § 2403.9(I)). **Prior to the issuance of a certificate of occupancy for the South Residential Tower,** the Applicant shall submit to DCRA evidence that the Applicant has made contributions to the following community organizations. The Applicant shall provide proof to the Zoning Administrator that the items or services funded have been or are being provided in order to obtain a Certificate of Occupancy:
 - a. Jefferson Middle School: The Applicant shall make a financial contribution of \$22,000 to Jefferson Middle School to be used for enhancement of the school's computer and technological development capabilities;
 - b. Amidon Elementary School: The Applicant shall make a financial contribution of \$22,000 to Amidon Elementary School for renovation of its library;
 - c. Friends of the Southwest Library: The Applicant shall make a financial contribution of \$22,000 to the Friends of the Southwest Library to be used to expand their resource collection; and
 - d. Payment for Renovation of the Town Center West Park: The Applicant shall pay Wallace Roberts Todd ("WRT") or another landscape architecture firm selected by the Applicant to undertake the renovations for the Town Center West Park outlined in the WRT Study, included at Exhibit 33 of Z.C. Case No. 05-38B, up to a value of \$250,000 (\$178,500 for the proposed work with contingency funds of up to \$71,500).
4. The Applicant shall abide by the development and construction management plan included at Exhibit 32 in Z.C. Case No. 05-38.

C. Transportation Measures

1. **For the life of the North and South Residential Towers,** the Applicant shall provide vehicular access to the Pei Towers and the North and South Residential Towers pursuant to the Declaration of Permanent Easements and Covenants, dated August 17, 2011, and recorded in the Land Records of the District of Columbia as Document No. 20110866041, as may be amended or modified by the parties.
2. **For the life of the North and South Residential Towers,** the Applicant shall abide by the Loading Management Plan, dated June 11, 2015, and included in the record at Exhibit 35.

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3. **Prior to the issuance of a certificate of occupancy for the South Residential Tower and for the life of the North and South Residential Towers**, the Applicant shall establish the following TDM strategies:
 - a. Unbundle on-site parking from the costs of leasing apartments, and price it at market rates at minimum, defined as the average cost for parking in a quarter-mile radius of the Property;
 - b. Install a transit information screen in the residential lobby of each new Residential Tower;
 - c. Provide 248 long-term bicycle parking spaces with 124 spaces located in the garage of each new Residential Tower;
 - d. Provide at least eight short-term bicycle parking spaces in the public space adjacent to the Property on either M, 6th, or K Streets; and
 - e. Install one electric car-charging station in each of the new Residential Towers.
4. **At the time of initial move-in, and for the first three years that the North and South Residential Towers are open**, the Applicant shall offer either a one year Capital Bikeshare membership or a one year car-share membership to all new residents of the North and South Residential Towers.

D. Miscellaneous

1. No building permit shall be issued for the PUD until the Applicant has recorded in the land records of the District of Columbia a modification to the recorded covenant required by Z.C. Order No. 05-38. The modified covenant shall be between the Applicant and the District of Columbia, satisfactory to the Office of the Attorney General and the Zoning Division, Department of Consumer and Regulatory Affairs and bind the Applicant and all successors in title to construct and use the property in accordance with Z.C. Order Nos. 05-38 and 05-38A as modified by this Order, or any subsequent amendment thereof by the Commission. The Applicant shall file a certified copy of the modified covenant with the records of the Office of Zoning.
2. The Applicant shall file with the Zoning Administrator a letter identifying how it is in compliance with the conditions of this Order at such time as the Zoning Administrator requests and shall simultaneously file that letter with the Office of Zoning.

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3. Condition 13 of Zoning Commission Z.C. Order No. 05-38 provided that the PUD would be valid until May 14, 2009. Within such time, an application had to be filed for a building permit for the construction or renovation of one of the residential buildings as specified in 11 DCMR §§ 2404.8 and 2409.1. A building permit for renovation of the Pei Towers was filed and construction began within that time period and therefore the PUD is vested as to those two buildings. The Condition further required that an application for the final building permit completing the development of the approved PUD project must be filed within seven years of the issuance of the final certificate of occupancy for the first building. The final certificate of occupancy for the first building was issued on July 8, 2010, therefore the final building permit applications for construction of the North and South Residential Towers must be filed by July 8, 2017 or this PUD will expire as to those buildings.
4. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. 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, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On June 11, 2015, upon the motion of Commissioner Turnbull, as seconded by Commissioner Miller, the Zoning Commission **APPROVED** the application 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 July 13, 2015, upon the motion of Vice Chairperson Cohen, as seconded by Commissioner Turnbull, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on October 16, 2015.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 10-26C
Z.C. CASE NO. 10-26C
ZGZP 3333, LLC
(Two-Year Time Extension of Consolidated PUD and Related Map Amendment
@ Square 3040, Lot 130)
September 21, 2015

Pursuant to notice, a public meeting of the Zoning Commission of the District of Columbia (“Commission”) was held on September 21, 2015. At the meeting, the Commission approved a request on behalf of ZGZP 3333, LLC (“Applicant”) for a two-year extension of a consolidated planned unit development (“PUD”) for property located at 3321-3335 Georgia Avenue, N.W. (Square 3040, Lot 130) (“Subject Property”), which was approved in Z.C. Order No. 10-26, and extended in Z.C. Order No. 10-26A, pursuant to Chapters 1 and 24 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). For the reasons stated below, the Commission hereby approves the extension request.

FINDINGS OF FACT

1. Pursuant to Z.C. Order No. 10-26, having an effective date of September 2, 2011, the Commission approved applications for a consolidated PUD and related Zoning Map amendment from the GA/C-2-A Zone District to the GA/C-2-B Zone District for a mixed-use retail and residential development at the Subject Property.
2. The approved PUD includes approximately 118,160 square feet of total gross floor area. Of that, approximately 82,801 square feet of gross floor area is devoted to residential use, including 112 units (plus or minus 10%); approximately 7,190 square feet of gross floor area is devoted to retail use, and approximately 23,031 square feet of gross floor area is devoted to loading and other circulation space. The approved PUD has a maximum density of 5.37 floor area ratio (“FAR”) and a maximum building height of 90 feet (not including roof structures). The approved project includes 50 off-street parking spaces located in a below-grade garage.
3. Pursuant to Condition C.2 of Z.C. Order No. 10-26, the approved PUD was valid for a period of two years from the order’s September 2, 2011 effective date. Within that two-year period an application for a building permit had to be filed and construction had to begin a year thereafter.
4. Pursuant to Z.C. Order No. 10-26A, having an effective date of November 8, 2013, the Commission granted an extension to Z.C. Order No. 10-26, such that an application must be filed for a building permit no later than September 2, 2015, and construction must begin no later than September 2, 2016.
5. On January 15, 2014, the Applicant filed an application to modify the approved PUD (Z.C. Case No. 10-26B), but on August 22, 2014, the Applicant submitted a request to postpone the modification hearing until after the Commission makes a decision in Z.C.

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Case No. 14-13 involving the regulations of rooftop penthouses. The Commission is scheduled to consider that case for final action on October 19th of this year.

6. As a result of continued delay with respect to the Subject Property's environmental contamination, as described herein, the Applicant now requests a second time extension of Z.C. Order No. 10-26A, such that a building permit application for the building approved pursuant to Z.C. Order No. 10-26 must be filed no later than September 2, 2017, and construction must begin no later than September 2, 2018.
7. By letter dated July 22, 2015, the Applicant submitted a request for a time extension of Z.C. Order No. 10-26A, such that a building permit application for the building approved pursuant to Z.C. Order No. 10-26 must be filed no later than September 2, 2017, and construction must begin no later than September 2, 2018. The Applicant's request was supported by a variety of documentation describing the Subject Property's history of gasoline station use and resultant soil contamination due to a release of petroleum to the subsurface soils and ground water. The Applicant submitted the following documentation in support of its case that it could not reasonably comply with the time limits set forth in Z.C. Order No. 10-26A:
 - a. On June 7, 2013, the District Department of Energy and Environment ("DOEE") issued a Comprehensive Site Assessment and Corrective Action Directive for the Subject Property, designating Sunoco, the prior gas station operator, as the responsible party for contamination, and requiring Sunoco to undertake certain environmental actions at the Subject Property. (Exhibit ["Ex."] 2A.) Sunoco hired Kleinfelder as its environmental consultant to undertake site assessment activities at the Subject Property;
 - b. On August 8, 2014, Sunoco (through Kleinfelder) submitted a Comprehensive Site Assessment ("CSA") Work Plan to DOEE for the Subject Property. (Ex. 2B.) On December 30, 2013, and June 13, 2014, Sunoco submitted two subsequent CSA reports to DDOE, detailing the completion of monitoring wells and soil borings at the Subject Property. On August 12, 2014, DDOE requested the collection of additional soil and groundwater samples; (See Ex. 2C.)
 - c. Sunoco continued environmental testing activities through January 2015, and submitted an updated work plan to DOEE, dated February 7, 2015. DOEE approved the work plan on February 18, 2015; (See Ex. 2D.)
 - d. Between February 18, 2015 and April 10, 2015, permitting for conducting the additional studies was delayed as a result of DOEE's Water Quality Division review of the Work Plan and its request for additional information; (See Ex. 2E.)

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- e. Sunoco initiated the site activities set forth in its February 7, 2015 work plan on May 18, 2015. The work included installation of soil borings and temporary wells, and was expected to take approximately two weeks. (*See Ex. 2F.*) The Applicant submitted to the Commission's case record the Activity Notification Form and a site plan depicting the soil boring and well locations; and (*See Ex. 2G.*)
 - f. On May 20, 2015, Sunoco successfully collected soil vapor samples from the Subject Property. However, during pre-clearing for the borings, Sunoco encountered abandoned underground storage tanks ("USTs") under the Subject Property and was unable to advance the remaining soil borings as anticipated. (*See Ex. 2H.*) After discussions with drilling contractors in May and June of 2015, Kleinfelder indicated that the outstanding borings could not be completed until the beginning of July, 2015. At that point the Applicant filed the extension request.
8. In its application materials, the Applicant indicated that once the current round of testing and analysis is completed, DOEE will determine the applicable remediation requirements for pre- and post-redevelopment use of the Subject Property. Once remediation is complete, DOEE will issue a No Further Action letter, allowing the Applicant to move forward with development of the Subject Property. The Applicant indicated that this process will be finished within two years, such that the Applicant will be able to file a building permit for the approved PUD no later than September 2, 2017.
 9. The Applicant also noted that despite the extensive environmental testing and remediation that is necessary for the Subject Property, it is committed to moving forward with development of the PUD. The Applicant has invested substantial resources in the Subject Property, including legal, architectural, engineering, and other consulting fees, such that there is no financial advantage to not redevelop the Subject Property.
 10. As a result of the lengthy environmental review and cleanup process that is outside of the Applicant's reasonable control, the Commission finds that the Applicant has shown that it is unable to comply with the time limits set forth in Z.C. Order No. 10-26A. Accordingly, the Commission concludes that this request for a time extension satisfies the sole criterion for good cause shown as set forth in 11 DCMR § 2408.11(c).
 11. Other than the Applicant, the only party to this case was Advisory Neighborhood Commission ("ANC") 1A. As indicated on the Proof of Service, the Applicant served the PUD extension request on ANC 1A on July 22, 2015. (*Ex. 2.*)
 12. ANC 1A submitted a resolution to the record, dated July 8, 2015, indicating that at its July 8, 2015 public meeting, at which notice was property given and a quorum was present, ANC 1A voted 10-0-0 to support the Applicant's request for an extension of the

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approved PUD, such that a building permit application must be filed by September 2, 2017, and construction must be started by September 2, 2018. (Ex. 6.)

13. The Office of Planning (“OP”) submitted a report to the case record, dated September 11, 2015, indicating that the application meets the standards of 11 DCMR §§ 2408.10 and 2408.11(c). (Ex. 5.) OP thus recommended that the Commission approve the requested two year PUD extension.

CONCLUSIONS OF LAW

1. The Commission may extend the validity of a PUD for good cause shown upon a request made before the expiration of approval, provided: (a) the extension request is served on all parties to the application by the applicant, and all parties are allowed 30 days to respond; (b) there is no substantial change in any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the original PUD; and (c) the applicant demonstrates with substantial evidence that there is good cause for such extension, as provided in 11 DCMR § 2408.11. (11 DCMR § 2408.10.) Subsection 2408.11 provides the following criteria for good cause shown: (a) an inability to obtain sufficient project financing for the PUD, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control; (b) an inability to secure all required governmental agency approvals for a PUD by the expiration date of the PUD order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or (c) the existence of pending litigation or such other condition or factor beyond the applicant's reasonable control which renders the applicant unable to comply with the time limits of the planned unit development order.
2. The Commission concludes that the Applicant complied with the notice requirements of 11 DCMR § 2408.10(a) by serving all parties with a copy of the application and allowing them 30 days to respond.
3. The Commission concludes that there has been no substantial change in any material fact that would undermine the Commission’s justification for approving the original PUD. The Commission finds that the Applicant remains committed to moving forward with developing the project and fully complying with the conditions and obligations imposed as part of the original PUD order.
4. The Commission concludes that the Applicant presented substantial evidence of good cause for the extension based on the criteria established by 11 DCMR § 2408.11(c). Specifically, the Commission finds that the Applicant provided substantial evidence that the project has experienced delay beyond the Applicant’s control due to the Subject

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Property's history of gasoline station use and resultant soil contamination due to a release of petroleum to the subsurface soils and ground water.

5. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21, D.C. Official Code § 1-309.10(d)) to give great weight to the affected ANC's written recommendations. ANC 1A submitted a resolution in support of the requested extension. (Ex. 6.) The Commission carefully considered the report and has given ANC 1A's recommendation great weight in approving this application.
6. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP's recommendations. OP submitted a report indicating that the Applicant meets the standards of 11 DCMR §§ 2408.10 and 2408.11(c) and therefore recommended that the Commission approve the requested extension. (Ex. 5.) The Commission carefully considered OP's report and has given OP's recommendation great weight in approving this application.
7. Subsection 2408.12 of the Zoning Regulations provides that the Commission must hold a public hearing on a request for an extension of the validity of a PUD only if, in the determination of the Commission, there is a material factual conflict that has been generated by the parties to the PUD concerning any of the criteria set forth in 11 DCMR § 2408.11. The Commission concludes that a hearing is not necessary for this request since there are not any material factual conflicts generated by the parties concerning any of the criteria set forth in 11 DCMR § 2408.11.
8. The Commission concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of Z.C. Case No. 10-26C, such that a building permit application for the building approved pursuant to Z.C. Order No. 10-26 must be filed no later than September 2, 2017, and construction of the building must begin no later than September 2, 2018.

The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. 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 identify or expression, familial status, family

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responsibilities, matriculation, political affiliation, disability, source of income, genetic information, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On September 21, 2015, upon the motion made by Commissioner Turnbull, as seconded by Vice Chairperson Cohen, the Zoning Commission **APPROVED** and **ADOPTED** this request 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 and adopt).

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 October 16, 2015.

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