

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council schedules a public hearing on Bill 21-415, Universal Paid Leave Act of 2015
- D.C. Council schedules a public hearing on Bill 21-463, District of Columbia Incarceration to Incorporation Entrepreneurship Program Act of 2015
- Department of Consumer and Regulatory Affairs publishes two Construction Codes Administrative Bulletins
- Department of Energy and Environment solicits public comments on the District of Columbia's Regional Haze Five-Year Progress Report
- Department of Health establishes a Prescription Drug Monitoring Program Advisory Committee to ensure legitimate use of controlled substances
- Office of the State Superintendent of Education announces funding availability for the DC Environmental Literacy Advancement Grant
- Department of Small and Local Business Development announces funding availability for the Emerging Business District Demonstration Grants

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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

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

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

DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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

MURIEL E. BOWSER
MAYOR

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ADMINISTRATOR

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-218

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 4, 2015

To authorize, on an emergency basis, due to congressional review, the disposition by lease of District-owned real property located at 1351 Nicholson Street, N.W., commonly known as the Old Brightwood School and designated for tax and assessment purposes as Lot 0846 in Square 2794.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "1351 Nicholson Street, N.W., Old Brightwood School Lease Amendment Congressional Review Emergency Act of 2015".

Sec. 2. Notwithstanding An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801 *et seq.*), and the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1800.01 *et seq.*), the Council authorizes the Mayor:

(1) To amend the existing lease agreement between the District of Columbia and Community Academy Public Charter School, Inc. (the "Lease"), dated March 1, 2001, for the real property located at 1351 Nicholson Street, N.W., commonly known as the Old Brightwood School and designated for tax and assessment purposes as Lot 0846 in Square 2794 (the "Property"), to:

(A) Adopt Friendship Public Charter School, Inc. as assignee of the lease;
(B) Extend the term of the Lease for a period of greater than 20 years; and
(C) Provide such other terms related to the extension of the Lease and transfer of the Property as are consistent with the letter of intent approved by both parties to the Lease; and

(2) To execute any associated transactional documents.

Sec. 3. Applicability.

This act shall apply as of October 29, 2015.

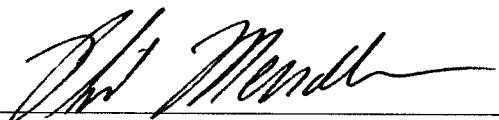
ENROLLED ORIGINAL

Sec. 4. Fiscal impact statement.

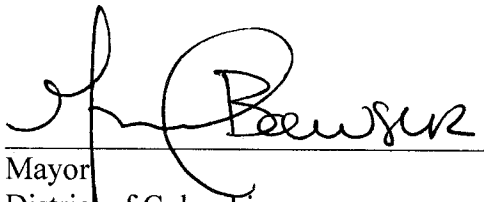
The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
December 4, 2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-219

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 4, 2015

To authorize, on an emergency basis, due to congressional review, the disposition by lease of District-owned real property located at 4095 Minnesota Avenue, N.E., commonly known as the Woodson School and designated for tax and assessment purposes as Lot 0813 in Square 5078.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “4095 Minnesota Avenue, N.E., Woodson School Lease Amendment Congressional Review Emergency Act of 2015”.

Sec. 2. Notwithstanding An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801 *et seq.*), and the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1800.01 *et seq.*), the Council authorizes the Mayor:

(1) To amend the existing lease agreement between the District of Columbia and Friendship Public Charter School, Inc., (the “Lease”), dated May 1, 2008, for the real property located at 4095 Minnesota Avenue, N.E., commonly known as the Woodson School and designated for tax and assessment purposes as Lot 0813 in Square 5078 (the “Property”), to:

(A) Extend the term of the Lease for a period of greater than 20 years;

(B) Provide such other terms related to the extension of the Lease and transfer of the Property as are consistent with the letter of intent approved by both parties to the Lease; and

(2) To execute any associated transactional documents.

Sec. 3. Applicability.

This act shall apply as of November 9, 2015.


Sec. 4. Fiscal impact statement.

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

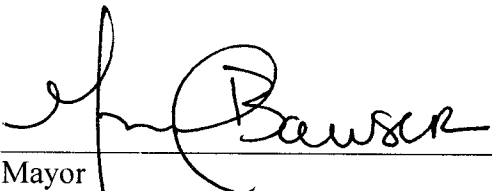
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Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
December 4, 2015

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****BILLS**

B21-506 Establishment of the Community Health Emergency Link Paramedicine Pilot Program Act of 2015

Intro. 12-1-15 by Councilmember McDuffie and referred to the Committee on Judiciary

B21-507 Criminal Code Reform Commission Amendment Act of 2015

Intro. 12-1-15 by Councilmember McDuffie and Chairman Mendelson and referred to the Committee on Judiciary

B21-508 School Attendance Clarification Amendment Act of 2015

Intro. 12-1-15 by Councilmember Grosso and Chairman Mendelson and referred to the Committee on Education and Committee of the Whole

B21-509 Citizens Fair Election Program Amendment Act of 2015

Intro. 12-1-15 by Councilmembers Grosso, Nadeau, Cheh, Allen, Silverman, and Chairman Mendelson and referred to the Committee on Judiciary

B21-510	Inmate Segregation Reduction Act of 2015 Intro. 12-1-15 by Councilmember Cheh and referred to the Committee on Judiciary
B21-511	Clean Elections Amendment Act of 2015 Intro. 12-1-15 by Councilmembers Silverman, Nadeau, Allen, and Cheh and referred to the Committee on Judiciary
B21-512	Hours and Scheduling Stability Act of 2015 Intro. 12-1-15 by Councilmembers Orange, Nadeau, Cheh, and Silverman and referred to the Committee on Business, Consumer, and Regulatory Affairs
B21-513	District of Columbia Statehood Advocacy Act of 2015 Intro. 12-1-15 by Councilmember Orange and referred to the Committee of the Whole
B21-514	Made in DC Program Establishment Act of 2015 Intro. 12-1-15 by Councilmembers Allen Orange, and Chairman Mendelson and referred to the Committee on Business, Consumer, and Regulatory Affairs
B21-515	District of Columbia Public Assistance Amendment Act of 2015 Intro. 12-1-15 by Councilmembers Nadeau, Todd, Bonds, Silverman, May, and Orange and referred to the Committee on Health and Human Services
B21-522	Parkside Parcel E and J Mixed-Income Apartments Tax Abatement Amendment Act of 2015 Intro. 12-1-15 by Councilmember Alexander and referred to the Committee on Finance and Revenue

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

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 Hearing

on

- **B21-015, the “Small Business Incubator Act of 2015”**
- **B21-463, the “District of Columbia Incarceration to Incorporation Entrepreneurship Program Act of 2015”**
- **B21-514, the “Made in DC Program Establishment Act of 2015”**

**Thursday, January 28, 2016, 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 hearing by the Committee on Business, Consumer, and Regulatory Affairs on B21-015, the “Small Business Incubator Act of 2015”, B21-463, the “District of Columbia Incarceration to Incorporation Entrepreneurship Program Act of 2015”, and B21-514, the “Made in DC Program Establishment Act of 2015”. The public hearing is scheduled for Thursday, January 28, 2016 at 10:00 a.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Ave., NW, Washington, DC 20004.

B21-015, the “Small Business Incubator Act of 2015”, would require the creation of a temporary business license. It would establish a temporary certificate of occupancy and require the Mayor to develop an expedited approval process for obtaining a temporary certificate of occupancy. In addition, it would require the Mayor to establish a database of government-owned property available for temporary commercial activity.

B21-463, the “District of Columbia Incarceration to Incorporation Entrepreneurship Program Act of 2015”, would require the Department of Employment Services and the Department of Small and Local Business Development to establish and provide for the maintenance of the Incarceration to Incorporation Entrepreneurship Program to educate, train, and assist returning citizens in becoming socially responsible entrepreneurs. Furthermore, a fund for the program

would be established and maintained by the Office of the Deputy Mayor for Greater Economic Opportunity.

B21-514, the “Made in DC Program Establishment Act of 2015”, would establish the Made in DC Program within the Department of Small and Local Business Development (“DSLBD”) to promote locally created, manufactured, or assembled products. It would establish the Made in DC Fund to support the program. Finally, it would require DSLBD to report on opportunities for a District-sponsored Innovation Studio Space and Marketplace.

Individuals and representatives of organizations who wish to testify at the public hearing are asked to contact Faye Caldwell of the Committee on Business, Consumer, and Regulatory Affairs at (202) 727-6683 or by email at fcaldwell@dccouncil.us and provide their name(s), address, telephone number, email address and organizational affiliation, if any, by close of business Tuesday, January 26, 2016. 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 public 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 Thursday, February 11, 2016. 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
Committee on Finance and Revenue
Notice of Public Hearing**

John A. Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004

**COUNCILMEMBER JACK EVANS, CHAIR
COMMITTEE ON FINANCE AND REVENUE**

ANNOUNCES A PUBLIC HEARING ON:

Bill 21-178 the “New Bethany Baptist Church Real Property Tax Exemption Act of 2015”

Bill 21-488, the “Higher Education Tax Exemption Act of 2015”

Thursday, January 7, 2016

10:30 a.m.

Room 120 - John A. Wilson Building

1350 Pennsylvania Avenue, NW, Washington, D.C. 20004

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, announces a public hearing to be held on Thursday, January 7, 2016 at 10:30 a.m. in Room 120, of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

Bill 21-178 the “New Bethany Baptist Church Real Property Tax Exemption Act of 2015” would amend Chapter 10 of Title 47 of the District of Columbia Official Code to provide a real property tax exemption for the real property owned by the New Bethany Baptist Church.

Bill 21-488, the “Higher Education Tax Exemption of 2015” would amend section 47-1002 of the District of Columbia Code to exempt from real property taxation real property leased by foundations to colleges and universities that are used by these institutions of higher learning to provide dormitory, classroom, and related facilities for its students.

The Committee invites the public to testify at the hearing. Those who wish to testify should contact Sarina Loy, Committee Aide at (202) 724-8058 or sloy@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization by 10:30 a.m. on Wednesday, January 6, 2016. Witnesses should bring 15 copies of their written testimony to the hearing. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to sloy@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 114, Washington D.C. 20004.

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

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 Hearing

on

- **B21-331, the “Building Service Employees Minimum Work Week Act of 2015”**
- **B21-512, the “Hours and Scheduling Stability Act of 2015”**

**Wednesday, January 13, 2016, 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 hearing by the Committee on Business, Consumer, and Regulatory Affairs on B21-331, the “Building Services Employees Minimum Work Week Act of 2015” and B21-512, the “Hours and Scheduling Stability Act of 2015”. The public hearing is scheduled for Wednesday, January 13, 2016 at 10:00 a.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Ave., NW, Washington, DC 20004.

B21-331, the “Building Services Employees Minimum Work Week Act of 2015”, would require janitorial or building maintenance service workers that work in an office building, office park, or group of office buildings with over 350,000 net rentable commercial office square feet to be provided with no less than 30 hours of work per week.

B21-512, the “Hours and Scheduling Stability Act of 2015”, would require a retail or food services employer to provide their employees a written work schedule 21 days before the first scheduled hour of a shift. The bill requires employees who hold similar jobs be provided the same hourly wage, eligibility to accrue employer-provided benefits, and promotion opportunities regardless of hours worked by the employee. In addition, the bill requires employers to offer additional hours of work to existing employees before hiring additional employees or subcontractors.

Individuals and representatives of organizations who wish to testify at the public hearing are asked to contact Faye Caldwell of the Committee on Business, Consumer, and Regulatory

Affairs at (202) 727-6683 or by email at fcaldwell@dccouncil.us and provide their name(s), address, telephone number, email address and organizational affiliation, if any, by close of business Monday, January 11, 2016. 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 public 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 Wednesday, January 27, 2016. 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
Committee on Finance and Revenue
Notice of Public Hearing**

John A. Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004

RESCHEDULED

**COUNCILMEMBER JACK EVANS, CHAIR
COMMITTEE ON FINANCE AND REVENUE**

ANNOUNCES A PUBLIC HEARING ON:

**Bill 21-359 the “Ballpark Fee Overpayment Act of 2015”
Bill 21-411, the “Bolling Air Force Base Military Housing Clarification Act of 2015”
Thursday, January 7, 2016
10:00 a.m.
Room 120 - John A. Wilson Building
1350 Pennsylvania Avenue, NW, Washington, D.C. 20004**

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, announces a public hearing to be held on Thursday, January 7, 2016 at 10:00 a.m. in Room 120, of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

Bill 21-359 the “Ballpark Fee Overpayment Act of 2015” would amend Chapter 27B of Title 47 of the District of Columbia Official Code to provide for the refund of overpaid ballpark fees by an entity that is directly or indirectly majority owned by a Real Estate Investment Trust.

Bill 21-411, the “Bolling Air Force Base Military Housing Clarification Act of 2015” would amend section 47-1080 of Title 47 of the District of Columbia Official Code to clarify that certain real property located on federal property used by the United States Department of the Air Force is exempt from the Ballpark fee.

The Committee invites the public to testify at the hearing. Those who wish to testify should contact Sarina Loy, Committee Aide at (202) 724-8058 or sloy@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization by 10:00 a.m. on Wednesday, January 6, 2016. Witnesses should bring 15 copies of their written testimony to the hearing. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to sloy@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 114, Washington D.C. 20004. This hearing is rescheduled from December 8, 2015.

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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

on

Bill 21-415, Universal Paid Leave Act of 2015

on

**Thursday, January 14, 2016
10:00 a.m., Council Chambers, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on Bill 21-415, the “Universal Paid Leave Act of 2015.” The hearing will be held at 10:00 a.m. on Thursday, January 14, 2016 in Hearing Room 500, the Council Chambers, of the John A. Wilson Building.

The stated purpose of Bill 21-415 is to establish a universal paid leave system for all District residents and for workers who are employed in the District of Columbia. Specifically, the bill allows for 16 weeks of paid family or self-care leave and also amends the D.C. Family and Medical Leave Act of 1990 to extend job protections to individuals who have been employed for six months and worked at least 500 hours in a 12-month period. Currently, the law requires an individual to be employed for at least one year and to have worked at least 1,000 hours in a 12-month period.

The purpose of this hearing to receive testimony from national experts and D.C. government witnesses as to the benefits and drawbacks of the proposed legislation. Thus, this hearing will be limited to those invited to testify. A third hearing on this legislation is scheduled for February 11, 2016 at 4:00 p.m. in Room 500 of the John A. Wilson Building, and that hearing will be open to anyone wishing to testify on the bill.

While this hearing is limited to oral testimony from invited witnesses, written statements from the public will be made a part of the official record. Copies of written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. Questions about this or the subsequent hearing should be directed to Christina Setlow, Deputy Committee Director, at 724-4865. The record will close on a date to be announced in the notice of the final hearing on Bill 21-415.

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING

on

Bill 21-415, Universal Paid Leave Act of 2015

on

**Thursday, February 11, 2016
4:00 p.m., Council Chambers, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on Bill 21-415, the “Universal Paid Leave Act of 2015.” The hearing will be held at 4:00 p.m. on Thursday, February 11, 2016 in Hearing Room 500, the Council Chambers, of the John A. Wilson Building.

The stated purpose of Bill 21-415 is to establish a universal paid leave system for all District residents and for workers who are employed in the District of Columbia. Specifically, the bill allows for 16 weeks of paid family or self-care leave and also amends the D.C. Family and Medical Leave Act of 1990 to extend job protections to individuals who have been employed for six months and worked at least 500 hours in a 12-month period. Currently, the law requires an individual to be employed for at least one year and to have worked at least 1,000 hours in a 12-month period. The purpose of this hearing to receive testimony from the public as to the benefits and drawbacks of the proposed legislation.

Those who wish to testify must telephone the Committee of the Whole at (202) 724-8196, or email Christina Setlow, Deputy Committee Director at csetlow@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Monday, February 8, 2016. Persons wishing to testify are encouraged, but not required, to submit 25 copies of written testimony. **Requests will not be accepted after February 8, 2016.** If submitted by the close of business on Tuesday February 9, 2016 the testimony will be distributed to Councilmembers before the hearing. **Witnesses should limit their testimony to three minutes; less time will be allowed if there are a large number of witnesses.** A copy of Bill 21-415 can be obtained on <http://lims.dccouncil.us>, or through the Legislative Services Division (Room 10) of the Secretary of the Council’s office.

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 February 25, 2015.

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

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 Hearing

on

- **B21-462, the “Minimum Wage, Living Wage, and Millennial Tiny Housing Amendment Act of 2015”**

**Monday, February 1, 2016, 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 hearing by the Committee on Business, Consumer, and Regulatory Affairs on B21-462, the “Minimum Wage, Living Wage, and Millennial Tiny Housing Amendment Act of 2015”. The public hearing is scheduled for Monday, February 1, 2016 at 10:00 a.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Ave., NW, Washington, DC 20004.

B21-462, the “Minimum Wage, Living Wage, and Millennial Tiny Housing Amendment Act of 2015”, would require the Deputy Mayor for Greater Economic Opportunity to establish the Minimum Wage, Living Wage, and Millennial Tiny Housing Initiative. The bill would require the construction of 1,000 new homes, no less than 600 square feet each, for eligible applicants. In addition, the houses would be constructed by District small business enterprises at a cost of no more than \$50,000. Finally, the bill would amend the Housing Production Trust Fund of 1998 to fund the Initiative.

Individuals and representatives of organizations who wish to testify at the public hearing are asked to contact Faye Caldwell of the Committee on Business, Consumer, and Regulatory Affairs at (202) 727-6683 or by email at fcaldwell@dccouncil.us and provide their name(s), address, telephone number, email address and organizational affiliation, if any, by close of business Friday, January 29, 2016. 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 public 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, February 15, 2016. 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
COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
NOTICE OF PUBLIC HEARING
1350 Pennsylvania Avenue, NW, Washington, DC 20004

COUNCILMEMBER ANITA BONDS, CHAIRPERSON
COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

ANNOUNCES A PUBLIC HEARING OF THE COMMITTEE ON

B21-0481, the “Home Purchase Assistance Program Amendment Act of 2015”

on

Thursday, January 7, 2016, at 10:00 AM
John A. Wilson Building, Room 500
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Councilmember Anita Bonds, Chairperson of the Committee on Housing and Community Development, will hold a public hearing on B21-0481, the “Home Purchase Assistance Program Amendment Act of 2015”. The public hearing will be held on Thursday, January 7, 2016, at 10:00 AM in Room 500 of the John A. Wilson Building.

The stated purpose of B21-0481 is to make changes to the District's Home Purchase Assistance Program. It requires the Mayor to review the repayment structure of the Home Purchase Assistance Program, often referred to as HPAP, and provide additional repayment options for the lowest income loan recipients. Options to be included are a graduated repayment system and the postponement of repayment on individual loans until after the home is sold. The bill also seeks to increase the maximum loan amount from \$50,000 to \$80,000. The bill requires the Mayor to submit the revised repayment system to the Council within 60 days after the bill becomes effective.

Those who wish to testify are requested to telephone the Committee on Housing and Community Development, at (202) 724-8900, or email omontiel@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any), by close of business on January 6, 2016. Persons wishing to testify are encouraged to submit 15 copies of written testimony. Oral testimony should be limited to three minutes for individuals and five minutes for organizations.

If you are unable to testify at the public hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee on Housing and Community Development, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 112, Washington, D.C. 20004. The record will close at 5:00 p.m. on Thursday, January 21, 2016.

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 21-404, the “St. Elizabeths East Campus – Phase I Surplus Declaration and Approval Resolution of 2015”

and

PR 21-405, the “St. Elizabeths East Campus – Phase I Disposition Approval Resolution of 2015”

on

**Thursday, January 7, 2015
10:00 a.m., 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 21-404, the “St. Elizabeths East Campus – Phase I Surplus Declaration and Approval Resolution of 2015” and PR 21-405, the “St. Elizabeths East Campus – Phase I Disposition Approval Resolution of 2015.” The hearing will be held at 10:00 a.m. on Thursday, January 7, 2015 in room 412 of the John A. Wilson Building.

The stated purpose of **PR 21-404** is to declare and approve as surplus the District-owned real property, located between 1300 and 1100 Alabama Ave. S.E., and known for assessment and taxation purposes as Lots 809, 811, 812, 813 and 823 in Square S-5868. These lots comprise a 15.72 acre section of the St. Elizabeths District-owned property. This property was formerly part of the St. Elizabeths Hospital campus owned by the federal government. The Hospital was organized by Congress in 1855 for the treatment of mentally ill patients. In 1987, the federal government transferred the 187-acre East campus to the District. Today, the District continues to operate a public psychiatric facility on the campus in a newly constructed facility; however, most of the East campus is either vacant land or vacant buildings. The entire site is a National Historic Landmark. The West campus of St. Elizabeths is still owned by the federal government and home to the U.S. Department of Homeland Security’s consolidated headquarters. In 2012, the District published the St. Elizabeths East Master Plan & Design Guidelines, which lays out design guidelines for the redevelopment of the entire East campus.

The stated purpose of **PR 21-405** is to approve the disposition of District-owned real property located between 1300 and 1100 Alabama Ave. S.E., and known for assessment and taxation purposes as Lots 809, 811, 812, 813 and 823 in Square S-5868. The proposed development constitutes Phase I of what will be a multi-phased redevelopment of the St. Elizabeths District-owned property. Phase I consists of the disposition of Parcels StE-10, St.E-11, St.E-14, and St.E-17 and will itself be completed in four phases (Phases A-D; collectively, the “Concept Plan”). The Concept Plan includes (1) the renovation and restoration of seven existing historic buildings into multifamily buildings containing approximately 250 residential units of which approximately 80 percent will be affordable and approximately 14,000 square feet of basement space shall be reserved for local nonprofits to occupy at reduced rent; (2) the construction of approximately 60 to 120 for-sale residential units, of which 30 percent shall be affordable and 15 units shall be constructed as live-work spaces for artists; (3) the construction of a commercial building containing approximately 30,000 square feet of retail space and approximately 171,000 square feet of office space. Additionally, the Concept Plan includes the option for construction of a parking facility.

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, Jan. 5, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on Jan. 5, 2015 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. A copy of 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 January 21, 2015.

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

REVISED

NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE ON

The Energy and Environmental Effects of the Proposed Non-unanimous Settlement Agreement Regarding Exelon's Acquisition of Pepco

Monday, December 14, 2015
at 1:00 p.m.
in Room 500 of the
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

On Monday, December 14, 2015, Councilmember Mary M. Cheh, Chairperson of the Committee on the Transportation and the Environment, will hold a public oversight roundtable on the potential energy and environmental effects of the proposed non-unanimous settlement agreement regarding Exelon Corporation's acquisition of Pepco Holdings, Inc. The roundtable will begin at 1:00 p.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

The purpose of the roundtable is to explore the potential energy and environmental effects of the non-unanimous settlement agreement filed with the Public Service Commission in Formal Case No. 1119, Exelon Corporation's proposed acquisition of Pepco Holdings, Inc.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official Hearing Record. Anyone wishing to testify should contact Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, at (202) 724-8062 or via e-mail at abenjamin@dccouncil.us. Persons representing organizations will have five minutes to present their testimony. Individuals will have three minutes to present their testimony. Witnesses should bring 8 copies of their written testimony and should submit a copy of their testimony electronically to abenjamin@dccouncil.us.

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. They may also be e-mailed to abenjamin@dccouncil.us or faxed to (202) 724-8118. The record will close at the end of the business day on December 28, 2016.

This notice has been revised to reflect that the date and time of the roundtable have been changed to Monday, December 14, 2015, at 1:00 p.m.

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

**THE BOARD OF ELECTIONS' PREPARATIONS FOR THE
JUNE 14, 2016, PRIMARY ELECTION,**

**PR21-0415, THE "DISTRICT OF COLUMBIA BOARD OF ELECTIONS DIONNA
MARIA LEWIS CONFIRMATION RESOLUTION OF 2015",**

**PR21-0416, THE "DISTRICT OF COLUMBIA BOARD OF ELECTIONS ANDREW T.
'CHIP' RICHARDSON, III, CONFIRMATION RESOLUTION OF 2015",**

AND

**PR21-0435, THE "DISTRICT OF COLUMBIA BOARD OF ELECTIONS STEPHEN I.
DANZANSKY CONFIRMATION RESOLUTION OF 2015"**

**Wednesday, December 16, 2015, 2:00 PM
Room 123, John A. Wilson Building
1350 Pennsylvania Ave., N.W.
Washington, D.C. 20004**

On December 16, 2015, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on the Judiciary, will convene a public roundtable on the Board of Elections' preparations for the June 14, 2016, Primary Election; Proposed Resolution 21-0415, the "District of Columbia Board of Elections Dionna Maria Lewis Confirmation Resolution of 2015"; Proposed Resolution 21-0416, the "District of Columbia Board of Elections Andrew T. 'Chip' Richardson, III, Confirmation Resolution of 2015"; and Proposed Resolution 21-0435, the "District of Columbia Board of Elections Stephen I. Danzansky Confirmation Resolution of 2015". The roundtable will be held in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Ave, N.W., at 2:00 p.m. *Please note that this notice has been revised to include PR21-0435 and to reflect a room change.*

This Committee will review the Board's staffing, polling place worker training, technology improvements, facilities preparation, public outreach efforts, voter database management, and budgeting. The Committee will also consider the nominations of Dionna Maria Lewis, Andrew T. "Chip" Richardson, III, and Stephen I. Danzansky to the Board.

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, and title (if any) **by close of business, December 14, 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 December 22, 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

**PROPOSED RESOLUTION 21-0436, THE “DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY CAROL SCHWARTZ
CONFIRMATION RESOLUTION OF 2015”**

Wednesday, December 16, 2015

Immediately following the Committee’s prior roundtable (approx. 4:30 p.m.)

Room 123, John A. Wilson Building

1350 Pennsylvania Ave., N.W.

Washington, D.C. 20004

On December 16, 2015, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on the Judiciary, will convene a public roundtable to consider Proposed Resolution 21-0436, the “District of Columbia Board of Ethics and Government Accountability Carol Schwartz Confirmation Resolution of 2015”. The roundtable will be held in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Ave, N.W., immediately following the Committee’s prior roundtable (at approximately 4:30 p.m.).

The stated purpose of PR21-0436 is to confirm Carol Schwartz to the Board of Ethics and Government Accountability for a six-year term.

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, and title (if any) **by close of business, December 14, 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 December 22, 2015.**

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

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

on

Proposed Mystics and Wizards Basketball Facility at St. Elizabeths East Campus

on

**Tuesday, December 15, 2015
3:00 p.m., Council Chamber, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public roundtable before the Committee of the Whole regarding the proposed Mystics and Wizards Basketball Facility at St. Elizabeths East Campus. The hearing will be held at 3:00 p.m. on Tuesday, December 15, 2015 in Hearing Room 500, the Council Chamber, of the John A. Wilson Building.

The purpose of this roundtable is to receive testimony from the executive on details of the proposed basketball facility at St. Elizabeths East Campus. According to reports and a draft term sheet for the facility, the District would build an 118,000 square foot, 5,000 seat facility for use by the Washington Mystics WNBA basketball team for their home games, and the Washington Wizards NBA basketball team as a practice facility. Both teams are owned by Monumental Sports and Entertainment which would have a 19 year lease (leases under 20 years do not require submission to the Council for approval). The expected cost of the facility is \$55 million, \$23 million of which would be funded directly by the District from capital accounts offset by a \$25 million contribution from Pepco related to the D.C. United soccer stadium. \$27 million would be funded by Events DC which is a District independent authority managing the Washington Convention Center. The remaining \$5 million would be provided by Monumental Sports as repayment of the 19-year lease rent, discounted for present value. This financing arrangement does not require affirmative Council Act. Management of the facility will be by Events DC.

Most projects of this magnitude of public funding would come to the Council for approval and subsequent funding. It is not clear what, if any agreements or contracts will come to the Council for approval, or when. This hearing will provide an opportunity for the Committee to get answers to such questions, as well as questions about the finding, management, community benefits, and effect on existing plans for the St. Elizabeths campus.

Those who wish to testify are asked to telephone the Committee of the Whole at (202) 724-8196, or email Evan Cash, Committee Director, at ecash@dccouncil.us, and to provide name, address, telephone number, organizational affiliation and title (if any) by close of business Friday, December 11, 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 December 11, 2015, testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on December 29, 2015.

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

Posting Date: December 11, 2015

Petition Date: January 25, 2016

Hearing Date: February 8, 2016

License No.: ABRA-084582

Licensee: 1618 Variety Market, LLC

Trade Name: 1618 Variety Market

License Class: Retailer's Class "B" Grocery

Address: 1618 8th Street, N.W.

Contact: Medhanie Weldegergish: 202-247-1703

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

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

CURRENT HOURS OF OPERATION

Sunday 9:00am to 9:00pm, Monday through Saturday 8:00am to 12:00am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES

Sunday 10:00am to 9:00pm, Monday through Saturday 9:00am to 9:00pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: December 11, 2015
Petition Date: January 25, 2016
Hearing Date: February 8, 2016
Protest Hearing: April 6, 2016

License No.: ABRA-096611
Licensee: Adams Morgan Coffee Shop Inc.
Trade Name: Adams Morgan Restaurant & Coffee
License Class: Retailer's Class "C" Restaurant
Address: 2204 18th Street, N.W.
Contact: Kiflom T. Meles: 202-545-0009

WARD 1

ANC 1C

SMD 1C03

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 April 6, 2016 at 4:30 pm.

NATURE OF OPERATION

New restaurant and coffee shop. Total Occupancy Load of 16 with inside seating for 12 patrons. Sidewalk Café with seating for 4 patrons.

HOURS OF OPERATON FOR PREMISES AND SIDEWALK CAFE

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

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

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

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

Posting Date: December 11, 2015
Petition Date: January 25, 2016
Hearing Date: February 8, 2016
Protest Hearing Date: April 6, 2016

License No.: ABRA-100884
Licensee: Arlington Comedy, Inc.
Trade Name: Drafthouse Comedy
License Class: Retailer's Class "C" Multipurpose
Address: 1100 13th Street, N.W.
Contact: Michael Fonseca: (202) 625-7700

WARD 2

ANC 2F

SMD 2F05

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 April 6, 2016 at 4:30 pm.

NATURE OF OPERATION

A live theatre serving concession food with live comedy. Total Occupancy Load: 199. Total Seats: 175.

**HOURS OF OPERATION/ALCOHOLIC BEVERAGE
SALES/SERVICE/CONSUMPTION**

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: December 11, 2015
 Petition Date: January 25, 2016
 Hearing Date: February 8, 2016
 Protest Date: April 6, 2016

License No.: ABRA-101106
 Licensee: Dubai Market, LLC
 Trade Name: Dubai Market
 License Class: Retailer’s Class “B” 25%
 Address: 3443 14th Street, N.W.
 Contact: Mike Pappas: (202) 352-5287

WARD 1 ANC 1A SMD 1A04

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 April 6, 2016 at 1:30 pm.

NATURE OF OPERATION

A Retailer’s Class ‘B’ convenience store selling beer, wine and non-alcoholic products.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE

Sunday through Saturday 7 am – 12 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: December 11, 2015
Petition Date: January 25, 2016
Hearing Date: February 8, 2016

License No.: ABRA-060567
Licensee: J.H.A Corporation
Trade Name: Recessions II
License Class: Retailer's Class "C" Tavern
Address: 1823 L Street, N.W.
Contact: Mohammad Haji: 202-296-6686

WARD 2 ANC 2B SMD 2B06

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

Requesting a Change of Hours of live entertainment.

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

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

CURRENT HOURS OF LIVE ENTERTAINMENT

Sunday through Wednesday no Entertainment, Thursday through Saturday 8:00pm to 2:00am

PROPOSED HOURS OF LIVE ENTERTAINMENT

Sunday no Entertainment, Monday through Saturday 8:00pm to 2:00am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: December 11, 2015
Petition Date: January 25, 2016
Hearing Date: February 8, 2016
Protest Hearing: April 6, 2016

License No.: ABRA-101091
Licensee: Ruta Del Vino, LLC
Trade Name: Ruta Del Vino
License Class: Retailer's Class "C" Restaurant
Address: 800 - 802 Upshur Street, N.W.
Contact: Justin Logan: 202-251-2843

WARD 4

ANC 4C

SMD 4C07

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 April 6, 2016 at 1:30 pm.

NATURE OF OPERATION

New restaurant and wine bar serving Latin American cuisine, wine, cocktails, and beer. Entertainment Endorsement, flamenco guitar. Sidewalk Café seating 20 patrons. Total Occupancy Load of 141. Seating for 76 inside the premises.

HOURS OF OPERATON AND ALCOHOLIC BEVERAGE

SALES/SERVICE/CONSUMPTION INSIDE PREMISES

Sunday 10am-2am, Monday through Thursday 5pm-2am, Friday 5pm-3am, Saturday 10am-3am

HOURS OF OPERATION FOR SIDEWALK CAFE AND ALCOHOLIC BEVERAGE

SALES/SERVICE/CONSUMPTION FOR SIDEWALK CAFE

Sunday 10am-12am, Monday through Thursday 5pm-12am, Friday 5pm-1am, Saturday 10am-1am

HOURS OF LIVE ENTERTAINMENT

Sunday through Thursday 5pm-11pm, Friday & Saturday 5pm-12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

Posting Date: **December 11, 2015
Petition Date: **January 25, 2016
Hearing Date: **January 8, 2016

License No.: ABRA-097355
Licensee: Steak Ice 1310 H, LLC
Trade Name: Sally’s Middle Name
License Class: Retailer’s Class “D” Restaurant
Address: 1320 H Street, N.E.
Contact: Andrew Kline: (202) 686-7600

WARD 6 ANC 6A SMD 6A06

Notice is hereby given that this licensee has applied for Substantial Changes 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 1:30pm, 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 has requested an expansion to the existing premises, to include an additional 60 seats on the 2nd floor. Applicant has requested a Summer Garden with 22 seats. Applicant has requested a Class Change from a “D” Restaurant to “C” Restaurant.

CURRENT HOURS OF OPERATION

Sunday through Thursday 7 am - 2 am, Friday & Saturday 7 am – 3 am

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION ON PREMISE

Sunday through Thursday 8 am - 2 am, Friday & Saturday 8 am – 3 am

PROPOSED HOURS OF OPERATION FOR SUMMER GARDEN

Sunday through Thursday 7 am - 2 am, Friday & Saturday 7 am – 3 am

PROPOSED HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR SUMMER GARDEN

Sunday through Thursday 8 am - 2 am, Friday & Saturday 8 am – 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Posting Date: **November 27, 2015
Petition Date: **January 11, 2016
Hearing Date: **January 25, 2016

License No.: ABRA-097355
Licensee: Steak Ice 1310 H, LLC
Trade Name: Sally’s Middle Name
License Class: Retailer’s Class “D” Restaurant
Address: 1320 H Street, N.E.
Contact: Andrew Kline: (202) 686-7600

WARD 6 ANC 6A SMD 6A06

Notice is hereby given that this licensee has applied for Substantial Changes 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 1:30pm, 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 has requested an expansion to the existing premises, to include an additional 60 seats on the 2nd floor. Applicant has requested a Summer Garden with 22 seats. Applicant has requested a Class Change from a “D” Restaurant to “C” Restaurant.

CURRENT HOURS OF OPERATION

Sunday through Thursday 7 am - 2 am, Friday & Saturday 7 am – 3 am

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION ON PREMISE

Sunday through Thursday 8 am - 2 am, Friday & Saturday 8 am – 3 am

PROPOSED HOURS OF OPERATION FOR SUMMER GARDEN

Sunday through Thursday 7 am - 2 am, Friday & Saturday 7 am – 3 am

PROPOSED HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR SUMMER GARDEN

Sunday through Thursday 8 am - 2 am, Friday & Saturday 8 am – 3 am

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

Posting Date: December 4, 2015
Petition Date: January 19, 2016
Hearing Date: February 1, 2016
Protest Hearing: March 30, 2016

License No.: ABRA-100275
Licensee: System D, LLC
Trade Name: The Wydown Coffee Bar
License Class: Retailer's Class "C" Restaurant
Address: 1924 14th Street, N.W.
Contact: Chad McCracken: **202-507-8411

WARD 2

ANC 2B

SMD 2B09

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 March 23, 2016 at 1:30 pm.

NATURE OF OPERATION

New restaurant /specialty coffee bar with drip coffee, tea, espresso, fresh juices and house-made baked goods. Also selling coffee equipment. Total Occupancy Load of 35. Sidewalk Café with seating for 4 and standing room for 8.

HOURS OF OPERATON FOR PREMISES AND SIDEWALK CAFÉ

Sunday 7am-11pm, Monday through Wednesday 6am-11pm, Thursday and Friday 6am-12am, Saturday 7am-12am

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

Sunday through Wednesday 9am-11pm, Thursday through Saturday 9am-12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Posting Date: December 4, 2015
Petition Date: January 19, 2016
Hearing Date: February 1, 2016
Protest Hearing: March 30, 2016

License No.: ABRA-100275
Licensee: System D, LLC
Trade Name: The Wydown Coffee Bar
License Class: Retailer’s Class “C” Restaurant
Address: 1924 14th Street, N.W.
Contact: Chad McCracken: **202-550-0717

WARD 2

ANC 2B

SMD 2B09

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 March 23, 2016 at 1:30 pm.

NATURE OF OPERATION

New restaurant /specialty coffee bar with drip coffee, tea, espresso, fresh juices and house-made baked goods. Also selling coffee equipment. Total Occupancy Load of 35. Sidewalk Café with seating for 4 and standing room for 8.

HOURS OF OPERATON FOR PREMISES AND SIDEWALK CAFÉ

Sunday 7am-11pm, Monday through Wednesday 6am-11pm, Thursday and Friday 6am-12am, Saturday 7am-12am

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

Sunday through Wednesday 9am-11pm, Thursday through Saturday 9am-12am

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF PUBLIC HEARING AND PUBLIC COMMENT PERIOD**The District of Columbia's Regional Haze
Five-Year Progress Report**

Notice is hereby given that a public hearing will be held on Monday, February 22, 2016, at 5:00 p.m. in Room 555 of the Department of Energy & Environment (DOEE) headquarters at 1200 First Street NE, 5th Floor, in Washington, D.C. 20002. This hearing provides interested parties an opportunity to comment on the proposed revision to the District of Columbia's (District) State Implementation Plan (SIP), found at 40 C.F.R. Part 52 Subpart J, to meet requirements of the Regional Haze Rule (64 Fed. Reg. 35714). More specifically, the progress report must fulfill requirements of Title 40 of the Code of Federal Regulations (C.F.R.) Part 51, Sections 102, 103, 308(g), 308(h), and 308(i). Once the District has completed its procedures, the proposed revisions to the SIP will be submitted to the U.S. Environmental Protection Agency (EPA) for approval.

The District's Regional Haze SIP was approved by EPA and became effective on March 5, 2012 (77 Fed. Reg. 5191; February 2, 2012). EPA's Regional Haze Rule requires states to review their Regional Haze SIPs every five years to determine whether the goals previously set are still reasonable, whether reasonable measures have been implemented to meet those goals, and what additional measures will be implemented in the next five to ten years.

Comments on the proposed SIP revision must be submitted, in writing, no later than thirty (30) days after the date of publication of this notice in the *D.C. Register* to Ms. Jessica Daniels, Department of Energy & Environment, Air Quality Division, 1200 First Street, NE, 5th Floor, Washington, D.C. 20002 or sent electronically to jessica.daniels@dc.gov. Copies of the proposed SIP revision may be obtained between the hours of 9:00 a.m. and 5:00 p.m. at the address listed above for a small fee to cover the cost of reproduction or on-line at <http://doee.dc.gov>.

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
TUESDAY, MARCH 1, 2016
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001**

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

TIME: 9:30 A.M.

WARD SIX

19182 **Application of Rob Carter**, pursuant to 11 DCMR § 3103.2, for variances
ANC-6E from the side yard requirements under § 405.8, and the nonconforming structure
 requirements under § 2001.3, to renovate an existing four-unit apartment house
 in the R-4 District at premises 1516 6th Street N.W. (Square 445, Lot 41).

WARD ONE

19183 **Application of Gajinder Singh, et al.**, pursuant to 11 DCMR § 3103.2, for
ANC-1A two variances from the minimum lot area requirements under § 401.3, to permit
 the construction of two flats, each on a new non-conforming lot, in the R-4
 District at premises 1440 Newton Street N.W. (Square 1440, Lot 844).

WARD THREE

19186 **Application of Ann Marie and Peter Mehlert**, pursuant to 11 DCMR §
ANC-3E 3104.1, for a special exception under § 223, not meeting the lot occupancy
 requirements under § 403.2, to extend the porch of an existing one-family
 dwelling in the R-1-B District at premises 4925 41st Street N.W. (Square 1757,
 Lot 17).

WARD FIVE

19191 **Application of Colleen Eubanks**, pursuant to 11 DCMR § 3103.2, for
ANC-5E variances from the lot occupancy requirements under § 403, the rear yard
 requirements under § 404, and the open court requirements under § 406, to
 permit a third-story addition to an existing flat in the R-4 District at premises 133
 U Street N.E. (Square 3533, Lot 186).

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WARD SIX

19193 **Application of C&S Development LLC**, pursuant to 11 DCMR § 3103.2,
ANC-6B for variances from the lot area and width requirements under § 401.2, and the lot
width requirements under § 401.3, to permit the construction of three three-story
flats on three new nonconforming lots in the R-4 District at premises 1620-1622
E Street S.E. (Square 1090, Lots 813, 814).

WARD FIVE

19200 **Application of Jemal's Pappas Tomato's L.L.C.**, pursuant to 11 DCMR
ANC-5D §§ 3103.2 and 3104.1, for a variance from the off-street parking requirements
under § 2101.1, and a special exception from the roof structure requirements
under §§ 411.3 and 845.1, to allow the adaptive reuse of an existing warehouse
building for retail uses in the C-M-1 District at premises 1401 Okie Street N.E.
(Square 4093, Lot 832).

WARD ONE

19202 **Application of Alon Eckhaus**, pursuant to 11 DCMR § 3104.1, for a special
ANC-1B exception under § 223, not meeting the lot occupancy requirements under §
403.2, the side yard requirements under § 405, the court width requirements
under § 406, and the nonconforming structure requirements under § 2001.3, to
construct a third-story addition to an existing flat in the R-4 District at premises
2803 Sherman Avenue N.W. (Square 2886, Lot 335).

WARD FIVE

19203 **Application of Sheela Tschand**, pursuant to 11 DCMR §§ 3103.2 and
ANC-5D 3104.1, for a variance from the side yard requirements under § 405, and a special
exception from the conversion to apartment house requirements under § 336, to
allow the conversion of a one-family dwelling into a three-story, three-unit
apartment house in the R-4 District at premises 1844 Kendall Street N.E. (Square
4048, Lot 808).

PLEASE NOTE:

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

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial. The public hearing in these cases will be conducted in accordance with the provisions of Chapter 31 of the District of Columbia Municipal Regulations, Title 11, and Zoning. Pursuant to Subsection 3117.4, of the Regulations, the Board will impose time limits on

BZA PUBLIC HEARING NOTICE

MARCH 1, 2016

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the testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.

Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. **Persons seeking party status shall file with the Board, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application Form.** This form may be obtained from the Office of Zoning at the address stated below or downloaded from the Office of Zoning's website at: www.dcoz.dc.gov. All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4th Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

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

MARNIQUE Y. HEATH, CHAIRMAN, FREDERICK L. HILL, VICE CHAIRPERSON, JEFFREY L. HINKLE, AND A MEMBER OF THE ZONING COMMISSION, CLIFFORD W. MOY, SECRETARY TO THE BZA, SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING.

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

TIME AND PLACE: **Thursday, February 4, 2016, @ 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. 15-12 (J River 1401 Pennsylvania Avenue, LLC – Consolidated Review and Approval of a Planned Unit Development and PUD-Related Map Amendment @ Square 1065)

THIS CASE IS OF INTEREST TO ANC 6B

On May 29, 2015, the Office of Zoning received an application from J River 1401 Pennsylvania Avenue LLC (the “Applicant”) requesting approval of a consolidated planned unit development and a PUD-related map amendment to facilitate the development of 1401-1433 Pennsylvania Avenue, S.E. (Square 1065, Lots 30, 31, 32, 33, 142, and 820) for residential and retail use. The Office of Planning submitted its report in support of setting the application down for a public hearing on July 17, 2015. On July 27, 2015, the Commission voted to set down the application for a public hearing. The Applicant provided its prehearing statement on November 19, 2015.

The property that is the subject of this application consists of approximately 28,098 square feet of land area. The property is located at the southeast corner of 14th Street, S.E. and Pennsylvania Avenue, S.E. The property is located primarily in the C-2-A Zone District. The Applicant seeks a PUD-related map amendment to the C-2-B Zone District.

The Applicant proposes to develop the property with a mixed-use residential and retail building containing 170-190 units and at least 58 underground parking spaces. The building will consist of a total of approximately 148,919 square feet of gross floor area and will have a maximum height of approximately 78 feet (no penthouse included). In total, the project will have a floor area ratio of approximately 5.3.

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

Z.C. NOTICE OF PUBLIC HEARING
Z.C. CASE NO. 15-12
PAGE 2

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

How to participate as a party.

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

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

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

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

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

Time limits.

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

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

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

**Z.C. NOTICE OF PUBLIC HEARING
Z.C. CASE NO. 15-12
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Information responsive to this notice should be forwarded to the Director, Office of Zoning, Suite 200-S, 441 4th Street, N.W., Washington, D.C. 20001. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

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

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health (Department), pursuant to Sections 3 and 11 of the Prescription Drug Monitoring Program Act of 2013, effective February 22, 2014 (D.C. Law 20-66; D.C. Official Code §§ 48-853.02 and 48-853.10 (2014 Repl. & 2015 Supp.))(Act), hereby gives notice of the adoption of the following new Chapter 103 (Prescription Drug Monitoring Program) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking adds a new Chapter 103, which is necessary to establish a Prescription Drug Monitoring Program Advisory Committee and implement the Act to improve the District's ability to identify and reduce the diversion of prescription drugs. This rulemaking also enhances patient care by providing prescription monitoring information that will assure legitimate use of controlled substances in health care.

This rulemaking was published in the *D.C. Register* on September 11, 2015 at 62 DCR 12424. The Department received one public comment from Kaiser Permanente regarding Sections 10302, 10303, and 10312. The Department considered the comments and determined that no further amendments to this chapter were needed. Therefore, no changes have been made to the rulemaking.

These rules were adopted on October 28, 2015 and will be effective upon publication of this notice in the *D.C. Register*.

Chapter 103, PRESCRIPTION DRUG MONITORING PROGRAM, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is added as follows:

CHAPTER 103 PRESCRIPTION DRUG MONITORING PROGRAM

Secs.

10300	General Provisions
10301	Prescription Monitoring Data Reporting Requirements
10302	Covered Substances
10303	Standards and Format for Reporting
10304	Zero Reporting
10305	Criteria for Granting Waivers of the Reporting Requirements
10306	Prescriber and Dispenser Access to Prescription Monitoring Data
10307	Mandatory Disclosure of Prescription Monitoring Information for Law Enforcement and Regulatory Purposes
10308	Discretionary Disclosure of Information
10309	Interoperability With Other State Prescription Drug Monitoring Programs
10310	Notice of Requests for Information
10311	Confidentiality
10312	Requests to Program to Correct Prescription Monitoring Data

- 10313-10315 [RESERVED]
- 10316 The PDMP Advisory Committee
- 10399 Definitions

10300 GENERAL PROVISIONS

- 10300.1 The Prescription Drug Monitoring Program (Program) shall employ information technology necessary for dispensers to report the prescription monitoring data set forth in § 10301.4 to the Program.
- 10300.2 A prescriber or dispenser:
 - (a) Is not required or obligated to access or use the prescription monitoring data available under the Program; and
 - (b) When acting in good faith, is not subject to liability or disciplinary action arising solely from:
 - (1) Requesting or receiving, or failing to request or receive, prescription monitoring data from the Program; or
 - (2) Acting, or failing to act, on the basis of prescription monitoring data provided by the Program.
- 10300.3 The Program shall retain prescription monitoring data for at least three (3) years from the date of receipt.

10301 PRESCRIPTION MONITORING DATA REPORTING REQUIREMENTS

- 10301.1 Each dispenser of a covered substance shall submit the prescription monitoring data required in § 10301.4, in the form and manner required by § 10303, to the Program within twenty-four (24) hours after a covered substance is dispensed for each covered substance dispensed. For purposes of complying with this chapter, dispensing shall not include merely placing the covered substance prescription into a bin for pickup by the ultimate user or his or her agent.
- 10301.2 For purposes of complying with § 10301.1 of this chapter, the Program shall provide dispensers at least ninety (90) days written notice of the date that reporting shall begin.
- 10301.3 Any dispenser located outside the geographical boundaries of the District that is licensed or registered by the District, shall submit the prescription monitoring data set forth in § 10301.4 to the Program within twenty-four (24) hours after the covered substance is dispensed to an ultimate user who resides in the District. The submission shall be in the form and manner required under § 10303.

10301.4 Upon dispensing a covered substance, the dispenser of the covered substance shall report the following prescription monitoring data to the Program:

- (a) Patient full name;
- (b) Patient address;
- (c) Patient telephone number;
- (d) Patient date of birth;
- (e) Patient gender;
- (f) Dispenser DEA number, NPI number, or other mutually acceptable identification number;
- (g) Dispenser name;
- (h) Dispenser address;
- (i) Dispenser telephone number;
- (j) Prescriber DEA number, NPI number, or other mutually acceptable identification number;
- (k) Prescriber's full name;
- (l) Date prescription was issued by prescriber;
- (m) Date prescription was dispensed;
- (n) Prescription number;
- (o) Prescription type is new or is a refill;
- (p) Number of refill being dispensed, if applicable;
- (q) NDC code for the drug dispensed;
- (r) Quantity dispensed;
- (s) Days' supply dispensed;
- (t) Number of refills ordered;
- (u) Source of payment for the prescription;

- (v) Any elements required as a condition of eligibility for a federal grant as outlined in the PDMP Instruction Manual; and
- (w) Any other information that may be requested by the Director in furtherance of the Program.

10301.5 The reporting requirements of this chapter shall not apply to the dispensing of covered substances when the dispensing is limited to the following:

- (a) Administering covered substances;
- (b) Dispensing covered substances within an appropriately licensed narcotic maintenance program, such as a methadone treatment program or substance abuse treatment program;
- (c) Dispensing covered substances to inpatients in hospitals or nursing facilities licensed by the Department or facilities that are otherwise authorized by law to operate as hospitals or nursing homes in the District;
or
- (d) Dispensing covered substances to inpatients in hospices licensed or certified by the Department.

10301.6 The failure of any person subject to the reporting requirements of this chapter to report the dispensing of a covered substance, unless otherwise exempted under this chapter, or the willful failure to transmit accurate information shall constitute grounds for:

- (a) The revocation, suspension, or denial of a District controlled substances registration;
- (b) Disciplinary action by the relevant health occupations board pursuant to Section 514(c) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1205.14(c)); and
- (c) The imposition of civil fines pursuant to Section 104 of 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).

10301.7 Each dispenser shall ensure that information reported to the Prescription Drug Monitoring Program is correct and shall submit corrections when necessary.

10302 COVERED SUBSTANCES

10302.1 Covered substances are controlled substances, as defined in this rulemaking, and the following drugs of concern:

- (a) All drug products containing Cyclobenzaprine; and
- (b) All drug products containing Butalbital.

10303 STANDARDS AND FORMAT FOR REPORTING

10303.1 The required prescription monitoring data subject to reporting pursuant to §§ 10301 and 10302 shall be transmitted electronically to the Program:

- (a) Within twenty-four (24) hours of dispensing;
- (b) In the format provided in the Electronic Reporting Standard for Prescription Monitoring Programs of the American Society for Automation in Pharmacy (ASAP), Version 4.2 (November 2011) or later; and;
- (c) Shall be consecutive and include any covered substances dispensed after the last date and time reporting information was submitted.

10303.2 The Program shall make available a PDMP Instruction Manual that sets forth information about the required file layout format and acceptable media transmission for submitting the required reporting information.

10303.3 Prescription monitoring data subject to reporting pursuant to §§ 10301 and 10302 shall be transmitted to the Program in the required file layout format through the media transmission set forth in the PDMP Instruction Manual. Dispensers shall begin transmitting the required data on the date specified by the Program, which shall be no less than ninety (90) days after receiving notice from the Program.

10303.4 An alternative means of reporting may be approved by the Program based upon a written request for an exception if good cause is shown.

10303.5 Prescription monitoring data that is not accepted by the Program due to errors or omissions shall be corrected by the dispenser and resubmitted to the Program within twenty-four (24) hours after the dispenser receives notice of the errors or omissions.

- 10303.6 If a dispenser cannot submit the required prescription monitoring data electronic report due to a mechanical, electrical, or other technical failure, the dispenser shall:
- (a) Notify the Program within twenty-four (24) hours of discovery of the technical failure;
 - (b) Describe in detail the specific circumstances preventing the dispenser from submitting the required report and include any available documentation; and
 - (c) Submit a report for each covered substance dispensed during the period of technical failure as soon as possible, but no later than three (3) business days following reestablishment of the means of electronic reporting.

10304 ZERO REPORTING

- 10304.1 A dispenser that dispenses no covered substances within a twenty-four (24) hour reporting period shall submit a report documenting that zero covered substances were dispensed during that twenty-four (24) hour reporting period.
- 10304.2 The Program may, upon written attestation that a dispenser possesses no covered substances for dispensing, allow a dispenser to submit a permanent zero report. If at any time the dispenser begins dispensing covered substances, the permanent zero report shall no longer be valid and the dispenser shall start reporting at least every twenty-four (24) hours as required.
- 10304.3 Dispensers that only dispense covered substances in circumstances not required to be reported, as set forth in § 10301.5, shall file a written attestation with the Program that they are exempt from reporting.

10305 CRITERIA FOR GRANTING WAIVERS OF THE REPORTING REQUIREMENTS

- 10305.1 The Program may grant a temporary waiver of all or some of the reporting requirements to a dispenser who files a request in writing or electronically on a form provided by the Program and who meets the criteria for waiver set forth in § 10305.2.
- 10305.2 The criteria for a waiver of the reporting requirements shall include a history of compliance with laws and regulations by the dispensers regularly practicing at that location and may include, but is not limited to:
- (a) Substantial hardship created by a natural disaster or other emergency beyond the control of the dispenser; or

- (b) Dispensing in a controlled research project approved by a regionally accredited institution of higher education or under the supervision of a governmental agency.

10305.3 The Program may grant waivers on a case-by-case basis, which shall be subject to the terms and conditions stated in the waiver, limited to a specified time period, and subject to being vacated.

10305.4 Denial by the Program of a request for a waiver shall be deemed a final Department action.

10305.5 A dispenser whose request for a waiver is denied may seek review of the final Department action in the Superior Court of the District of Columbia within twenty (20) days after receipt of the notice. The review shall be an on the record review of the decision, and not a *de novo* review.

10306 PRESCRIBER AND DISPENSER ACCESS TO PRESCRIPTION MONITORING DATA

10306.1 Prescribers, dispensers, and their delegates shall register with the Program in order to access or otherwise request disclosure of prescription monitoring data.

10306.2 Prescribers, dispensers, and their delegates who have successfully registered with the Program may access or otherwise request information on an existing or new patient for the purpose of:

- (a) Establishing a prescription history to make informed treatment or dispensing decisions;
- (b) The medical care or treatment of the patient about whom prescription monitoring data is being requested; or
- (c) Performing due diligence and exercising professional judgment when presented with a prescription to dispense a covered substance for use by the patient about whom prescription monitoring data is being requested.

10306.3 Upon request from a prescriber, the Director may provide a report containing prescription monitoring data on all covered substances dispensed pursuant to the prescriber's own prescriptions or by the prescriber, provided that the request is submitted on a form or in a manner approved by the Program.

10306.4 As part of the registration process, a prescriber or dispenser shall attest:

- (a) That the prescription monitoring data received from the Program shall not be further disclosed by the prescriber or dispenser except as allowed by law; and

- (b) That the prescription data shall only be used for the purposes stated in the request and in accordance with the law.

10306.5 The Program shall:

- (a) Establish procedures to authenticate that the prescriber or dispenser is licensed in good standing, and eligible to access the prescription monitoring data; and
- (b) Authorize a prescriber or dispenser to access or otherwise request disclosure of prescription monitoring data electronically.

10306.6 If the authorization issued to a registrant is compromised in any manner that may allow another individual to access prescription monitoring data for unauthorized purposes, the registrant shall notify the Program within twenty-four (24) hours after discovery.

10306.7 A prescriber or dispenser authorized to access prescription monitoring data may delegate his or her authority to access the data to up to two (2) health care professionals who are:

- (a) Licensed, registered, or certified by a health occupations board; and
- (b) Employed at the same location and under the direct supervision of the prescriber or dispenser.

10306.8 Each delegate shall submit a separate application for registration, which shall include the individual's license, registration, or certification number, and a copy of another form of government issued identification.

10306.9 The supervising prescriber or dispenser, and the delegate, shall sign the delegate registration application, attesting that the delegate is an employee of the same facility, under the direct supervision of the requesting prescriber or dispenser, and that any requests made of the Program will be for use by the supervising prescriber or dispenser.

10306.10 A delegate registration shall expire on June 30th of each even-numbered year, or at any time the delegate leaves, if the delegating prescriber or dispenser removes the authorization, or if the individual otherwise becomes ineligible to receive information from the Program, whichever occurs first. The delegating prescriber or dispenser shall notify the Program in writing within twenty-four hours (24) of any change.

10306.11 The delegating prescriber or dispenser is responsible for ensuring that the delegate is knowledgeable of the laws related to confidentiality of Program information,

and shall immediately notify the Program of any known unauthorized use of Program information by a delegate.

- 10306.12 A prescriber or dispenser who delegates his or her authority to request disclosure of or otherwise access prescription monitoring data to a health care professional shall:
- (a) Make reasonable efforts, including regularly reviewing and auditing any available logs of system access and use, to ensure the authorized health care professional is requesting disclosure of, redisclosing, or otherwise accessing prescription monitoring data in clear compliance with the law and this chapter, and all other State and federal laws and regulations governing the security and confidentiality of protected health information and personal medical records;
 - (b) Immediately notify the Program, as well as the licensing entity responsible for licensing, certifying, or registering the authorized health care professional, if the prescriber or dispenser believes that the confidentiality of prescription monitoring data or the security of the Program has been compromised by an authorized health care professional; and
 - (c) Notify the Program within twenty-four (24) hours of any requested change in the registration status of an authorized health care professional, including if that authorized health care professional is no longer employed by or practicing under the authority of the prescriber or dispenser.

10307 MANDATORY DISCLOSURE OF PRESCRIPTION MONITORING INFORMATION FOR LAW ENFORCEMENT AND REGULATORY PURPOSES

- 10307.1 To request disclosure of prescription monitoring data for law enforcement or regulatory purposes, an individual shall be registered with the Program as an authorized agent entitled to receive reports.
- 10307.2 A request for registration as an authorized agent shall be accompanied by:
- (a) An attestation from the applicant's employer confirming the identity of the applicant and the applicant's eligibility to receive the reports; and
 - (b) An attestation from the applicant that the prescription data will not be further disclosed and will be used only for the purposes stated in the request and in accordance with the law.
- 10307.3 A registration as an authorized agent shall expire on June 30th of each even-numbered year or at any time the agent leaves, or otherwise becomes ineligible to receive information from the Program.

10307.4 An authorized agent shall only request disclosure of information related to a specific criminal investigation or as authorized under § 10307.5. Requests shall be made in a format designated by the Program and shall contain:

- (a) An agency case number or other identifier sufficient to identify an existing *bona fide* individual investigation;
- (b) A specified time period to be covered in the report;
- (c) The specific patient, prescriber, or dispenser for whom the report is to be made; and
- (d) The name, title, and original signature of the official under whose authority the request is made.

10307.5 After receiving a request for access or information in accordance with this section, the Program shall disclose to the requestor information relevant to:

- (a) A specific investigation of a specific patient, dispenser, or prescriber to an agent designated by the Chief of the Metropolitan Police Department to conduct drug diversion investigations;
- (b) An investigation or inspection of or allegation of misconduct by a specific person licensed, certified, or registered by or an applicant for licensure, certification, or registration by a health occupations board or the Department;
- (c) A disciplinary proceeding before a health occupations board or in any subsequent hearing, trial, or appeal of an action or board order to designated employees of the Department;
- (d) The proceedings of any grand jury or additional grand jury that has been properly impaneled; or
- (e) A specific investigation of a specific dispenser or prescriber to an agent of the United States Drug Enforcement Administration with authority to conduct drug diversion investigations.

10308 DISCRETIONARY DISCLOSURE OF INFORMATION

10308.1 The Director may, at the Director's discretion, disclose prescription monitoring data in the Program's possession as permitted by the Act to certain persons, provided the request is made in the format designated in § 10303 and the PDMP Instruction Manual and meets the requirements of this chapter.

- 10308.2 The Director may disclose personal dispensing information concerning a patient who is over the age of eighteen (18) years to that patient, provided the request is accompanied by a copy of a valid photo identification issued by a government agency of any jurisdiction in the United States verifying that the recipient is over the age of eighteen (18) and includes a notarized signature of the requesting party. If the patient is under the age of eighteen (18), the information may be disclosed to the parent or legal guardian of the patient, provided the disclosure is not otherwise prohibited by District or federal law.
- 10308.3 The Director may disclose information relevant to an investigation or regulatory proceeding of a specific dispenser or prescriber to other regulatory authorities concerned with granting, limiting, or denying licenses, certificates, or registrations to practice a health profession when the regulatory authority licenses the dispenser or prescriber, or the dispenser or prescriber is seeking licensure by the regulatory authority making the request, provided the request is related to an allegation of a possible controlled substance violation and is accompanied by an agency case number or other identifier sufficient to confirm an existing *bona fide* individual investigation.
- 10308.4 The Director may disclose to designated employees of the Department of Health Care Finance, or to the Medicaid Fraud Control Unit of the Office of the Inspector General, as appropriate, the following:
- (a) Information relevant to an investigation relating to a specific dispenser or prescriber who is a participating provider in the District Medicaid program, DC Health Care Alliance, or any other public health care program;
 - (b) Information relating to an investigation concerning a specific patient who is currently eligible for and receiving, or who has been eligible for and has received, medical assistance services; or
 - (c) Other information relevant to the Medicaid Fraud Control Unit of the Office of the Inspector General related to a specific prescriber, dispenser, or patient.
- 10308.5 Requests for information made pursuant to § 10308.4 of this chapter shall be made in a format designated by the Program and shall contain:
- (a) An agency case number or other identifier sufficient to identify an existing *bona fide* individual investigation;
 - (b) A specified time period to be covered in the report;
 - (c) The identification of the specific patient, prescriber, or dispenser for whom the report is to be made; and

- (d) The name, title, and original signature of the official under whose authority the request is made.
- 10308.6 The Director may disclose information relevant to the determination of the cause of death of a specific patient to the designated employees of the Office of the Chief Medical Examiner, provided that the request is made in a format designated by the Program and signed by the Chief Medical Examiner.
- 10308.7 To request prescription monitoring data from the Program pursuant to this section, authorized employees shall register with the Program.
- 10308.8 A request for registration as an authorized agent shall be accompanied by:
- (a) An attestation from the applicant's employer confirming the identity of the applicant and the applicant's eligibility to receive the reports; and
- (b) An attestation from the applicant that the prescription monitoring data will not be further disclosed and will only be used for the purposes stated in the request and in accordance with law.
- 10308.9 A registration as an authorized agent issued pursuant to this subchapter shall expire on June 30th of each even-numbered year or at any time the agent leaves, or otherwise becomes ineligible to receive information from the Program. The employer shall notify the Program, in writing, within twenty-four (24) hours when an agent leaves his or her current employment or otherwise becomes ineligible to receive information from the Program.
- 10308.10 The Director may disclose information for bona fide research or education purposes to qualified personnel in response to requests determined by the Program to be consistent with institutional review board protocols and human subjects research protections, provided that:
- (a) Data elements that would reasonably identify a specific patient, prescriber, or dispenser shall be deleted or redacted from the prescription monitoring data prior to disclosure;
- (b) The request is made in a format designated by the Program and is signed by the Chief Researcher or Principal educator. The request shall be accompanied by the requestor's credentials, and a written proposal or abstract explaining the purpose and scope of the research, analysis, education, or study plan with sufficient detail to enable the Program to determine the validity of the request and abilities of the requestor; and

- (c) The release of information to the requestor shall only be made pursuant to a signed agreement between the qualified personnel of the requestor and the Director to ensure compliance with the Act.

10308.11 With the exception of personal dispensing information provided to a patient or the parents or legal guardian of a patient, all requests for disclosure of prescription monitoring data shall be accompanied by an attestation that the prescription data will not be further disclosed and shall only be used for the purposes stated in the request and in accordance with the law.

10309 INTEROPERABILITY WITH OTHER STATE PRESCRIPTION DRUG MONITORING PROGRAMS

10309.1 Upon request, the Program may disclose prescription monitoring data to another state's prescription drug monitoring program provided that the request:

- (a) Is submitted on a form or in a manner approved by the Program;
- (b) Is under the authority of the authorized administrator of that state's program; and
- (c) Assures that prescription monitoring data will only be used or redisclosed in accordance with District law.

10309.2 The Program may develop and implement interoperability to facilitate the automated exchange of prescription monitoring data provided that a written agreement has been established with the other state's program, or third party, and provided that the information technology employed will:

- (a) Only disclose prescription monitoring data in a manner consistent with District laws and regulations; and
- (b) Operate in accordance with State and federal laws and regulations governing the security and confidentiality of protected health information and personal medical records.

10310 NOTICE OF REQUESTS FOR INFORMATION

10310.1 Any prescriber or dispenser who intends to request information from the Program about a patient or prospective patient shall provide notice to the patient that a request may be made to obtain information on all covered substances dispensed to that patient. The notice may be provided by use of a conspicuous sign in an area that will be easily viewed and read by the patient.

10310.2 In lieu of posting a sign, the prescriber or dispenser may provide notice in written material provided to the patient, or may obtain written consent from the patient.

10311 CONFIDENTIALITY

- 10311.1 All prescription monitoring data collected, maintained, or submitted pursuant to this Program is confidential, privileged, not subject to discovery, subpoena, or other means of legal compulsion in civil litigation, and is not a public record.
- 10311.2 The Program shall ensure that confidential or privileged patient information is kept confidential and that records or information protected by a privilege between a health care provider and a patient, or otherwise required by law to be held confidential, is filed in a manner that, except as otherwise provided by law or regulation, does not disclose the identity of the person protected.
- 10311.3 The Program shall periodically conduct an audit review of prescription monitoring data and disclosure requests to ensure compliance with this chapter and the Act.

10312 REQUESTS TO PROGRAM TO CORRECT PRESCRIPTION MONITORING DATA

- 10312.1 If a patient, a patient's authorized representative, or a prescriber believes that prescription monitoring data relating to the patient's or prescriber's prescription history is incorrect, the patient, authorized representative, or prescriber may notify the dispenser and request correction.
- 10312.2 Upon receiving notice from a patient, a patient's authorized representative, or prescriber that prescription monitoring data specific to a patient's prescription history or a prescriber's prescribing history is incorrect, the dispenser shall:
- (a) Correct the information, if appropriate, within seventy-two (72) hours, including reversing information for any prescription that was not dispensed, if applicable; and
 - (b) Provide a corrected prescription history report to the patient or the patient's authorized representative, if requested to do so.

10313-10315 [RESERVED]**10316 THE PDMP ADVISORY COMMITTEE**

- 10316.1 The PDMP Advisory Committee ("Committee") shall consist of seven (7) members, three (3) of which shall be *ex officio* members. The Director of the Department of Health ("Director") shall appoint the remaining four (4) members, who may be from the public or private sectors, who may serve without residency restrictions, and who shall represent multiple disciplines and stakeholders in the area of prescription drug abuse. Membership of the Committee shall be as follows:

- (a) The Director, or his or her subordinate designee, who shall serve as chairperson;
- (b) The Executive Director for the Board of Medicine or his or her subordinate designee;
- (c) The Executive Director for the Board of Pharmacy or his or her subordinate designee; and
- (d) Four (4) members who shall represent multiple disciplines and stakeholders in the area of prescription drug abuse, and include representation from the medical and pharmacy practices, the Metropolitan Police Department, and a consumer member.

10316.2 All actions of the Committee shall be taken pursuant to a vote of a majority of the members of the Committee. A majority of the appointed members shall constitute a quorum.

10316.3 The chairperson shall only vote in cases of a tie among Committee members.

10316.4 Each appointed member of the Committee shall serve at the pleasure of the Director. Public members of the Committee shall serve a maximum term of nine (9) years from the date of appointment.

10316.5 Members of the Committee shall not be compensated for time expended in performing Committee duties.

10316.6 The Committee shall convene at least two (2) times per year to advise the Director:

- (a) On the implementation and evaluation of the Program;
- (b) On the establishment of criteria for indicators of possible misuse or abuse of covered substances;
- (c) On standardization of the methodology that should be used for analysis and interpretation of prescription monitoring data;
- (d) In determining the most efficient and effective manner in which to disclose the findings to proactively inform prescribers regarding the indications of possible abuse or misuse of covered substances;
- (e) On identifying drugs of concern that demonstrate a potential for abuse and that should be monitored; and
- (f) Regarding the design and implementation of educational courses for:

- (1) Persons who are authorized to access the prescription monitoring information;
- (2) Persons who are authorized to access the prescription monitoring information, but who have violated the laws or breached professional standards involving the prescribing, dispensing, or use of any controlled substances or drugs monitored by the Program;
- (3) Prescribers on prescribing practices, pharmacology, and identifying, treating, and referring patients addicted to or abusing controlled substances or drugs monitored by the Program; and
- (4) The public about the use, diversion and abuse of, addiction to, and treatment for the addiction to controlled substances or drugs monitored by the Program.

10316.7 The Committee shall keep minutes of all its meetings.

10316.8 Pursuant to Section 2(b) of the Open Meetings Act, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-575(b)), and for the purposes set forth therein, the Committee may also meet in closed session.

10399 DEFINITIONS:

10399.1 The following terms shall have the meanings ascribed:

Act – the Prescription Drug Monitoring Program Act of 2013, effective February 22, 2014 (D.C. Law 20-66; D.C. Official Code §§ 48-853.01 *et seq.*).

Administer – the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

- (a) A practitioner (or, in the practitioner's presence, by the practitioner's authorized agent); or
- (b) The patient or research subject at the direction of and in the presence of the practitioner.

Controlled substance – a drug, substance, or immediate precursor, as set forth in Schedules I through V of Subchapter 2 of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981(D.C. Law 4-29; D.C. Official Code §§ 48-901 *et seq.*)

Covered substance – all controlled substances included in Schedules II, III, IV, and V as set forth in Subchapter 2 of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code §§ 48-901 *et seq.*), Schedules II through V of the Federal Controlled Substances Act (21 U.S.C. § 812), and any other drug as specified by rulemaking, that is required to be reported to the Program pursuant to the Act.

DEA – the United States Drug Enforcement Administration.

Department – the District of Columbia Department of Health.

Director – the Director of the District of Columbia Department of Health.

Dispense – to distribute a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

Dispenser – a practitioner who dispenses a covered substance to the ultimate user, or his or her agent, but shall not include:

- (a) A licensed hospital or institutional facility pharmacy that distributes covered substances for the purpose of inpatient hospital care or the dispensing of prescriptions for controlled substances at the time of discharge from such a facility;
- (b) A practitioner or other authorized person who administers a covered substance;
- (c) A wholesale distributor of a covered substance; or
- (d) A clinical researcher providing a covered substance to research subjects as part of a research study approved by a hospital-based institutional review board or an institutional review board accredited by the association for the accreditation of human research protections programs.

District – the District of Columbia.

Drug –

- (a) Any substance recognized as a drug, medicine, or medicinal chemical in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, or

official Veterinary Medicine Compendium or other official drug compendium or any supplement to any of them;

- (b) Any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animal;
- (c) Any chemical substance, other than food, intended to affect the structure or any function of the body of man or other animal; and
- (d) Any substance intended for use as a component of any items specified in subparagraph (a), (b), or (c) of this paragraph, but does not include medical devices or their components, parts, or accessories.

Drugs of concern – a drug that is not a controlled substance, but which is nevertheless identified by the Director or the PDMP Advisory Committee as a drug with the potential for abuse.

Health occupations board – a board that, pursuant to Section 408 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.08), licenses and regulates health professionals with the authority to prescribe or dispense covered substances.

Interoperability – with respect to a District of Columbia or state prescription drug monitoring program, the ability of that program to share electronically reported prescription information with another state, district, or territory of the United States' prescription drug monitoring program or a third party, approved by the Director, which operates interstate prescription drug monitoring exchanges.

Patient – the person or animal who is the ultimate user of a controlled substance or other drug required to be submitted under the Act for whom a lawful prescription is issued or for whom a controlled substance or such other drug is lawfully dispensed.

Practitioner –

- (a) A physician, dentist, advanced practice registered nurse, veterinarian, scientific investigator, or other person who is licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in the District of Columbia; or

- (b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of its professional practice or research in the District of Columbia.

Prescriber – a practitioner or other authorized person who prescribes a controlled substance or other covered substance in the course of his or her professional practice.

Prescription drug monitoring program – a program that collects, manages, analyzes, and provides information regarding covered substances or other drugs required under the Act or a program established by a similar act in another state, district or territory of the United States.

PDMP Advisory Committee – the multi-discipline committee established pursuant to Section 3 of the Act, which functions under the Department to advise the Director on the implementation and evaluation of the District's prescription drug monitoring program.

PDMP Instruction Manual – the manual maintained by the Director that provides detailed instructions for registering with, reporting to, and requesting information from the Program.

Program or PDMP – the prescription drug monitoring program established by the Act.

Reporting period – the twenty-four (24) hour time period immediately following the dispensing of a covered substance.

Stakeholder – a person, group, or organization that could be affected by the Program's actions, objectives, and policies.

Ultimate user – a person who lawfully possesses a controlled substance for that person's own use or for the use of a member of that person's household or for administering to an animal owned by him or her or by a member of that person's household.

Zero report – an electronic data submission reflecting no dispensing activity for a given period.

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in § 302(14) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2012 Repl.)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of the adoption of the following amendments to Chapter 75 (Massage Therapy) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

The purpose of this rulemaking is to require hands-on, massage-techniques continuing education for massage therapists and to clarify that the required first-aid and CPR certifications must be maintained and remain current throughout the licensure period.

This rulemaking was published in the *D.C. Register* as a proposed rulemaking on March 6, 2015 at 62 DCR 2778. No comments were received. In further reviewing the rule, the Board of Massage Therapy ("Board") determined that a further clarification is required with regard to the CPR certification, which should be completed in person rather than on line or through long-distance methods. Accordingly, this rulemaking was published as a second proposed rulemaking on July 24, 2015 at 62 DCR 10024. No comments were received and no changes were made.

These rules were adopted as final on September 17, 2015 and will be effective upon publication of the notice in the *D.C. Register*.

CHAPTER 75, MASSAGE THERAPY, OF TITLE 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:**Section 7506, CONTINUING EDUCATION REQUIREMENTS, is amended as follows:****Subsection 7506.4 is amended to read as follows:**

7506.4 An applicant for renewal, reactivation, or reinstatement of a license shall submit proof pursuant to § 7506.7 of having completed twelve (12) hours of approved continuing education credit during the two (2) -year period preceding the date the license expires which shall consist of the following:

- (a) Three (3) hours of professional ethics; and
- (b) Nine (9) hours of massage-related course work provided by a Board approved provider, of which six (6) hours shall be hands-on, massage-technique course(s) completed in a live classroom setting taught by an appropriate instructor.

Subsection 7506.6 is amended to read as follows:

7506.6 To qualify for reinstatement of a license to practice massage therapy, an applicant shall submit proof pursuant to § 7506.7 of having completed the following:

- (a) Twelve (12) hours of approved continuing education during the two (2)-year period preceding the date the license expired in accordance with § 7506.4;
- (b) Four and one half (4.5) hours of approved continuing education credit for each year after the expiration of the license, with at least three (3) hours of hands-on, massage-technique course(s) completed in a live classroom setting taught by an appropriate instructor; and
- (b) One and one-half (1.5) hours of professional ethics for each year after the expiration of the license.

Section 7512, CARDIAC PULMONARY RESUSCITATION AND FIRST AID REQUIREMENTS, is amended as follows:

Subsections 7512.3 and 7512.4 are added to read as follows:

7512.3 A person licensed under this chapter shall maintain, without interruption or gap, valid and effective CPR and first-aid certifications for the duration of his or her massage therapy license issued under this chapter.

7512.4 A certification of the CPR training as required in this section shall be valid only if the training was completed in a live classroom setting taught by an appropriate instructor.

Section 7599, DEFINITIONS, is amended as follows:

Subsection 7599.1 is amended by adding the following definition:

Hands-on, massage-technique course – means a course, class, workshop, or training session in which one or more massage techniques are taught or provide the basis of the instruction, and the participants or attendees have the opportunity to emulate, practice, or learn massage techniques from the instructor.

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

The Director of the D.C. Department of Human Resources, with the concurrence of the City Administrator, pursuant to Mayor's Order 2008-92, dated June 26, 2008, and in accordance with the District of Columbia Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-604.01 and 1-604.08 (2014 Repl.)) hereby gives notice of amendments to the following rules for a new Chapter 1 (Human Resources Management) in Title 6 (Personnel), Subtitle B (Government Personnel) of the District of Columbia Municipal Regulations (DCMR).

The provisions concerning Variances and appointment affidavits, which will be contained in the new chapter, were previously contained in Chapter 4 (Organization for Personnel Management) of the D.C. personnel regulations. The main purpose of these rules is to establish and add a new Chapter 1, "Human Resources Management," to Title 6-B DCMR. The chapter includes a section on the historical background of the District government's personnel management system and makes minor amendments to the provisions previously contained in Chapter 4.

No comments were received to the Notice of Proposed Rulemaking published on July 24, 2015 at 62 DCR 010048. However, non-substantive changes were made to change the word "variation" to "variance" throughout the chapter, and to correct a typographical error in § 107.4(a). These rules will become effective upon publication in the *D.C. Register*, whichever is later.

A new Chapter 1, HUMAN RESOURCES MANAGEMENT, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is added as follows:

100 BACKGROUND ON THE PERSONNEL MANAGEMENT SYSTEM

- 100.1 The personnel system for the District of Columbia government was established by the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (the "CMPA"), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-604.01 *et seq.*). A major requirement of the CMPA was the separation of the District's personnel system from the federal personnel system by January 1, 1980, except for the continued participation by District government employees in the federal Civil Service Retirement System (CSRS) and the federal health and life insurance programs for employees hired prior to October 1, 1987.
- 100.2 The CMPA is divided into "titles," and establishes the personnel management program that is applicable to individuals employed by the District government. Some of the provisions contained in the CMPA are self-implementing, others require implementing rules and regulations.
- 100.3 The Mayor has "personnel authority" over District government subordinate agencies under his or her direct administrative control, and may delegate that

personnel authority, in whole or in part, to the Director of the D.C. Department of Human Resources (formerly named the D.C. Office of Personnel).

100.4 Other District agencies have been established as “independent agencies” and have “independent personnel authority” separate and apart from the Mayor. As provided in their establishment act or otherwise prescribed by law, certain independent agencies are required to adhere to all or some portions of Title 6, Subtitle B, of the D.C. Municipal Regulations (DCMR).

101 – 103 [RESERVED]

104 VARIANCES

104.1 The Director of the D.C. Department of Human Resources (Director of the DCHR) may grant a variance from the D.C. personnel regulations issued pursuant to Section 404 of the CMPA (D.C. Official Code § 1-604.04 (2012 Repl.)), if:

- (a) There is a practical difficulty or unnecessary hardship in complying with the regulations;
- (b) The variance is within the spirit of the regulations;
- (c) The efficiency of the District government will be protected and promoted by the grant of the variance; and
- (d) The integrity of the Career, Legal, Excepted, Management Supervisory, or Executive Service, as applicable, will be protected and promoted by the grant of the variance.

104.2 Whenever a variance is granted, the Director of the DCHR shall publish on its website an issuance showing the following:

- (a) The particular practical difficulty or unnecessary hardship involved;
- (b) The variance being permitted, the difference from the requirements of the regulations, and to whom it applies;
- (c) The specific circumstances that protect or promote the efficiency of the District government and the integrity of a particular service or services; and
- (d) The steps that will be taken to limit the application of the variance only to the duration of the conditions that gave rise to it.

104.3 Like variances shall be granted whenever like conditions exist.

105 – 106 [RESERVED]

107 APPOINTMENT AFFIDAVIT

- 107.1 Each personnel authority shall designate in writing a person or persons authorized to administer the oath of office to each employee of an agency.
- 107.2 As provided in Section 408 of the CMPA (D.C. Official Code § 1-604.08 (2012 Repl.)), each employee of an agency shall swear or affirm to the following oath of office (Oath): “I, (employee’s name), do solemnly swear (or affirm) that I will faithfully execute the laws of the United States of America and of the District of Columbia, and will, to the best of my ability, preserve, protect and defend the Constitution of the United States, and will faithfully discharge the duties of the office on which I am about to enter.”
- 107.3 As part of the oath, each employee shall execute the following:
- (a) An affidavit stating: “I have not, nor has anyone acting on my behalf, given, transferred, promised, or paid any consideration for or in expectation or hope of receiving assistance in securing this appointment.”; and
 - (b) An affidavit on the “Declaration of Appointee Form,” stating: “The answers in the Declaration of Appointee are true and correct and I have read and understand the information provided on the “Declaration of Appointee Form.”
- 107.4 The appointee, on the “Declaration of Appointee Form,” shall be required to provide information concerning the following:
- (a) Application for or receipt of an annuity under any District government civilian retirement system or other compensation based upon District government service; and
 - (b) Certification of notification of the prohibition to strike pursuant to Section 1705 of the CMPA (D.C. Official Code § 1-617.05 (2012 Repl.)).
- 107.5 The provision in Subsection 107.4(a) of this section shall not be applicable to elected officials and members of boards and commissions.
- 107.6 An individual initially appointed to the District government and any individual reappointed after a break in service of one (1) or more days shall take the Oath and execute the appointment affidavit as soon as administratively practicable, but not later than thirty (30) days after the effective date of his or her appointment.
- 107.7 An individual who refuses to swear or affirm to the Oath as provided in Subsections 107.3 or 107.6 of this section shall not be appointed or shall have his or her appointment terminated.

- 107.8 The appointment of an employee may become effective before the Oath is executed although the employee has no right to continued employment until the Oath is executed. The Oath, when executed, shall refer to the date of entrance on duty so as to entitle the employee to pay from that date.
- 107.9 The following shall apply when the Oath is administered on an individual or group basis:
- (a) The person administering the Oath shall read the Oath aloud to the appointee(s);
 - (b) The appointee(s) taking the Oath shall stand, raise his or her right hand, and repeat the Oath aloud, except as provided in Subsection 107.10 of this section and with regard to any physical disability the appointee(s) may have that may necessitate reasonable accommodation;
 - (c) The appointee(s), after taking the Oath and in the presence of the person administering the Oath, shall sign the appointment affidavit; and
 - (d) The person administering the Oath, upon signature by the appointee(s) of the appointment affidavit, shall sign the appointment affidavit.
- 107.10 When a group of appointees is taking the Oath, the person administering the Oath may ask the appointees to swear or affirm to the Oath by saying “yes” after the oath is read aloud to them.
- 107.11 The Oath should be administered, if practicable, before the flags of the United States and District of Columbia.
- 107.12 The appointment affidavit shall be filed as a permanent record in each employee’s official personnel folder and a copy filed with the employing agency.
- 107.13 An individual who is retroactively restored to duty without a break in service shall not be required to again swear or affirm to the oath of office or execute a new appointment affidavit.
- 108 AMENDMENT TO PROVISIONS CONTAINED IN CHAPTER 4, ORGANIZATION FOR PERSONNEL MANAGEMENT**
- 108.1 Chapter 4 of these regulations will be amended and the provisions on variances and appointment affidavits, currently contained in that chapter, will be repealed.
- 108.2 Upon adoption and publication in the *D.C. Register* of the amended provisions for Chapter 4 under a Notice of Final Rulemaking, the provisions of this chapter shall govern as the policies on variances and appointment affidavits.

DEFINITIONS

The following definitions apply to this chapter:

Appointment affidavit – a document signed by an employee of an agency in which he or she swears or affirms to faithfully execute the laws of the United States of America and of the District of Columbia.

Agency – a unit of the District of Columbia government, excluding the courts, required by law, by the Mayor of the District of Columbia, or by the Council of the District of Columbia to administer any law, rule, or regulation adopted under authority of law. The term “agency” shall also include any unit of the District of Columbia government created by the reorganization of one (1) or more units of an agency and any unit of the District of Columbia government created or organized by the Council of the District of Columbia as an agency.

Days – calendar days, unless otherwise indicated.

D.C. Municipal Regulations (DCMR) – a compilation of all rules and regulations for the District government which are subject to the D.C. Administrative Procedure Act.

Employee – an individual who performs a function for the District government and who receives compensation for the performance of such service.

Independent agency – a board, commission, or agency of the District of Columbia government that is not subject to the administrative control of the Mayor (D.C. Official Code § 1-604.01(13)).

Personnel authority – an individual or entity with the authority to administer all or part of a personnel management program as provided in Title IV of the CMPA (D.C. Official Code § 1-603.01(17)).

Subordinate agency – an agency under the direct administrative control of the Mayor, including, but not limited to, agencies as provided in D.C. Official Code § 1-603.01(17) (2012 Repl.).

Variance – a temporary change in the D.C. personnel regulations issued pursuant to Section 404 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-604.04 (2012 Repl.)), when there are practical difficulties and unnecessary hardships in complying with the regulations.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority under Section 18a(a) of An Act to establish standard weights and measures for the District of Columbia, to define the duties of the Superintendent of Weights, Measures, and Markets of the District of Columbia, and for other purposes, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 37-201.18a(a) (2012 Repl. & 2015 Supp.)), and Reorganization Plan No. 1 of 1983, effective March 31, 1983, hereby gives notice of the intent to adopt, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, a new Chapter 17 (Octane Fuel Measurements), and amendments to Chapter 33 (Department of Consumer & Regulatory Affairs (DCRA) Infractions) of Title 16 (Consumers, Commercial Practices, and Civil Infractions) of the District of Columbia Municipal Regulations (DCMR).

The proposed rulemaking establishes standards for inspections of fuel stations and collection and measurement of motor fuel for purposes of determining octane levels.

A new Chapter 17, OCTANE FUEL MEASUREMENTS, is added to Title 16 DCMR, CONSUMERS, COMMERCIAL PRACTICES, AND CIVIL INFRACTIONS, to read as follows:

CHAPTER 17 OCTANE FUEL MEASUREMENTS

1700 MINIMUM OCTANE LEVELS

1700.1 Octane levels where automotive fuel is offered for sale or use shall meet the following minimum standards:

- (a) Automotive fuel advertised at an octane rating of 87 shall measure at an octane level of 86.5 or higher;
- (b) Automotive fuel advertised at an octane rating of 89 shall measure at an octane level of 88.5 or higher;
- (c) Automotive fuel advertised at an octane rating of 93 shall measure at an octane level of 92.5 or higher;
- (d) Automotive fuel advertised at an octane rating of 94 shall measure at an octane level of 93.5 or higher.

1701 SEMI-ANNUAL INSPECTION OF OCTANE LEVELS

1701.1 DCRA shall inspect and test, at least once every six (6) months, the octane level of gasoline at every location where automotive fuel is offered for sale or use in the District of Columbia.

1701.2 DCRA shall test each octane level of gasoline at the location.

1702 FUEL SAMPLE TEST

1702.1 The DCRA inspector performing an octane level test shall have the following equipment to obtain a fuel sample:

- (a) Neoprene gloves;
- (b) A facial mask;
- (c) A liter-size cylindrical aluminum container with a self-locking cap;
- (d) A portable octane analyzer;
- (e) A portable octane analyzer sample holder jar or equivalent device;
- (f) Safety cones;
- (g) A metal gasoline container; and
- (h) A metal funnel.

1702.2 The DCRA inspector shall take the following steps for each octane rating test:

- (a) Confirm that the DCRA Weights and Measure Certificate is conspicuously posted;
- (b) Obtain the condensation level and existing quantity of gasoline from the Veeder-Root tank gauge or equivalent measurement device prior to testing;
- (c) Place safety cones around the gasoline dispenser to block off the work area;
- (d) Write the advertised octane rating of the gasoline, found on the gasoline dispenser, on the liter-size cylindrical aluminum container;
- (e) Fill the liter-size cylindrical aluminum container with gasoline from the gasoline dispenser to be tested;
- (f) Transfer the gasoline to the portable octane analyzer sample-holder jar;
- (g) Tare the portable octane analyzer or equivalent device;
- (h) Place the portable octane analyzer sample-holder jar in the portable octane analyzer or equivalent device for measurement;

- (i) Measure the octane level of the gasoline sample and retain the results from the portable octane analyzer or equivalent device; and
- (j) Return the extracted gasoline that was not used for testing to the proper underground tank.

1702.3 In cases where there is a blended service station dispenser, the DCRA inspector shall extract one (1) gallon of the gasoline of the octane rating to be tested and shall store that gallon in the metal gas container before filling the liter-size cylindrical aluminum container for testing. This process shall be repeated for each octane grade.

1702.4 The DCRA inspector shall return the gasoline to the underground tank after testing.

1703 SECOND FUEL-SAMPLE TEST

1703.1 If the octane rating measures within the 0.5 tolerance set forth in § 1700.1, the gasoline shall be deemed to have passed the octane rating test and the DCRA inspector shall continue to inspect the remaining octane ratings at the fueling station.

1703.2 If the measured octane rating of a tested gasoline is below the 0.5 tolerance set forth in § 1700.1, the DCRA inspector shall perform a second fuel-sample test by taking the following steps:

- (a) Take a sample of the gasoline from the underground storage tank;
- (b) Fill the liter-size cylindrical aluminum container with the desired gasoline to be tested;
- (c) Transfer the gasoline to be tested to the portable octane analyzer sample holder jar;
- (d) Place the portable octane analyzer sample holder jar in the portable octane analyzer or equivalent device for measurement;
- (e) Measure the octane level of the gasoline sample using the portable octane analyzer or equivalent device;
- (f) Determine whether the octane level is below the 0.5 tolerance set forth in § 1700.1;
- (g) Retain the results from the portable octane analyzer; and
- (h) Send the sample from the underground storage tank to the Motor Fuel Testing Lab of the Comptroller of Maryland or another testing lab

authorized by the Director, as described in § 1704, if the octane level is below the 0.5 tolerance set forth in § 1700.1.

1704 ANALYSIS OF FUEL SAMPLE BY A THIRD PARTY

1704.1 Only the second sample from the underground storage tank that measures below the 0.5 tolerance shall be sent to the Motor Fuel Testing Lab of the Comptroller of Maryland or another testing lab authorized by the Director within twenty-four (24) hours of collection.

1704.2 If the Motor Fuel Testing Lab of the Comptroller of Maryland or other testing lab authorized by the Director confirms that gasoline sample from the underground storage tank measures below the 0.5 tolerance of the automotive fuel advertised, the DCRA inspector shall return to the location where the sample was retrieved within twenty-four (24) hours or the next business day and repeat the procedure set forth in § 1702 to re-determine whether the gasoline measures below the 0.5 tolerance set forth in § 1700.1.

1704.3 If the test performed pursuant to § 1702 re-confirms that the gasoline measures below the 0.5 tolerance of the automotive fuel advertised, the DCRA inspector shall condemn the service station dispenser nozzle where the fuel was retrieved.

1705 CONDEMNATION OF A DISPENSING SYSTEM, STORAGE TANK, OR OTHER DISPENSING DEVICE

1705.1 To condemn a service station dispenser nozzle as required by § 1704.3, the DCRA inspector shall affix a condemnation tag and/or boot to the service station dispenser and place a wire seal over the service station dispenser nozzle. The condemnation tag and/or boot shall state that it is unlawful to remove, break, mutilate, or destroy any notice, seal, or order issued by DCRA.

1705.2 If the gasoline which failed the octane rating test is dispensed from a blended service station dispenser, the entire blended service station dispenser shall be condemned and no gasoline shall be dispensed from that blended service station dispenser.

1705.3 The condemnation tag and/or boot shall not be removed by a DCRA inspector until the DCRA inspector has re-inspected the service station dispenser and determined it to be in compliance.

1705.4 No person other than a DCRA inspector shall remove, break, mutilate, or destroy the condemnation tag and/or boot.

1706 RECORDKEEPING

1706.1 For each condemnation, DCRA shall maintain a record consisting of:

- (a) A description of the device the DCRA inspector used to retrieve the gasoline sample from the service station dispenser;
- (b) The fuel sample test from § 1702, second fuel-sample test from § 1703, Comptroller test from § 1704 and re-test results from § 1704.2;
- (c) The name and address of the owner; and
- (d) The date of inspection(s).

1706.2 DCRA shall retain the record for three (3) years after the date of condemnation.

1707 FUEL COLOR CODE CHARTS

1707.1 Each gasoline station shall have a color-coded chart that clearly identifies which color represents each octane rating. The colors used shall comply with the then-current version of American Petroleum Institute (API) Recommended Practice 1637, "Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Service Stations and Distribution Terminals."

1707.2 The color-coded chart shall be conspicuously posted in or upon the premises so that it may be readily seen by the DCRA inspector, DCRA investigator, or person(s) delivering fuel without requiring the person(s) to enter the premises (*i.e.* posted so that the chart can be viewed from the exterior of the kiosk or store).

1707.3 The fill pipe and/or access cover for each underground fuel-storage tank shall be painted to match the appropriate octane rating color from the color-coded chart.

1708 FUEL LABELING

1708.1 Gasoline labels shall comply with 16 C.F.R. § 306.12, "Automotive Fuel Ratings, Certification and Posting-Labels."

1799 DEFINITIONS

Blended service station dispenser - a pump that has a single nozzle that dispenses more than one (1) octane rating.

Motor fuel testing lab - a lab that analyzes incoming petroleum products for their quality and to ensure that samples of various grades of motor fuels comply with state and/or federal Environmental Protection Agency guidelines.

Portable Octane Analyzer - a portable octane analyzer, for use with gasoline, which measures the octane number via near-infrared transmission spectroscopy. It consists of three primary components: the analyzer, a sample container and a light shield. (*i.e.*, ZX-101XL Octane analyzer or similar device.)

Service station dispenser- a pump that draws gasoline from underground storage tanks.

Tolerance - a value fixing the limit of allowable error or departure from true performance or value.

Chapter 33, DEPARTMENT OF CONSUMER & REGULATORY AFFAIRS (DCRA) INFRACTIONS, is amended as follows:

Section 3303, DCRA OFFICE OF INVESTIGATION - WEIGHTS AND MEASURES INFRACTIONS, is amended as follows:

Subsection 3303.1 is amended to read as follows:

3303.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) Chapter 118, Section 32a of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, effective December 7, 2004 (D.C. Law 15-205; D.C. Official Code § 37-201.33) (operating a weighing or measuring device without payment of the registration and inspection fee);
- (b) Chapter 118, Section 3, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, approved March 3, 1921 (41 Stat. 1218; D.C. Official Code § 37-201.03(a)) (use of any weighing device that has not been inspected and approved);
- (c) Chapter 118, Section 4, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, approved March 3, 1921 (41 Stat. 1218; D.C. Official Code § 37-201.04) (use of any weighing device that has been altered without inspection and approval or after altering any tag or label attached thereto without the permission of the Director);
- (d) Chapter 118, Section 5, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, approved March 3, 1921 (41 Stat. 1218; D.C. Official Code § 37-201.05) (obstruction of inspection);
- (e) Chapter 118, Section 20 of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the

Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, approved March 3, 1921 (41 Stat. 1223; D.C. Official Code § 37-201.20) (use of a pump or similar device which does not measure correctly);

- (f) Chapter 118, Section 22, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, approved March 3, 1921 (41 Stat. 1224; D.C. Official Code § 37-201.22) (refusing inspection);
- (g) Chapter 118, Section 18a of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, approved March 3, 1921 (41 Stat. 1223; D.C. Official Code § 37-201.18a-1) (sale of nonconforming automotive fuel or use of nonconforming service dispensing system, storage tank or other dispensing device).

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

OFFICE OF CONTRACTING AND PROCUREMENT**NOTICE OF PROPOSED RULEMAKING**

The Chief Procurement Officer (CPO) of the District of Columbia, pursuant to the authority set forth in Sections 204 and 1106 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code §§ 2-352.04 and 2-361.06 (2012 Repl.)) (Act), hereby gives notice of the intent to adopt a final rulemaking to add a new Chapter 29 (Special Pilot Project Procurements) to Title 27 (Contracts and Procurement) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking provides procedures to implement Section 408 of the Act to consider proposals to satisfy a new or unique District requirement or obtain a new technology.

The CPO gives notice of intent to take final rulemaking action in not less than thirty (30) days from the date of publication in the *D.C. Register*.

A new Chapter 29, SPECIAL PILOT PROJECT PROCUREMENTS, of Title 27 DCMR, CONTRACTS AND PROCUREMENT, is added to read as follows:

CHAPTER 29 SPECIAL PILOT PROJECT PROCUREMENTS**2900 PRELIMINARY PREPARATIONS**

- 2900.1 Special pilot projects (SPPs) may be proposed for goods, services, or construction.
- 2900.2 SPPs may be initiated by an unsolicited proposal or by an agency on its own initiative.
- 2900.3 An agency may engage in preliminary discussions with a prospective contractor to explore the feasibility of an SPP. Such discussions are not negotiations for award.
- 2900.4 A summary of any prior discussions shall be disclosed to the contracting officer prior to final negotiations.
- 2900.5 All negotiations for contract award shall be conducted by the contracting officer.
- 2900.6 An SPP shall be made with as much competition as practicable.
- 2900.7 Prior to award of a contract for an SPP, the Director shall prepare a determination and findings that shall include:
- (a) The reasons warranting an SPP procurement and the selection of the proposed contractor;

- (b) A statement that the product, approach, or technology cannot be reasonably acquired through a competitive solicitation, if applicable, and the potential advantages to the District for using this method of source selection;
- (c) A statement that testing or experimentation is advisable to evaluate a new and unique District requirement or new technology;
- (d) A statement that the term of the contract is reasonable to test and evaluate the product, approach, or technology for the SPP;
- (e) A statement that the District intends to competitively acquire the product, approach, or technology if, after testing and evaluation, a decision is reached to continue its use within the District; and
- (f) A statement that the proposed price is fair and reasonable.

2901 CONTRACT AWARD

- 2901.1 The contracting officer shall post the determination and findings with the notice of award on the Internet within seven (7) days of award.
- 2901.2 The term of a contract for an SPP shall not exceed one (1) year, unless otherwise approved by the Director.
- 2901.3 At the conclusion of the contract term, the using agency shall assess whether to acquire the product, approach, or technology under the provisions of another chapter in this title, or to discontinue the use of the product, approach, or technology.

2999 DEFINITIONS

- 2999.1 When used in this chapter, the following terms have the meanings ascribed:

Special pilot project – a short-term, carefully planned, pilot exercise designed to test and evaluate the feasibility of a new and unique District requirement or to obtain a new technology.

Director – the Director of the Office of Contracting and Procurement or the District of Columbia Chief Procurement Officer.

All persons desiring to comment on the subject matter of this proposed rulemaking should submit comments to the Chief Procurement Officer, 441 4th Street, 700 South, Washington, D.C. 20001. Comments may be sent by email to OCPRulemaking@dc.gov, by postal mail or hand delivery to the address above. Comments must be received no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. A copy of this proposed rulemaking may be requested at the same address, or e-mail as above, or by calling (202) 727-0252.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

The State Superintendent of Education, pursuant to the authority set forth in Section 3(b)(7) and (11) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code §§ 38-2602(b)(7) and (11) (2012 Repl. & 2015 Supp.)); Section 403 of the Public Education Reform Amendment Act of 2007 (PERAA), effective June 12, 2007 (D.C. Law 17-9, D.C. Official Code § 38-2652(a)(3) (2012 Repl. & 2015 Supp.)); with the advice and approval to be requested of the State Board of Education (SBOE) pursuant to Section 403(a)(3) of PERAA (D.C. Law 17-9; D.C. Official Code § 38-2652(a)(3) (2012 Repl. & 2015 Supp.)), hereby gives notice of her intent to adopt, in not less than thirty (30) days after the publication of this notice in the *D.C. Register*, to add a new Chapter 22 (Graduation) to Title 5 (Education), Subtitle A (Office of the State Superintendent of Education), of the District of Columbia Municipal Regulations (DCMR).

The Office of the State Superintendent of Education (OSSE), pursuant to D.C. Official Code § 38-2602(b)(7) (2012 Repl. & 2015 Supp.), is responsible for establishing the minimum credits that must be achieved in order to graduate from any public and public charter school, with the advice and approval of the SBOE, pursuant to D.C. Official Code §§ 38-2652(a)(3) and (4) (2012 Repl. & 2015 Supp.). In developing the regulations, OSSE and SBOE engaged in an extensive period of public engagement and solicitation of public comments. The proposed rules will establish a state diploma that will be provided to the District's nontraditional student residents such as adult students and students attending alternative schools who have passed the General Educational Development (GED[®]) test or completed the requirements of the National External Diploma Program (NEDP).

Add a new Chapter 22, GRADUATION, to Title 5-A DCMR, OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION, as follows:

Add a new Section 2201, STATE DIPLOMA, to read as follows:

2201 STATE DIPLOMA

2201.1 A resident who has successfully passed 2014 Series General Educational Development (GED[®]) test in compliance with Title 5-E DCMR §§ 2320 *et seq.*, (General Educational Development (GED[®]) Testing), or successfully completed the requirements of the National External Diploma Program (NEDP), shall be eligible for a state diploma from the Office of the State Superintendent of Education.

2201.2 The diploma of a resident eligible under § 2201.1 shall bear the signature of the State Superintendent of Education and the seal of the Office of the State Superintendent of Education.

- 2201.3 A diploma granted pursuant to § 2201.1 shall be recognized as equivalent to a high school diploma granted pursuant to Title 5-E DCMR § 2203 (Graduation: Academic Requirements).
- 2201.4 Pursuant to the regulatory requirements of the United States Department of Education (34 C.F.R. § 200.19), a state diploma provided for passing the GED[®] test or successfully completing the NEDP shall not be included in the District's calculation of the adjusted cohort graduation rate.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register* via email addressed to: ossecomments.proposedregulations@dc.gov; or by mail or hand delivery to the Office of the State Superintendent of Education, Attn: Jamai Deuberry re: State Education Agency Diploma, 810 First Street, NE 9th Floor, Washington, DC 20002. Additional copies of this rule are available from the above address and on the Office of the State Superintendent of Education website at www.osse.dc.gov.

**DEPARTMENT OF MOTOR VEHICLES
DISTRICT DEPARTMENT OF TRANSPORTATION**

NOTICE OF PROPOSED RULEMAKING

The Directors of the Department of Motor Vehicles and the District Department of Transportation 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 5, 6, and 7 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.04, 50-921.05, and 50-921.06 (2014 Repl.)); Sections 6, 7, and 13 of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code §§ 50-2201.03, 50-1401.01 and 50-1403.01 (2014 Repl.)); Sections 105 and 107 of the District of Columbia Traffic Adjudication Act of 1978, effective September 12, 1978 (D.C. Law. 2-104; D.C. Official Code §§ 50-2301.05 and 2301.07 (2014 Repl.)); and Mayor's Order 77-127, dated August 3, 1977, hereby gives notice of the intent to adopt amendments to Chapter 3 (Cancellation, Suspension, or Revocation of Licenses), Chapter 7 (Motor Vehicle Equipment), Chapter 22 (Moving Violations), Chapter 26 (Civil Fines for Moving and Non-Moving Infractions), and Chapter 99 (Definitions) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (DCMR).

To help achieve the goal by the year 2024 of zero fatalities and serious injuries to travelers of the District's transportation system, and to create a safer transportation infrastructure in the District of Columbia through more effective use of data, education, enforcement, and engineering, these proposed rules amend Title 18 of the District of Columbia Municipal Regulations to establish side underride guards safety requirements for certain motor vehicles, to require motor vehicle operators to clear damaged but operational vehicles from the travel lanes, to require motor vehicle operators to move a lane over or slow down when approaching a first responder at the side of the road, to require motor vehicle operators to yield to buses merging into traffic, and to designate certain streets as neighborhood slow zones with a maximum speed limit of 20 miles per hour.

This rulemaking shall be submitted to the Council of the District of Columbia for a forty-five (45) day review period, excluding Saturdays, Sundays, legal holidays, and days of Council recess. Pursuant to D.C. Official Code § 50-2301.05 (2012 Repl.), the rulemaking shall be deemed approved if the Council does not approve or disapprove the proposed rules by resolution within this forty-five (45) day review period.

Final rulemaking action may be taken thirty (30) days after the date of publication of this notice in the *D.C. Register*, or the completion of the forty-five (45) day Council review period for these rules, whichever is later.

The following rulemaking action is proposed:

Chapter 3, CANCELLATION, SUSPENSION, OR REVOCATION OF LICENSES, of Title 18 DCMR, VEHICLE AND TRAFFIC, is amended as follows:

Section 302, SUSPENSION AND REVOCATION FOR TRAFFIC OFFENSES, is amended as follows:

Subsection 303.2 is amended by adding new paragraphs (ff), (gg) and (hh), to read as follows:

- (ff) Failing to move over or proceed with due caution when an authorized emergency vehicle is stopped on the side of the road. 6 points.
- (gg) Failure to proceed with due caution when approaching an incident in the roadway. 3 points
- (hh) Overtaking another vehicle stopped at a crosswalk or intersection for a pedestrian. 3 points.

Chapter 7, MOTOR VEHICLE EQUIPMENT, is amended by adding a new Section 758, SIDE GUARDS, to read as follows:

758 SIDE GUARDS

- 758.1 Commercial motor vehicles registered in the District with a manufacturer's gross vehicle weight rating exceeding 10,000 pounds shall install and maintain a side guard no later than eighteen months after the enactment of the Vision Zero Act of 2015.
- 758.2 Failure to install and maintain a side guard shall result in issuance of an inspection rejection sticker.

Chapter 22, MOVING VIOLATIONS, is amended as follows:

Section 2200, SPEED RESTRICTIONS, is amended as follows:

Subsection 2200.8 is amended to read as follows:

- 2200.8 On all streets adjacent to school buildings and grounds, the maximum lawful speed shall be fifteen miles per hour (15 mph) at the times indicated on official signs. When no times are indicated on official signs, the maximum lawful speed shall be fifteen miles per hour (15 mph) at all times.

Subsection 2200.9 is amended to read as follows:

- 2200.9 On streets adjacent to a playground, recreational facility, pool, athletic field, or senior center designated by official signs, the maximum lawful speed shall be fifteen miles per hour (15 mph) at the times indicated on official signs. When no

times are indicated on official signs, the maximum lawful speed shall be fifteen miles per hour (15 mph) at all times.

Subsection 2200.12 is amended to read as follows:

2200.12 Any individual who shall drive a vehicle on a street or highway at a speed greater than thirty (30) miles per hour in excess of the legal speed limit for such street or highway shall, upon conviction, be fined not more than the amount set forth in the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or imprisoned not more than ninety (90) days, or both.

Section 2207, RIGHT-OF-WAY: BETWEEN INTERSECTIONS, is amended by adding a new Subsection 2207.5 to read as follows:

2207.5 Motor vehicle operators in the same lane of traffic and behind a transit bus shall yield the right-of-way to the transit bus if the driver of the transit bus, after stopping to allow passengers to board or exit, is signaling an intention to enter a traffic lane. This section does not relieve a driver of a transit bus from the duty to drive with due regard for the safety of all persons using the roadway.

Section 2210, EMERGENCY VEHICLES AND APPARATUS, is amended by adding new Subsections 2210.6 through 2210.8 to read as follows:

2210.6 Upon approaching a stationary authorized emergency vehicle making use of audible or visual signals meeting the requirements of this title, or of a police vehicle properly and lawfully making use of audible or visual signals, an operator who drives an approaching vehicle shall:

- (a) proceed with due caution, yield right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle, safely and if traffic conditions permit and if on a roadway having at least four (4) lanes proceeding in the same direction as the authorized emergency vehicle; or
- (b) proceed with due caution, maintaining a safe speed for road conditions if changing lanes would be unsafe or would reduce traffic flow.

2210.7 When in or approaching an incident, every driver shall slow down to a speed that is ten (10) miles per hour less than the posted speed if changing lanes is not possible or unsafe under prevailing road, weather, or traffic conditions. When in or approaching an incident area, every driver shall obey the directions of any authorized official directing traffic and all applicable traffic control devices.

2210.8 Except for emergency vehicles in the incident area, when in or approaching an incident area every driver shall reduce speed, yield to other oncoming vehicles and vacate any lane wholly or partially blocked.

A new Section 2225, AVOIDANCE OF LANE BLOCKAGE – EXPEDITED REMOVAL OF VEHICLES, is added to read as follows:

2225 AVOIDANCE OF LANE BLOCKAGE – EXPEDITED REMOVAL OF VEHICLES

2225.1 No person shall stop or park a vehicle in such manner as to impede or render dangerous the use of the roadway by others, except to avoid collision, at the direction of an authorized official, or in the case of a crash or mechanical breakdown.

2225.2 In the event of a crash or mechanical breakdown, the emergency flashing lights of such vehicle shall be activated if the vehicle is equipped with such lights and such lights are in working order. Operators involved in property damage-only crashes shall move vehicles from the travel way to exchange insurance information.

2225.3 If a vehicle stopped in the roadway is movable and its operator is capable of moving it, the operator shall immediately move the vehicle to the shoulder or to a designated area off the highway.

2225.4 In the event the operator of the vehicle is unable to move the vehicle, any other licensed occupant of the vehicle is authorized to move the vehicle.

2225.5 Moving the vehicle by the driver or another licensed occupant of the vehicle does not constitute that the accident is not to be reported to the police for investigation and reporting purposes. Operators that are involved in typical minor incidents are to move the vehicles from the travel lanes, exchange information, and report the crash information as required by District laws. If a vehicle cannot be moved by the operator or another licensed occupant, a police officer at the scene may take action to move the vehicle from the travel way.

2225.6 A police officer responding to an incident may move a vehicle remaining on the roadway, or require the operator or other person in charge of the vehicle to move it to the shoulder or a designated area off the roadway. A police officer may order the removal of any vehicle remaining on the highway at the owner's expense.

2225.7 Once the vehicle is moved, the vehicle's location shall be reported to the nearest Metropolitan Police Department station as soon as practical.

2225.8 Any government official or authorized private company or their personnel cannot be held liable when incident clearance functions are exercised with reasonable care at the direction of the police officer at the scene.

Chapter 26, CIVIL FINES FOR MOVING AND NON-MOVING INFRACTIONS, is amended as follows:

Section 2600, CIVIL FINES FOR MOTOR VEHICLE MOVING INFRACTIONS, is amended as follows:

- (a) The following infraction and fine are added after the category “School Bus, Passing stopped bus or multi-purpose school vehicle when light flashing or stop signal arm activated” and its associated infractions and fines:

Side guard, Failure to have or maintain [§ 758.1]		\$100
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- (b) Under the header “Speeding”, strike the row:

The infraction for speeding over 25 mph in excess of limit [§ 2200]		\$300
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and insert the following row in its place:

The infraction for speeding over 25 mph in excess of limit [§ 2200]		\$1000
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- (c) Under the header “Stop Sign”, strike the row:

Passing [§ 2208.3]		\$50
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and insert the following row in its place:

Passing [§ 2208.3]		\$100
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- (d) Under the header “Speeding”, the following infractions and fines are added after the fine “Unreasonable”:

School Zones [§ 2200.8]		\$100
Playground, recreational facility, pool, athletic field, or senior center (§ 2200.9)		\$100

- (e) Under the header “Colliding”, strike the row:

With a person operating a bicycle [§ 2200.4]		\$50
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and insert the following row in its place:

With a person operating a bicycle [§ 2200.4]		\$500
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- (f) Under the header “Right-of-way”, the following infraction and fine are added after the fine “Failure to yield right-of-way to a person operating a bicycle”:

Failure to yield right-of-way to transit bus [§ 2207.5]		\$500
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- (g) Under the header “Lane or Course”, the following infractions and fines are added after the fine “Improper use of Restricted”:

Failure to yield right-of-way to transit bus [§ 2207.5]		\$500
Failure to yield right of way and proceed with due caution around a stationary authorized emergency vehicle [§ 2210.6]		\$500
Failure to proceed with caution and reduced speed when approaching an incident [§ 2210.7]		\$500
Failure to proceed with caution through an incident area [§ 2210.8]		\$500
Failure to clear a vehicle from a lane [§ 2225]		\$500

- (h) Under the header “Right Turn on Red”, strike the rows:

Failure to come to a complete stop before turning [§ 2103.7]		\$50
Failure to yield right-of-way to vehicle or pedestrian [§ 2103.7]		\$50
Violation of “No Turn on Red” sign [§ 4013]		\$50

and insert the following rows in its place:

Failure to come to a complete stop before turning [§ 2103.7]		\$200
Failure to yield right-of-way to vehicle or pedestrian [§ 2103.7]		\$200
Violation of “No Turn on Red” sign [§ 4013]		\$200

- (i) Under the header “Right-of-way”, strike the row:

Overtaking another vehicle stopped at a crosswalk or intersection for a pedestrian [§ 2221.5]		\$250
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and insert the following row in its place:

Overtaking another vehicle stopped at a crosswalk or intersection for a pedestrian [§ 2221.5]		\$500
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- (j) Strike the row labeled:

Stopping, standing, or parking a vehicle in a bicycle lane [§ 2405.1]		\$65
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and insert the following row in its place:

Stopping, standing, or parking a commercial vehicle 22 feet or greater in length in a bicycle lane [§ 2405.1]		\$300
Stopping, standing, or parking a non-commercial vehicle and commercial vehicles less than 22 feet in length in a bicycle lane [§ 2405.1]		\$200

(k) Strike the row labeled:

Median strip, channelizing island or safety zone (raised with curb), driving on or over [§ 2201.8]		\$100
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and insert the following row in its place:

Median strip, channelizing island or safety zone (raised with curb), driving on or over [§ 2201.8]		\$500
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(l) Under the header “Sidewalk”, strike the row:

Driving on or over [§ 2221.3]		\$50
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and insert the following row in its place:

Driving on or over [§ 2221.3]		\$200
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(m) Strike the row labeled:

Opening door or permitting door to open on traffic side [§ 2214.4]		\$25
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and insert the following row in its place:

Opening door or permitting door to open on traffic side [§ 2214.4]		\$100
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Chapter 99, DEFINITIONS is amended as follows:

Section 9901, DEFINITIONS, is amended by inserting the following new definitions in alphabetical order:

Incident- means a roadway emergency, a natural disaster, or a special event.

Incident area- means an area of highway where authorized officials impose a temporary traffic control zone in response to an incident.

Side guard- means a device fit to the side of a large vehicle designed to prevent pedestrians and bicyclists from falling into the exposed space between the front axle and the rear axle of such vehicles. Side guards: shall allow for a maximum 13.8 inch ground clearance, maximum 13.8 inch top clearance up to four (4) feet in height, and a minimum four hundred and forty (440) pound impact strength; must achieve a smooth and continuous longitudinal (forward to backward) impact surface flush with the vehicle sidewall; may include rail style guards, provided that such rails be no less than four (4) inches tall and no more than 11.8 inches apart; and may incorporate other vehicle features such as tool boxes and ladders.

Transit Bus- means a Washington Metropolitan Area Transit Authority bus, D.C. Circulator Bus, or a bus used for government purposes.

All persons interested in commenting on the subject matter in this proposed rulemaking may file comments in writing, not later than thirty (30) days after the publication of this notice in the *D.C. Register*, with Samuel D. Zimbabwe, Associate Director, District Department of Transportation, 55 M Street, S.E., 5th Floor, Washington, D.C. 20003 and David Glasser, General Counsel, D.C. Department of Motor Vehicles, 95 M Street, S.W., Suite 300, Washington, D.C. 20024. An interested person may also send comments electronically to publicspace.policy@dc.gov. Copies of this proposed rulemaking are available, at cost, by writing to the above address, and are also available electronically, at no cost, on the District Department of Transportation's website at www.ddot.dc.gov.

DISTRICT DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

The Director of the District Department of Transportation (DDOT), pursuant to the authority set forth in Sections 5(3)(A) (providing for a safe transportation system), 6(b) (transferring to the Department the traffic management function previously delegated to the Department of Public Works (DPW) under Section III (H) of Reorganization Plan No. 4 of 1983), and 7 (making Director of DDOT the successor to transportation related authority delegated to the Director of DPW) of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.04(a)(3)(A)(2014 Repl. & 2015 Supp.), 50-921.05(b) (2014 Repl.) and 50-921.06 (2014 Repl.)), and Mayor's Order 77-127, dated August 3, 1977, hereby gives notice of the intent to amend Chapter 22 (Moving Violations) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (DCMR).

The proposed rulemaking will allow U-turns at signalized intersections where allowed by authorized signs.

Final rulemaking action shall not be taken in less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Chapter 22, MOVING VIOLATIONS, Title 18 DCMR, VEHICLES AND TRAFFIC, is amended as follows:

Section 2203, TURNING AT INTERSECTIONS, is amended as follows:

Subsection 2203.1 is amended by striking the phrase, “buttons, markers, or signs” and inserting the phrase, “signs, signals or markings” in its place.

Subsection 2203.2 is amended by striking the phrase, “buttons, markers, or signs” and inserting the phrase, “signs, signals or markings” in its place.

Section 2204, TURNING REQUIREMENTS AND RESTRICTIONS, is amended as follows:

Subsection 2204.7 is amended to read as follows:

2204.7 No vehicle shall make a U-turn so as to proceed in the opposite direction at any intersection controlled by traffic lights or police officer, or on a crosswalk adjacent to such an intersection, provided that U-turns are allowed at intersections as specified in Subsection 2203.2 of this chapter.

Any person interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty (30) days after publication of this notice in the

D.C. Register, with Alice Kelly, Office of Policy and Governmental Affairs, District Department of Transportation, 55 M Street, SE, 5th Floor, Washington, DC 20003. Comments may also be sent electronically to Policy.DDOT@dc.gov. Additional copies of this proposal are available, at cost, by writing to the above address, and are available electronically, at no cost, on the Department's website at www.ddot.dc.gov.

DISTRICT OF COLUMBIA TAXICAB COMMISSION**NOTICE OF THIRD EMERGENCY RULEMAKING**

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8(c) (1), (2), (3), (4), (7), (10), (11), (14), (16), (18), (19) and (20), 14, 15, and 20j of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986, as amended by the Vehicle-for-Hire Innovation Amendment Act of 2014 (“Vehicle-for-Hire Act”), effective March 10, 2015 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c)(1),(2),(3), (4) (7), (10), (11), (14), (16), (18), (19) and (20), 50-313, 50-314, and 50-329 (2012 Repl. & 2014 Supp.)), hereby gives notice of its intent to adopt amendments to Chapter 2 (Panel on Rates and Rules: Rules of Organization and Rules of Procedure for Ratemaking), Chapter 4 (Taxicab Payment Service Providers), 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 11 (Public Vehicles For Hire Consumer Service Fund), Chapter 12 (Luxury Services - Owners, Operators, and Vehicles), Chapter 14 (Operation of Black Cars), Chapter 16 (Dispatch Services and District of Columbia Taxicab Industry Co-op) and Chapter 99 (Definitions) and add a new Chapter 19 (Private Vehicle-for-Hire), of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This third emergency rulemaking amends Chapters 2, 4, 6, 7, 8, 9, 10, 11, 12, 14, 16, and 99, and add a new Chapter 19, in order to conform Title 31 of the DCMR to the provisions of the Vehicle-for-Hire Act. The second emergency rulemaking is required to: (1) prevent provisions of Title 31 from being rendered null and void due to a conflict with the provisions of the Vehicle-for-Hire Act; (2) create a consistent legal framework for the operation of the District’s vehicle-for-hire industry; (3) maintain uniform treatment of stakeholders between classes of service, where relevant; (4) minimize legal exposure to the District; (5) create rules and procedures necessary for the Office of Taxicabs (“Office”) to implement and comply with the Vehicle-for-Hire Act; and (6) create rules and procedures for District enforcement officials to enforce the Vehicle-for-Hire Act. No provision in this emergency rulemaking is intended to exceed or alter any person’s legal obligations under the Establishment Act, as amended by the Vehicle-for-Hire Act.

This third emergency rulemaking shall be effective beginning on October 14, 2015, the intent of the Commission being to extend without interruption the second emergency rulemaking adopted by the Commission on July 10, 2015, which took effect immediately and remained in effect for one hundred and twenty (120) days after the date of adoption, expiring on November 5, 2015. The first emergency rulemaking was combined with a notice of proposed rulemaking which was published in the *D.C. Register* on August 14, 2015 at 62 DCR 011313. The second emergency rulemaking was published in the *D.C. Register* on August 21, 2015 at 62 DCR 011603. This third emergency rulemaking was adopted October 14, 2015 and shall remain in effect for one hundred and twenty (120) days after the date of adoption (expiring February 11, 2016), unless earlier superseded by an amendment or repeal by the Commission, or by the publication of final rulemaking, whichever occurs first.

Chapter 2, PANEL ON RATES AND RULES: RULES OF ORGANIZATION AND RULES OF PROCEDURE FOR RATEMAKING, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is repealed and reserved.

Chapter 4, TAXICAB PAYMENT SERVICE PROVIDERS, is amended as follows:

Section 410, ENFORCEMENT, is amended as follows:

Subsection 410.1 is amended to read as follows:

410.1 The enforcement of this chapter shall be governed by Chapter 7.

Subsection 410.2 is repealed and reserved.

Chapter 6, TAXICAB PARTS AND EQUIPMENT, is amended to read as follows:

Subsection 600.4 is repealed and reserved.

Section 610, NOTICE OF PASSENGER RIGHTS, is amended as follows:

Subsection 610.1 is amended to read as follows:

610.1 There shall be displayed in a conspicuous location in each taxicab in clear view of the passenger a notice in a form created by Office which contains the following information:

- (a) A statement that a taxicab must accept credit cards through the approved taximeter system;
- (b) A statement that a taxicab shall not operate without a functioning taximeter system;
- (c) A statement that failure to accept a credit card is in violation of the law and is punishable by a fine; and
- (d) Information required for passengers to submit an alleged violation or complaint, including the Commission’s telephone number and website address.

Subsection 610.2 is repealed.

Section 611 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 § 825 or in an applicable provision of this chapter, provided, however, that where a specific civil fine or penalty is not listed in § 825 or in this chapter, the fine shall be:
 - (1) One hundred dollars (\$100);
 - (2) Two hundred fifty dollars (\$250) where a fare is charged to any person based on information entered by the operator into any device other than as required for an authorized additional charge under § 801.7 (b); and
 - (3) Double for the second violation of the same provision and triple for each violation of the same provision thereafter, in all instances where a civil fine may be imposed;
- (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 in Chapter 4.

Section 612, PENALTIES, is amended to read as follows:

612 ENFORCEMENT

612.1 The enforcement of this chapter shall be governed by Chapter 7.

Chapter 7, ENFORCEMENT, is amended to read as follows:

Section 700, APPLICATION AND SCOPE, is amended to read as follows:

700.1 This chapter is intended by the Commission to establish fair and consistent procedural rules for enforcement of and compliance with this title.

- 700.2 This chapter applies to all persons regulated by this title.
- 700.3 The provisions of this chapter shall be interpreted to comply with the language and intent of the Establishment Act, as amended by Vehicle-for-Hire Act, and of the Impoundment Act.
- 700.4 No provision of this chapter requiring a delegation of authority from the Mayor shall apply in the absence of such authority.
- 700.5 In the event of a conflict between a provision of this chapter and a provision of another chapter of this title, including a penalty provision, the provision of this chapter shall control.
- 700.6 The provisions of this chapter shall apply to all matters and contested cases pending on the date of final publication of this chapter to the extent allowed by the Administrative Procedures Act and other applicable law.

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 non-compliance; 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 established as follows:
- (a) Each individual who fails to timely and fully comply with a compliance order shall be subject to a civil of five hundred dollars (\$500), which shall double for the second violation, and triple for the third and subsequent violations.
 - (b) Each entity that fails to timely and fully comply with a compliance order shall be subject to a civil fine of one thousand dollars (\$1,000), which shall double for the second violation, and triple for the third and subsequent violations.
- 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 703, ENFORCEMENT ACTIONS, is amended as follows:

Subsections 703.7 and 703.8 are amended to read as follows:

- 703.7 In addition to any other enforcement action authorized by this title or other applicable law, where a private sedan business certifies an intentionally false or misleading statement on a form required by this title or other applicable law, the Office may refer the matter for civil and/or criminal investigation by an appropriate agency of the District or federal government.

703.8 The circumstances giving rise to a respondent’s suspension may be considered by the Office in any determination of whether to issue or renew a license to the respondent.

A new Subsection 703.9 is added to read as follows:

703.9 Each impoundment of a vehicle shall be conducted in compliance with the Impoundment Act.

Section 704, NOTICES OF INFRACTION, is amended as follows:

Subsection 704.1 is amended to read as follows:

704.1 The Office or a District enforcement official (including a vehicle inspection officer) may issue an NOI, imposing a civil fine or other civil penalty, whenever the Office or the District enforcement official has reasonable grounds to believe the respondent is in violation of a provision of this title or other applicable law.

Chapter 8, OPERATION OF PUBLIC VEHICLES FOR HIRE, is amended as follows:

The title of Chapter 8 is amended to read as follows:

Chapter 8 OPERATING RULES FOR PUBLIC VEHICLES-FOR-HIRE

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

800.1 This chapter shall apply to every person that provides a public vehicle-for-hire service subject to licensing or regulation by the Commission.

800.2 The provisions of this chapter shall be interpreted to comply with the language and intent of the Establishment Act.

Subsections 800.3 and 800.4 are repealed.

Section 819, CONSUMER SERVICE AND PASSENGER RELATIONS, is amended as follows:

A new Subsection 819.10 is added to read as follows:

819.10 Once a trip has been accepted by a public vehicle-for-hire operator through a digital dispatch service, the public vehicle-for-hire operator shall not fail to pick up the passenger or to complete the trip after the passenger has been picked up. A violation of this subsection shall be treated as a refusal to haul pursuant to § 818.2 or 819.5. In addition, a violation of § 818.2 may be reported to the D.C. Office of Human Rights.

Section 823, MANIFEST RECORD, is amended as follows:

A new Subsection 823.7 is added to read as follows:

823.7 A trip manifest maintained in an electronic format by an operator who connects with a passenger through digital dispatch may include a phrase “as directed” or similar phrase in lieu of including a passenger’s trip destination; provided, that the destination is included upon completion of the trip.

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

Subsection 825.2 is amended as follows:

Conduct

Unlawful activities as outlined in § 816	\$500
Threatening, harassing, or abusive conduct or attempted threatening, harassing, or abusive conduct as outlined in § 817	\$750
Violation of any affirmative obligation or prohibition outlined in Chapter 5 of this title	\$500 Impoundment of the vehicle, license suspension, revocation, or non-renewal, or a combination of the sanctions listed in § 817

Passenger Safety and Service

Loading or unloading in crosswalk	\$50
Overloading	\$50
Asking destination/violation of § 819.9	\$50
Refusal to haul/discrimination/violation of § 818/819.4	\$750
Illegal shared ride	\$250

Chapter 9, INSURANCE REQUIREMENTS, is amended as follows:

The title of Chapter 9, INSURANCE REQUIREMENTS, is amended to read as follows:

Chapter 9 INSURANCE REQUIREMENTS FOR PUBLIC VEHICLES FOR HIRE

The title of Section 900, APPLICATION AND SCOPE OF INSURANCE REQUIREMENTS, is amended to read as follows:

900 APPLICATION AND SCOPE

Chapter 10, PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 1000, GENERAL REQUIREMENTS, is amended as follows:

Subsections 1000.1 and 1000.2 are amended to read as follows:

1000.1 No individual shall operate a public vehicle-for-hire in the District unless such individual has a valid DCTC operator’s license (face card), the vehicle has a valid DCTC vehicle license, and the operator and vehicle are in compliance with all applicable provisions of this title and other applicable laws.

1000.2 Notwithstanding the provisions of § 1000.1, a valid DCTC operator’s license (face card) and valid DCTC vehicle license shall not be required where the operator is in strict compliance with the applicable provisions of § 828 (reciprocity regulations).

Section 1001, ELIGIBILITY FOR HACKER’S LICENSE, is amended as follows:

Subsection 1001.9 is amended to read as follows:

1001.9 The Chairperson shall not issue nor renew a license under this chapter to a person who has not, immediately preceding the date of application for a license, been a bona fide resident for at least one (1) year of the Multi-State Area (“MSA”), and has not had at least one (1) year’s driving experience as a licensed vehicle operator within the MSA during such one (1) year period.

Section 1003, HEALTH REQUIREMENTS, is amended as follows:

Subsection 1003.1 is amended to read as follows:

1003.1 Each application (including a renewal application) shall be accompanied by a certificate from a licensed physician who is a resident of the MSA, certifying that, in, the opinion of that physician, the applicant does not have a physical or mental disability or disease which might make him or her an unsafe driver of a public vehicle-for-hire.

Subsection 1003.7 is amended to read as follows:

1003.7 An operator's license shall not be issued or renewed under this chapter for an individual who has a mental disability or disease that would negatively impact his or her ability to meet the requirements of this chapter with respect to the operation of a public vehicle-for-hire, unless he or she provides a certificate from a licensed physician who is a resident of the MSA certifying that, in the opinion of that physician, the person's mental disability or disease, as may be currently treated, does not negatively impact his or her ability to meet the requirements of this chapter with respect to the operation of a taxicab. If the person's mental disability or disease, or his or her treatment, substantially changes during the period of licensure, he or she shall provide a re-certification from a physician who is a resident of the MSA or shall immediately surrender his or her license to the Commission.

Section 1004, INVESTIGATION AND EXAMINATION OF APPLICANTS, is amended as follows:

Subsection 1004.3 is amended to read as follows:

1004.3 The examination shall test the following subject areas:

- (a) General familiarity with the MSA, including history and geography;
- (b) Monuments, landmarks, and other places of interest;
- (c) Customer service for interaction with passengers and the general public;
- (d) Business and accounting practices;
- (e) Cultural sensitivity;
- (f) Disability accommodation and non-discrimination requirements;
- (g) Familiarity with applicable provisions of this title, Title 18 of the DCMR (Vehicles and Traffic), and other applicable laws; and
- (h) Such other topics as the Office may identify in an administrative issuance.

Section 1005, ISSUANCE OF LICENSES, is amended as follows:

Subsection 1005.5 is amended to read as follows:

1005.5 A person to whom an operator's license has been issued shall continue to reside within the MSA during the term of the license and shall, no later than five (5)

days after the termination of the residence within the MSA, surrender the license to the Office.

Section 1013, ENFORCEMENT OF THIS CHAPTER, is repealed and reserved.

Chapter 11, PUBLIC VEHICLES FOR HIRE CONSUMER SERVICE FUND, is amended as follows:

Section 1100, PURPOSE, is amended as follows:

Subsection 1100.1 is amended to read as follows:

1100.1 The purpose of this chapter is to establish procedural and substantive rules governing assessment and collection of all funds to be deposited into the Public Vehicle-for-hire Consumer Service Fund as authorized by Section 20a of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-320 (2014 Repl.)), and the Vehicle-for-hire Act of 2014.

Subsection 1100.2 is amended to read as follows:

1100.2 Consumer Service Fund shall consist of:

- (a) All funds collected from a passenger surcharge on taxicab trips;
- (b) All funds collected by the Commission from the issuance and renewal of a public vehicle-for-hire license pursuant to D.C. Official Code § 47-2829 (2012 Repl. & 2014 Supp.), including such funds held in miscellaneous trust funds by the Commission and the Office of the People's Counsel prior to June 23, 1987, pursuant to D.C. Official Code § 34-912(a) (2012 Repl. & 2014 Supp.);
- (c) All funds collected by the Commission from the Department of Motor Vehicles through the Out-Of-State Vehicle Registration Special Fund, pursuant to Section 3a of the District of Columbia Revenue Act of 1937, effective March 26, 2008 (D.C. Law 17-130; D.C. Official Code § 50-1501.03a (2014 Repl.));
- (d) All taxicab operator and passenger vehicle-for-hire operator assessment fund fees collected by the Commission pursuant to Subsections (c) and (d) of Section 20a of the Act; and
- (e) All funds collected by the Office of the Chief Financial Officer from the quarterly payments of a digital dispatch service pursuant to § 1604.7.

Section 1103, PASSENGER SURCHARGE, is amended as follows:

Subsection 1103.1 is amended to read as follows:

1103.1 Each trip provided by taxicab licensed by the Office, shall be assessed a twenty-five cent (\$0.25) per trip passenger surcharge.

Chapter 12, LUXURY SERVICES – OWNERS, OPERATORS, AND VEHICLES, is amended as follows:

The title of Chapter 12 is amended to read as follows:

Chapter 12 LUXURY CLASS SERVICES – OWNERS, OPERATORS, AND VEHICLES

Section 1201, GENERAL REQUIREMENTS, is amended as follows:

Subsection 1201.3 is amended to read as follows:

1201.3 Operator requirements. An individual shall be authorized to provide luxury class services if he or she:

- (a) Has a valid and current driver's license issued by the District of Columbia, the State of Maryland, or the Commonwealth of Virginia;
- (b) Has a valid and current DCTC operator's license authorizing the person to provide luxury class service under § 1209; and
- (c) Is in compliance with Chapter 9 (Insurance Requirements) of this title.

Subsection 1201.5 is amended to read as follows:

1201.5 Operating requirements. Luxury class service shall not be provided unless, from the time each trip is booked, through the conclusion of the trip, all of the following requirements are met:

- (a) The operator is in compliance with § 1201.3;
- (b) The vehicle is in compliance with § 1201.4;
- (c) The owner is in compliance with § 1202.1;
- (d) The operator is maintaining with the Office current contact information, including his or her full legal name, residence address, cellular telephone number, and, if associated with an LCS organization, contact information

for such organization or for the owner for which the operator drives;

- (e) The operator informs the Office of any change in the information required by subsection (d) within five (5) business days through U.S. Mail with delivery confirmation, by hand delivery, or in such other manner as the Office may establish in an Office issuance;
- (f) The operator is maintaining in the vehicle a manifest that:
 - (1) Is either:
 - (A) In writing, compiled by the operator not later than the end of each shift using documents stored safely and securely in the vehicle; or
 - (B) In electronic format, compiled automatically and in real time throughout each shift;
 - (2) Is in a reasonable, legible, and reliable format that safely and securely maintains the information;
 - (3) Reflects all trips made by the vehicle during the current shift;
 - (4) Includes:
 - (A) The date, the time of pick up;
 - (B) The address or location of the pickup;
 - (C) The final destination, which may be phrased “as directed” for electronic manifest maintained in accordance with Chapter 16; and
 - (D) The time of discharge; and
 - (5) For manifest maintained in a non-electronic format, does not include terms such as “as directed” in lieu of any information required by this paragraph in accordance with § 1201.8; and
 - (6) Is kept in the vehicle readily available for immediate inspection by a District enforcement official (including a public vehicle enforcement inspector (hack inspector)).
- (g) Where limousine service is provided, the trip is booked by contract reservation based on an hourly rate;

- (h) Where black car service is provided, the trip is conducted in accordance with the operating requirements of Chapter 14 of this title;
- (i) The trip is not booked in response to a street hail solicited or accepted by the operator or by any other person acting on the operator’s behalf; and
- (j) There is no individual present in the vehicle who is not the operator or a passenger for whom a trip is booked or payment is made.

A new Subsection 1201.8 is added to read as follows:

1201.8 A trip manifest maintained in an electronic format by an operator who connects with a passenger through digital dispatch may include a phrase “as directed” or similar phrase in lieu of including a passenger’s trip destination; provided, that the destination is included upon completion of the trip.

Section 1204, LICENSING OF LCS VEHICLES, is amended as follows:

Subsection 1204.4 is amended to read as follows:

1204.4 The DMV or any District enforcement official may inspect the vehicle to determine whether it meets the definitions of “black car”, “limousine”, or both, as set forth in § 9901.1, consistent with the applicant’s stated intentions for the use of vehicle.

Section 1212, ENFORCEMENT OF THIS CHAPTER, is amended as follows:

Subsections 1212.2 through 1212.10 are repealed.

Chapter 14, OPERATION OF BLACK CARS, is amended as follows:

Section 1400, APPLICATION AND SCOPE, is amended to read as follows:

- 1400.1 This chapter establishes regulations for the businesses, operators, and vehicles which participate in providing black car service.
- 1400.2 Additional provisions applicable to the operators and vehicles which participate in providing black car service appear in Chapter 12.
- 1400.3 Additional provisions applicable to the digital dispatch services which participate in providing black car service appear in Chapter 16.

- 1400.4 The provisions of this chapter shall be interpreted to comply with the language and intent of the Establishment Act, as amended by Vehicle-for-Hire Act, and by the Impoundment Act.
- 1400.5 No provision of this chapter requiring a delegation of authority from the Mayor shall apply in the absence of such authority.
- 1400.6 In the event of a conflict between a provision of this chapter and a provision of another chapter of this title, the more restrictive provision shall control.

Section 1402, OPERATING REQUIREMENTS, is amended as follows:

Subsection 1402.6 is amended to read as follows:

- 1402.6 The fare for black car service, if any, shall:
- (a) Be based on time and distance rates as set by the DDS except for a set fare for a route approved by the Office order for a well-traveled route, including a trip to an airport or to an event;
 - (b) Be consistent with the DDS' statement of its fare calculation method posted on its website pursuant to Chapter 16;
 - (c) Be disclosed to the passenger in a statement of the DDS' fare calculation method in accordance with Chapter 16;
 - (d) Be used to calculate an estimated fare, if any, and disclosed to the Passenger prior to the acceptance of service;
 - (e) State whether demand pricing applies and, if so, the effect of such pricing on the estimate; and
 - (f) Not include a gratuity that does not meet the definition of a "gratuity" as defined in this title.

Section 1404, PENALTIES, is amended as follows:

Subsection 1404.2 (f) and (g) are amended to read as follows:

- (f) For a violation of § 1403.3 by soliciting or accepting a street hail: a civil fine of seven hundred fifty dollars (\$750);
- (g) For a violation of § 1403.3 by engaging in false dispatch: a civil fine of one thousand dollars (\$1,000);

Chapter 16, DISPATCH SERVICES AND DISTRICT OF COLUMBIA TAXICAB INDUSTRY CO-OP, is amended as follows:

Section 1600, APPLICATION AND SCOPE, is amended to read as follows:

- 1600.1 This chapter establishes regulations for the businesses, operators, and vehicles which participate in providing dispatch services, and establishes the District of Columbia Taxicab Industry Co-op.
- 1600.2 Additional provisions applicable to the businesses, owners, operators, and vehicles which participate in providing taxicab service appear in Chapters 4-11.
- 1600.3 Additional provisions applicable to the businesses, owners, operators, and vehicles which participate in providing black car service appear in Chapters 12 and 14.
- 1600.4 The provisions of this chapter shall be interpreted to comply with the language and intent of the Establishment Act, as amended by Vehicle-for-Hire Act, and by the Impoundment Act.
- 1600.5 The definitions in Chapter 99 shall apply to all terms used in this chapter.
- 1600.6 The phrase “company that uses digital dispatch for public vehicle-for-hire service”, as used in the Establishment Act, as amended by the Vehicle-for-Hire Act, shall include only a digital dispatch service, as defined in Chapter 99, and shall not include any other person regulated by this title in connection with the provision of a public vehicle-for-hire service, such as a taxicab company.
- 1600.7 In the event of a conflict between a provision of this chapter and a provision of another chapter of this title, the more restrictive provision shall control.

Section 1601, GENERAL REQUIREMENTS, is amended as follows:

Subsections 1601.3 and 1601.4 are amended to read as follows:

- 1601.3 No person regulated by this title shall be associated with, integrate with, or conduct a transaction in cooperation with, a dispatch service that is not in compliance with this chapter.
- 1601.4 No telephone dispatch service shall participate in providing a vehicle for hire service in the District unless it is operated by a taxicab company with current operating authority under Chapter 5.

Section 1602, RELATED SERVICES, is amended as follows:

Subsection 1602.2 is repealed.

Section 1603, OPERATING REQUIREMENTS FOR ALL DISPATCH SERVICES, is amended to read as follows:

1603 TELEPHONE DISPATCH SERVICES – OPERATING REQUIREMENTS

1603.1 Each telephone dispatch service shall operate in compliance with this title and other applicable laws.

1603.2 Each telephone dispatch service shall be licensed to do business in the District of Columbia.

1603.3 Each gratuity charged by a telephone dispatch service shall comply with the definition of “gratuity”.

1603.4 Each telephone dispatch service shall comply with the requirements for passenger rates and charges set forth in § 801.

1603.5 Each telephone dispatch service shall provide a passenger seeking wheelchair service with such service, when available, and if not available through the telephone dispatch service, shall make reasonable efforts to assist the passenger in locating available wheelchair service through another source within the District.

1603.6 Where a telephone dispatch service shares a request for wheelchair service with another person, the passenger’s destination shall not be provided.

1603.7 Each telephone dispatch service shall maintain a customer service telephone number for passengers with a “202” prefix or a toll-free area code, posted on its website, which is answered or replied to promptly during normal business hours.

1603.8 Each telephone dispatch service shall maintain a website with current information that includes:

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

Vehicle-for-hire services in Washington, DC are
 regulated by the DC Taxicab Commission
 2235 Shannon Place, S.E., Suite 3001
 Washington, D.C. 20020-7024
 www.dctaxi.dc.gov
 dctc3@dc.gov 1-855-484-4966 TTY: 711
015092

and;

(e) A link to § 801 allowing passengers to view applicable rates and charges.

1603.9 Each telephone dispatch service shall comply with §§ 508 through 513, to the same extent as if it were a taxicab company.

1603.10 Each telephone dispatch service shall provide its service throughout the District.

1603.11 Each telephone dispatch service shall perform the service agreed to with a passenger in a dispatch, including picking up the passenger at the agreed time and location, except for a bona fide reason not prohibited by § 819.5 or other applicable provision of this title.

1603.12 Protection of certain information relating to passenger privacy and safety.

(a) A telephone dispatch service shall not:

(1) Release information to any person that would result in a violation of the personal privacy of a passenger or that would threaten the safety of a passenger or an operator; or

(2) Permit access to real-time information about the location, apparent gender, or number of passengers awaiting pick up by a person not authorized by the telephone dispatch service to receive such information. Where a telephone dispatch service shares a request for wheelchair service with another person pursuant to § 1603.5, the passenger's destination shall not be provided.

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

1603.13 A telephone dispatch service shall not transmit to the operator any information about the destination of a trip, except for the jurisdiction of the destination, until the trip has been booked. Where a telephone dispatch service shares a request for wheelchair service with another person pursuant to § 1603.5, the passenger's destination shall not be provided.

- 1603.14 Each telephone dispatch service shall store its business records in compliance with industry best practices and all applicable laws, make its business records related to compliance with its legal obligations under this title available for inspection and copying as directed by the Office, and retain its business records for five (5) years.
- 1603.15 Each telephone dispatch service shall comply with all applicable provisions of this title and other laws regulating origins and destinations of trips, including all reciprocal agreements between governmental bodies in the Washington Metropolitan Area governing public vehicle-for-hire service such as those in § 828.
- 1603.16 A telephone dispatch service shall not transmit to the operator any information about the destination of a trip, except for the jurisdiction of the destination, until the trip has been booked.
- 1603.17 Each telephone dispatch service shall store its business records in compliance with industry best practices and all applicable laws, make its business records related to compliance with its legal obligations under this title available for inspection and copying as directed by the Office, and retain its business records for five (5) years.
- 1603.18 Each telephone dispatch service shall comply with all applicable provisions of this title and other laws regulating origins and destinations of trips, including all reciprocal agreements between governmental bodies in the Washington Metropolitan Area governing public vehicle-for-hire service such as those in § 828.

Section 1604, REGISTRATION, is amended to read as follows:

1604 DIGITAL DISPATCH SERVICES – OPERATING REQUIREMENTS

- 1604.1 Each digital dispatch service shall operate in compliance with this title and other applicable laws.
- 1604.2 Each digital dispatch service shall calculate fares and, where applicable, provide receipts to passengers, as provided in: Chapter 8 for taxicabs, Chapter 14 for black cars, and Chapter 19 for private sedans.
- 1604.3 Each digital dispatch service shall submit proof that the company maintains a website containing information on its:
 - (a) Method of fare calculation
 - (b) Rates and fees charged, and

- (c) Customer service telephone number or email address
- 1604.4 If a digital dispatch service charges a fare other than a metered taxicab rate, the company shall, prior to booking, disclose to the passenger:
 - (a) The fare calculation method;
 - (b) The applicable rates being charged; and
 - (c) The option to receive an estimated fare.
- 1604.5 Each digital dispatch service shall review any complaint involving a fare that exceeds the estimated fare by twenty (20) percent or twenty-five (25) dollars, whichever is less.
- 1604.6 Each digital dispatch service shall provide its service throughout the District.
- 1604.7 Every three (3) months, each digital dispatch service shall separately transmit to the Office of the Chief Financial Officer (OCFO), for deposit into the Consumer Service Fund in accordance with Chapter 11 of the Title, each of the following amounts:
 - (a) For trips by taxicab: the per trip taxicab passenger surcharge; and
 - (b) For trips by black cars and private sedans: one (1) percent of all gross receipts.
- 1604.8 An authorized representative of each digital dispatch service shall certify in writing under oath, using a form provided by the Office, that each amount transmitted to OCFO pursuant to § 1604.7 meets the requirements of § 1604.7, accompanied by documentation of the digital dispatch service's choosing which reasonably supports the amount of the deposit. Each certification and supporting documentation shall be provided to OCFO.
- 1604.9 Not later than January 1, 2016, each digital dispatch service shall ensure that its website and mobile applications are accessible to the blind and visually impaired, and the deaf and hard of hearing.
- 1604.10 Each digital dispatch service shall train its associated operators in the proper and safe handling of mobility devices and equipment, and how to treat individuals with disabilities in a respectful and courteous manner. Completion of training acceptable to qualify an individual for an AVID operator's license issued by the Office shall satisfy this training requirement.

- 1604.11 Each digital dispatch service shall:
 - (a) Use technology that meets or exceeds current industry standards for the security and privacy of all payment and other information provided by a passenger, or made available to the digital dispatch service as a result of the passenger’s use of the digital dispatch service;
 - (b) Promptly inform the Office of a security breach requiring a report under the Consumer Personal Information Security Breach Notification Act of 2006, effective March 8, 2007 (D.C. Law 16-237, D.C. Official Code §§ 28-3851, *et seq.*), or other applicable law;
 - (c) Not release information to any person that would result in a violation of the personal privacy of a passenger or that would threaten the safety of a passenger or an operator; and
 - (d) Not permit access to real-time information about the location, apparent gender, or number of passengers awaiting pick up by a person not authorized to receive such information. Where a digital dispatch service shares a request for service with another person for the purpose of providing wheelchair service to a passenger, the passenger’s destination shall not be provided.

1604.12 Subsection 1604.11 shall not limit access to information by the Office.

1604.13 During a state of emergency declared by the Mayor, a digital dispatch service which engages in surge pricing shall limit the multiplier by which its base fare is multiplied to the next highest multiple below the three highest multiples set on different days in the sixty (60) days preceding the declaration of a state of emergency for the same type of service in the Washington Metropolitan Area.

1604.14 Each digital dispatch service shall comply with § 828.

Section 1605, PROHIBITIONS, is repealed.

A new Section 1605, DIGITAL DISPATCH SERVICES – REGISTRATION, is added to read as follows.

1605 DIGITAL DISPATCH SERVICES - REGISTRATION

1605.1 No digital dispatch service shall operate in the District unless it is registered with the Office as provided in this section.

1605.2 Each digital dispatch service operating in the District on the effective date of the Vehicle-for-Hire Act of 2014 shall register with the Office within five (5)

business days of the effective date of this chapter, and all other digital dispatch services shall register with the Office prior to commencing operations in the District.

1605.3 Where a digital dispatch service provides digital dispatch for an associated or affiliated private sedan business, the digital dispatch service and its associated or affiliated private sedan business shall contemporaneously apply for registration under this chapter and Chapter 19, respectively.

1605.4 Each digital dispatch service shall register by completing an application form made available by the Office, which shall include information and documentation:

- (a) Demonstrating that the digital dispatch service is licensed to do business in the District;
- (b) Demonstrating that the digital dispatch service maintains a registered agent in the District;
- (c) Demonstrating that the digital dispatch service maintains a website that complies with § 1604.3;
- (d) Describing in writing the digital dispatch service's app, with accompanying screenshots, to allow District enforcement officers to understand the functionality of the app, and to verify during a traffic stop:
 - (1) If the vehicle is a public vehicle-for-hire: that the operator and the vehicle are associated with the digital dispatch service;
 - (2) If the vehicle is a private sedan: that the operator and the vehicle are registered with the digital dispatch service's associated or affiliated private sedan business and not under suspension; and
 - (3) The time and location of the most recent request for service.
- (e) A certification that the digital dispatch service is in compliance with the operating requirements of § 1604.

1605.5 Each registration application form filed under § 1605.3 shall be executed under oath by an individual with authority to complete the filing and shall be accompanied by a filing fee of five hundred dollars (\$500).

1605.6 The Office shall complete its review of a registration application form within fifteen (15) business days of filing. Each applicant shall cooperate with the Office to supplement or correct any information needed to complete the review. The

Office may deny registration where it appears the private sedan business will not be operating in compliance with this title and other applicable laws.

- 1605.7 Each registration under this section shall be effective for twenty four (24) months.
- 1605.8 Each registered digital dispatch service shall renew its registration at least fourteen (14) days prior to its expiration as provided in § 1605.6.
- 1605.9 Each registered digital dispatch service shall promptly inform the Office of any of the following occurrences in connection with its most recent registration:
- (a) A change in the operation of its app which affects how a District enforcement official uses the app during a traffic stop to determine that the operator and vehicle are in compliance with this title and other applicable laws;
 - (b) A change in contact information; and
 - (c) A materially incorrect, incomplete, or misleading statement.

Section 1606, ENFORCEMENT, is repealed.

A new Section 1606, PROHIBITIONS, is added to read as follows.

1606 PROHIBITIONS

- 1606.1 No person shall violate an applicable provision of this chapter.
- 1606.2 No dispatch service shall provide dispatch for a person subject to regulation under this title which the dispatch service knows or has been informed by the Office is not in compliance with this title and other applicable laws.
- 1606.3 No dispatch service shall attempt through any means to contradict or evade the requirements of this title or other applicable laws.
- 1606.4 No dispatch service shall impose additional or special charges for an individual with a disability for providing services to accommodate the individual or require the individual to be accompanied by an attendant.
- 1606.5 No fee charged by a dispatch service in addition to a taximeter fare shall be processed by a payment service provider (PSP), or displayed on or paid using any component of an MTS unit, except for a telephone dispatch fee under § 801, or where a digital dispatch service and the PSP have integrated pursuant to Chapter 4.

1606.6 Each digital dispatch service shall ensure that a private sedan operator cannot log in to the digital dispatch service's app while the operator is suspended or after the operator has been terminated by the private sedan business.

Section 1607, PENALTIES, is repealed.

A new Section 1607, ENFORCEMENT, is added to read as follows:

1607 ENFORCEMENT

1607.1 The provisions of this Chapter shall be enforced pursuant to Chapter 7.

A new Section 1608, PENALTIES, is added to read as follows:

1608 PENALTIES

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

- (a) A civil fine established by a provision of this chapter;
- (c) Enforcement action other than a civil fine, as provided in Chapter 7; or
- (d) A combination of the sanctions enumerated in parts (a) and (b).

1608.2 Except where otherwise specified in this title, the following civil fines are established for violations of this chapter by a dispatch service, which shall double for the second violation of the same provision, and triple for the third and subsequent violations of the same provision thereafter:

- (a) A civil fine of one thousand dollars (\$1,000) where no civil fine is enumerated;
- (b) A civil fine not to exceed twenty five thousand dollars (\$25,000) per day or portion thereof, based on the circumstances, for a violation of § 1604.7 by a digital dispatch service for failure to timely transmit to OCFO any amount required to be transmitted under that subsection, provided however, that a penalty shall not be assessed under both this section and § 1907.4(x) where a digital dispatch service and a private sedan business are not separate legal entities;
- (c) A civil fine of two thousand five hundred dollars (\$2,500) per day or portion thereof for a violation of § 1604.8 by a digital dispatch service for failure to timely provide a required certification for an amount required to be transmitted to OCFO; and

- (d) A civil fine of two thousand five hundred dollars (\$2,500) for a violation of § 1604.8 by a digital dispatch service for failure to ensure that a private sedan operator suspended or terminated by a private sedan business is unable to log in to the digital dispatch service's app.

A new Chapter 19, PRIVATE VEHICLES-FOR-HIRE, is added to read as follows:

1900 APPLICATION AND SCOPE

- 1900.1 This chapter establishes regulations for the businesses, operators, and vehicles which participate in providing private vehicle-for-hire service.
- 1900.2 The provisions of this chapter shall be interpreted to comply with the language and intent of the Establishment Act, as amended by Vehicle-for-Hire Act, and of the Impoundment Act.
- 1900.3 The definitions in Chapter 99 shall apply to all terms used in this chapter. The phrase "company that uses digital dispatch for public vehicle-for-hire service", as used in the Establishment Act, as amended by the Vehicle-for-Hire Act, shall include only a digital dispatch service, as defined in Chapter 99, and shall not include any other person regulated by this title in connection with the provision of a public vehicle-for-hire service, such as a taxicab company or association.
- 1900.4 In the event of a conflict between a provision of this chapter and a provision of another chapter of this title, the more restrictive provision shall control.

1901 GENERAL PROVISIONS

- 1901.1 Each private sedan business shall be registered under this chapter.
- 1901.2 Each digital dispatch service associated or affiliated with a private sedan business shall be registered with the Office under Chapter 16.
- 1901.3 Nothing in this chapter shall be construed as soliciting or creating a contractual relationship, agency relationship, or employer-employee relationship between the District and any other person.
- 1901.4 The District shall have no liability for the negligent, reckless, illegal, or otherwise wrongful conduct of any individual or entity which provides private sedan service.

1902 PRIVATE SEDAN BUSINESSES - REGISTRATION

- 1902.1 Each private sedan business operating in the District shall be registered with the Office as provided in this section.

- 1902.2 Each private sedan business operating in the District on the effective date of the Vehicle-for-Hire Act of 2014 shall register with the Office within five (5) business days of the effective date of this chapter, and all other private sedan businesses shall register with the Office prior to commencing operations in the District.
- 1902.3 Each private sedan business and its associated or affiliated digital dispatch service shall contemporaneously apply for registration under this chapter and Chapter 16.
- 1902.4 Each private sedan business shall apply for registration by providing a certification on a form made available by the Office, which shall include the following information and documentation:
- (a) Proof that the private sedan business is licensed to do business in the District;
 - (b) Proof that the private sedan business maintains a registered agent in the District;
 - (c) Proof that the private sedan business maintains a website that includes the information required by § 1903.3;
 - (d) Proof that the private sedan business has established a trade dress required by § 1903.8, including an illustration or photograph of the trade dress;
 - (e) Identification of the private sedan business's associated or affiliated digital dispatch service;
 - (f) Proof that the private sedan business or its associated private sedan operators are in compliance with the insurance requirements of § 1905, including a complete copy of the policy(ies), the accord form(s), all endorsements, the declarations page(s), and all terms and conditions; and
 - (g) Contact information for one or more designated individuals with whom the Office shall be able to communicate at all times for purposes of enforcement and compliance under this title and other applicable laws, including cellphone number(s) and an email address which shall be dedicated exclusively to the purposes of this paragraph.
- 1902.5 Each certification filed under § 1902.4 shall be executed under oath by an individual with authority to complete the filing and shall be accompanied by a filing fee of twenty five thousand dollars (\$25,000) for each initial certification, and one thousand dollars (\$1,000) for each renewal certification.

- 1902.6 The Office shall complete its review of a certification within fifteen (15) business days of filing. All proof of insurance shall be subject to a review by DISB. Each applicant shall cooperate with the Office to supplement or correct any information needed to complete the review. The Office may deny registration where it appears the private sedan business will not be operating in compliance with this title and other applicable laws.
- 1902.7 Each registration under this section shall be effective for twenty four (24) months.
- 1902.8 Each registered private sedan business shall renew its registration by filing a certification at least fourteen (14) days prior to its expiration as provided in § 1902.7.
- 1902.9 Each registered private sedan business shall promptly inform the Office of either of the following occurrences in connection with its most recent registration:
- (b) A change in contact information; or
 - (c) A materially incorrect, incomplete, or misleading statement.
- 1902.10 No document submitted with an application for registration under § 1904.4 shall contain any redaction or omission of original text except for insurance premium amounts or text redacted or omitted with the written permission of the Office.
- 1902.11 Proof of insurance consistent with § 1902.4(f) shall immediately be filed with the Office for each insurance policy obtained by a private sedan business to replace an existing, lapsing, terminated, or cancelled policy. The Office shall review the proof within ten (10) business days of filing. The private sedan business shall cooperate with the Office to supplement or correct any information needed to complete the review. The Office may suspend or revoke the private sedan business's registration where it appears the private sedan business will not be operating in compliance with the insurance requirements of this title or other applicable laws.

1903 PRIVATE SEDAN BUSINESSES – OPERATING REQUIREMENTS

- 1903.1 Each private sedan business shall create an application process for an individual to apply to the private sedan business to register as a private sedan operator.
- 1903.2 Each private sedan business shall maintain a current and accurate registry of the operators and vehicles associated with the business.
- 1903.3 Each private sedan business shall display the following information on its website:

- (a) The private sedan business's customer service telephone number or electronic mail address;
- (b) The private sedan business's zero tolerance policies established pursuant to §§ 1903.9 and 1903.11 of this section;
- (c) The private sedan business's procedure for reporting a complaint about an operator who a passenger reasonably suspects violated the zero tolerance policy §§ 1903.9 and 1903.11 of this chapter; and
- (d) A telephone number or electronic mail address for the Office.

1903.4 Each private sedan business shall verify that an initial safety inspection of a motor vehicle used as a private sedan was conducted within ninety (90) days of when the vehicle enters service and that the vehicle passed the inspection and was determined to be safe by a licensed mechanic in the District, pursuant to D.C. Official Code § 47-2851.03(a)(9) or an inspection station authorized by the State of Maryland or the Commonwealth of Virginia to perform vehicle safety inspections, provided however, that an initial safety inspection need not be conducted if the vehicle is compliant with an annual state-required safety inspection.

1903.5 Each safety inspection conducted pursuant to § 1903.4 shall check the following motor vehicle equipment to ensure that such equipment is safe and in proper operating condition:

- (a) Brakes and parking brake;
- (b) All exterior lights, including headlights, parking lights, brake lights and license plate illumination lights;
- (c) Turn signal devices;
- (d) Steering and suspension;
- (e) Tires, wheels, and rims;
- (f) Mirrors;
- (g) Horn;
- (h) Windshield and other glass, including wipers and windshield defroster;
- (i) Exhaust system;

- (j) Hood and area under the hood, including engine fluid level and belts;
- (k) Interior of vehicle, including driver's seat, seat belts, and air bags;
- (l) Doors;
- (m) Fuel system; and
- (n) Floor pan.

1903.6 Each private sedan business shall verify the safety inspection status of a vehicle as described in § 1903.5 on an annual basis after the initial safety inspection is conducted.

1903.7 Each private sedan business shall perform the background checks required by § 1903.16 on each applicant before such individual is allowed to provide private sedan service and update such background checks every three (3) years thereafter.

1903.8 Each private sedan business shall establish and maintain a trade dress policy as follows:

- (a) A trade dress:
 - (1) Utilizing a consistent and distinctive logo, insignia, or emblem;
 - (2) Which is sufficiently large and color contrasted so as to be readable during daylight hours at a distance of at least fifty (50) feet;
 - (3) Which is reflective, illuminated, or otherwise patently visible in darkness; and
- (b) A policy requiring the trade dress to be displayed in a specific manner in a designated location on the vehicle at all times when the operator is logged into the private sedan business's associated or affiliated DDS, in a manner consistent with all DMV regulations and other applicable laws, and removed at all other times.

1903.9 Each private sedan business shall establish and maintain a policy of zero tolerance for the use of alcohol or illegal drugs or being impaired by the use of alcohol or drugs while a private sedan operator is logged into the private sedan business's associated or affiliated DDS.

1903.10 Each private sedan business shall:

- (a) Conduct an investigation when a passenger alleges that a private sedan operator violated the zero tolerance policy established by § 1903.9; and
- (b) Immediately suspend for the duration of the investigation required by subparagraph (b) of this subsection, a private sedan operator upon receiving a written complaint from a passenger submitted through regular mail or electronic means containing a reasonable allegation that the operator violated the zero tolerance policy established by § 1903.9.

1903.11 Each private sedan business shall establish a policy of zero tolerance for discrimination and discriminatory conduct on the basis of a protected characteristic under D.C. Official Code § 2-1402.31, while a private sedan operator is logged into a private sedan business's associated or affiliated DDS.

1903.12 Discriminatory conduct under § 1903.11 may include but shall not be limited to:

- (a) Refusal of service on the basis of a protected characteristic, including refusal of service to an individual with a service animal unless the operator has a documented serious medical allergy to animals on file with the private sedan business;
- (b) Using derogatory or harassing language on the basis of a protected characteristic of the passenger;
- (c) Refusal of service based on the pickup or drop-off location of the passenger;
- (d) Refusal of service based solely on an individual's disability which leads to an appearance or to involuntary behavior which may offend, annoy, or inconvenience the operator or another individual; and
- (e) Rating a passenger on the basis of a protected characteristic.

1903.13 It shall not constitute discrimination under § 1903.11 for a private sedan operator to refuse to provide service or to cease providing service to an individual who engages in violent, seriously disruptive, or illegal conduct.

1903.14 Each private sedan business shall:

- (a) Conduct an investigation when a passenger makes a reasonable allegation that an operator violated the zero tolerance policy established by § 1903.11; and
- (b) Immediately suspend, for the duration of the investigation conducted pursuant to subparagraph (a) of this subsection a private sedan operator

upon receiving a written complaint from a passenger submitted through regular mail or electronic means containing a reasonable allegation that the operator violated the zero tolerance policy established by § 1903.11.

- 1903.15 Each private sedan business shall maintain records relevant to the requirements of this section for the purposes of enforcement.
- 1903.16 Each private sedan business shall register private sedan operators in accordance with the following requirements:
- (a) Each individual applying to register with a private sedan business (“applicant”) shall be at least twenty one (21) years of age.
 - (b) A third party accredited by the National Association of Professional Background Screeners or a successor accreditation entity shall conduct the following examinations:
 - (1) A local and national criminal background check;
 - (2) The national sex offender database background check; and
 - (3) A full driving record check.
 - (c) A private sedan business shall reject an application and permanently disqualify an applicant who:
 - (1) As shown in the local or national criminal background check conducted in accordance with subparagraph (b) of this subsection, has been convicted within the past seven (7) years of:
 - (A) An offense defined as a crime of violence under D.C. Official Code § 23-1331(4);
 - (B) An offense under Title II of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code §§ 22-3002 *et seq.*);
 - (C) An offense under Section 3 of the District of Columbia Protection Against Minors Act of 1982, effective March 9, 1983 (D.C. Law 4-173; D.C. Official Code § 22-3102);
 - (D) Burglary, robbery, or an attempt to commit robbery under An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1323; D.C. Official Code §§ 22-801, 22-2801 and 22-2802);

- (E) Theft in the first degree under Section 112 of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-3212);
 - (F) Felony fraud or identity theft under Sections 112, 121, or 127b of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code §§ 22-3212, 22-3221, and 22-3227.02); or
 - (G) An offense under any state or federal law or under the law of any other jurisdiction in the United States involving conduct that would constitute an offense described in subparagraphs (A), (B), (C), (D), (E), and (F) of this paragraph if committed in the District;
- (2) Is a match in the national sex offender registry database;
 - (3) As shown in the national background check or driving record check conducted in accordance with paragraphs (b)(1) and (b)(3) of this subsection, has been convicted within the past seven (7) years of:
 - (A) Aggravated reckless driving under Section 9(b-1) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1123; D.C. Official Code § 50-2201.04 (b-1));
 - (B) Fleeing from a law enforcement officer in a motor vehicle under Section 10b of the District of Columbia Traffic Act, 1925, effective March 16, 2005 (D.C. Law 15-239; D.C. Official Code § 50-2201.05b);
 - (C) Leaving after colliding under Section 10c of the District of Columbia Traffic Act, 1925, effective April 27, 2013 (D.C. Law 19-266; D.C. Official Code § 50-2201.05c);
 - (D) Negligent homicide under Section 802(a) of An Act To amend an Act of Congress entitled "An Act to establish a Code of Law for the District of Columbia", approved March 3, 1901, as amended, by adding three new sections to be numbered 802(a), 802(b), and 802(c), respectively,

approved June 17, 1935 (49 Stat. 385; D.C. Official Code § 50-2203.01);

- (E) Driving under the influence of alcohol or a drug, driving a commercial vehicle under the influence of alcohol or a drug, or operating a vehicle while impaired under Sections 3b, 3c, or 3e of the Anti-Drunk Driving Act of 1982, effective April 27, 2013 (D.C. Law 19-266; D.C. Official Code §§ 50-2206.11, 50-2206.12, and 50-2206.14);
- (F) Unauthorized use of a motor vehicle under section 115 of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-3215); and
- (G) An offense under any state or federal law or under the law of any other jurisdiction in the United States involving conduct that would constitute an offense described in subparts (A), (B), (C), (D), (E), or (F) of this part if committed in the District; or

- (4) Has been convicted within the past three (3) years of driving with a suspended or revoked license under section 13(e) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1123; D.C. Official Code § 50-1403.01(e)), according to the driving record check conducted in accordance with § 1902.16 (b).

- 1903.17 Each private sedan business shall allow its operators to use only vehicles which:
- (a) Have a manufacturer's rated seating capacity of eight (8) persons or fewer, including the operator;
 - (b) Have at least four (4) doors and meet applicable federal motor vehicle safety standards for vehicles of its size, type, and proposed use; and
 - (c) Are not more than ten (10) model years of age at entry into service and not more than twelve (12) model years of age while in service.
- 1903.18 A private sedan business may offer service at no charge, suggest a donation, or charge a fare, provided however, that if a fare is charged the private sedan business shall comply with the provisions of § 1604.4.
- 1903.19 Each private sedan business shall possess the insurance required by § 1905 and be registered with the Office as required by § 1905.4.

- 1903.20 Each private sedan business shall notify the Office immediately upon the suspension or termination of an operator, by providing the operator's name, address, driver's license information, and the vehicle's make, model, year, color, and tag information.
- 1903.21 Each private sedan business shall designate and maintain one or more individuals with whom the Office shall be able to communicate at all times for purposes of enforcement and compliance under this title and other applicable laws, whom the private sedan business shall identify in its registration under § 1902.4, and shall maintain an email address dedicated exclusively to the purposes of this paragraph.
- 1903.22 Each private sedan business shall ensure a private sedan operator cannot log in to the app of the private sedan business's associated or affiliated DDS app while the operator is suspended or after the operator is terminated by the private sedan business.

1904 PRIVATE SEDAN OPERATORS – REQUIREMENTS

- 1904.1 Each private sedan operator shall comply with the following requirements for providing private sedan service in the District of Columbia.
- (a) The operator shall provide service only when registered with and not under suspension by a private sedan business which is registered under this chapter. The provision of private sedan service while under suspension shall be deemed a failure to be registered with any private sedan business.
 - (b) The operator shall accept trips only through the use of, and when logged into, an app provided by a digital dispatch service, registered under Chapter 16, and associated or affiliated with the private sedan business with which the operator is registered.
 - (c) The operator shall not solicit or accept a street hail, engage in false dispatch, or use a taxicab or limousine stand.
 - (d) The operator shall not be logged in to the app of a private sedan business's associated or affiliated digital dispatch service without displaying the trade dress of such private sedan business in the manner required by its trade dress policy as established pursuant to § 1903.8.
 - (e) The operator shall keep the following documents present in the vehicle, readily accessible for inspection by a vehicle inspection officer, police officer, and other District enforcement official:

- (1) A current and valid personal driver's license issued by a jurisdiction within the MSA;
 - (2) A current and valid motor vehicle registration issued by a jurisdiction within the MSA;
 - (3) Written proof of the personal motor vehicle insurance coverage required by D.C. Official Code § 31-2403; and
 - (4) If the private sedan business with which the operator is registered does not provide the insurance coverage required by § 1905: proof that the operator is maintaining the insurance coverage required by § 1905.
- (f) The operator shall fully and timely cooperate with vehicle inspection officers, police officers, and other District enforcement officials, during traffic stops, and during all other enforcement and compliance actions under this title and other applicable laws. A violation of this paragraph shall be treated as a violation of a compliance order under § 702.2(g).
- (g) The operator shall, in the event of an accident arising from or related to the operation of a private sedan originating in or occurring in the District:
- (1) Notify the private sedan business with which the operator is associated if required by the private sedan business; and
 - (2) Notify the Office within three (3) business days if the accident is accompanied by the loss of human life or by serious personal injury without the loss of human life. The notice shall include a copy of each report filed with MPD or other police agency, a copy of each insurance claim made by the private sedan operator, and such other information and documentation as required by the Office.
- (h) The operator shall be chargeable with knowledge of the applicable provisions of this title and other applicable laws, applicable notices published in the *D.C. Register*, and applicable administrative issuances, instructions and guidance posted on the Commission's website.

1905 PRIVATE SEDAN BUSINESSES AND OPERATORS - INSURANCE REQUIREMENTS

1905.1 Each private sedan business or private sedan operator shall maintain a primary automobile liability insurance policy that provides coverage for the vehicle and the operator when the operator is engaged in a prearranged ride of at least one

million dollars (\$1,000,000) per occurrence for accidents involving a private sedan operator, for all private sedan trips originating in or occurring in the District, under which the District is a certificate holder and a named additional insured.

- 1905.2 Each private sedan business or private sedan operator shall maintain a primary automobile liability insurance policy that provides coverage for the vehicle and the operator, for all private sedan trips originating in or occurring in the District, under which the District is a certificate holder and a named additional insured, for the time period when the operator is logged in to a private sedan business's DDS, showing that the operator is available to pick up passengers but is not engaged in a prearranged ride.
- 1905.3 The coverage amounts under § 1905.2 shall be minimum coverage of at least fifty thousand dollars (\$50,000) per person per accident, with up to one hundred thousand dollars (\$100,000) available to all persons per accident, and twenty-five thousand dollars (\$25,000) for property damage per accident and either:
- (a) Offers full-time coverage similar to the coverage required under § 15 of the Act;
 - (b) Offers an insurance rider to, or endorsement of, the operator's personal automobile liability insurance policy as required by § 7 of the Compulsory/No Fault Motor Vehicle Insurance Act; or
 - (c) Offers a liability insurance policy purchased by the private sedan business that provides primary coverage for the time period in which the operator is logged into the private sedan business's DDS showing that the operator is available to pick up passengers.
- 1905.4 Each private sedan business that purchases an insurance policy under this chapter shall provide proof to the Office, at the time of registration, that the private sedan business has secured the policy, and shall provide proof of its compliance with § 1905.11 within five (5) business days of such compliance.
- 1905.5 A private sedan business shall not allow a private sedan operator who has purchased his or her own policy to fulfill the requirements of this chapter to accept a trip request through the DDS used by the private sedan business until the private sedan business verifies that the operator maintains insurance as required under this chapter. If the insurance maintained by a private sedan operator to fulfill the insurance requirements of this chapter has lapsed or ceased to exist, the private sedan business shall provide the coverage required by this chapter beginning with the first dollar of a claim.

- 1905.6 If more than one insurance policy purchased by a private sedan business provides valid and collectable coverage for a loss arising out of an occurrence involving a motor vehicle operated by a private sedan operator, the responsibility for the claim shall be divided on an equal basis among all of the applicable policies; provided, that a claim may be divided in a different manner by written agreement of all of the insurers of the applicable policies and the policy owners.
- 1905.7 In a claims coverage investigation, a private sedan business shall cooperate with any insurer that insures the private sedan operator's motor vehicle, including providing relevant dates and times during which an accident occurred that involved the operator to determine whether the operator was logged into a private sedan business's DDS showing that the operator is available to pick up passengers.
- 1904.8 The insurance requirements set forth in this chapter shall be disclosed on each private sedan business's website, and the business's terms of service shall not contradict or be used to evade the insurance requirements of this chapter.
- 1905.9 Within ninety (90) days of the effective date of the Vehicle-for-Hire Act, a private sedan business that purchases insurance on an operator's behalf under this chapter shall disclose in writing to the operator, as part of its agreement with the operator:
- (a) The insurance coverage and limits of liability that the private sedan business provides while the operator is logged into the business's DDS showing that the operator is available to pick up passengers; and
 - (b) That the operator's personal automobile insurance policy may not provide coverage, including collision physical damage coverage, comprehensive physical damage coverage, uninsured and underinsured motorist coverage, or medical payments coverage because the operator uses a vehicle in connection with a private sedan business.
- 1905.10 An insurance policy required by this chapter may be obtained from an insurance company authorized to do business in the District or with a surplus lines insurance company with an AM Best rating of at least A-.
- 1905.11 Each private sedan business and operator shall have one hundred twenty (120) days from the effective date of the Vehicle-for-Hire Act to procure primary insurance coverage that complies with the requirements of § 1905.2; provided however, that until such time, each private sedan business shall maintain a contingent liability policy meeting at least the minimum limits of § 1905.2 that will cover a claim in the event that the private sedan operator's personal insurance policy denies a claim.

- 1905.12 Each insurance policy required by this chapter shall provide that the Office receive all notices of policy cancellations and changes in coverage.
- 1905.13 Each private sedan business shall ensure that the Office receives all notices of policy lapses.
- 1905.14 Each private sedan business shall file proof of insurance as required by § 1902.11 whenever an insurance policy is obtained to replace an existing, lapsing, terminated, or cancelled policy, including where a private sedan business changes from allowing its associated operators to provide the coverage required by the chapter to providing the coverage itself.

1906 PROHIBITIONS

- 1906.1 No person shall violate any applicable provision of this chapter.
- 1906.2 No private sedan operator shall threaten, harass, or engage in abusive conduct, or attempt to use or use physical force against any District enforcement official.
- 1906.3 No private sedan operator shall provide service if such operator is not registered with a private sedan business registered under this chapter.
- 1906.4 No private sedan operator shall log in to the app of the DDS associated or affiliated with the private sedan business with which the operator is registered during any period when the operator has been suspended by the private sedan business. An operator suspended by a private sedan business shall be deemed not registered with such private sedan business.
- 1906.5 No private sedan operator shall provide service while under the influence of illegal intoxicants, or under the influence of legal intoxicants that have been prescribed with a warning against use while driving or operating equipment.
- 1906.6 No private sedan operator shall solicit or accept a street hail, engage in false dispatch, or use a taxicab or limousine stand.
- 1906.7 No private sedan operator shall access or attempt to access a passenger's payment information after the payment has been processed.
- 1906.8 No private sedan operator or private sedan business shall engage in conduct which hinders or prevents the District from receiving an amount which the private sedan business's associated or affiliated digital dispatch service must transmit to OCFO pursuant to § 1604.7.

1906.9 No private sedan business shall commence operating in the District after March 11, 2015 unless it has been granted a registration by the Office pursuant to § 1902.6.

1906.10 No insurance policy which provides the coverage required by this chapter shall contain language that does not conform with this title or the Act.

1906.11 No private sedan business or private sedan operator shall attempt through any means to contradict or evade the requirements of this title or other applicable laws.

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 a provision of this chapter;
- (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 a provision of this chapter;
- (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 following civil fines are established for violations of this chapter by a private sedan business or private sedan operator, which shall double for the second violation of the same provision, and triple for the third and subsequent violations of the same provision thereafter:

- (a) For a violation of a provision of this chapter, where no civil fine is enumerated:
 - (1) By a private sedan operator: a civil fine of one hundred fifty dollars (\$150); and

- (2) By a private sedan business: a civil fine of one thousand dollars (\$1,000).
- (b) A civil fine of two hundred fifty dollars (\$250) for a violation of § 1904.1(d) by a private sedan operator for failing to display trade dress while providing service;
- (c) A civil fine of two hundred fifty dollars (\$250) for a violation of § 1904.1(e)(4) by a private sedan operator for failure to maintain in the vehicle proof of insurance required by § 1905;
- (d) A civil fine of two hundred fifty dollars (\$250) for a violation of § 1904.1(g)(2) by a private sedan operator for failure to notify the Office within three (3) business days where there has been an accident accompanied by the loss of human life or by serious personal injury without the loss of human life
- (e) A civil fine of one thousand dollars (\$1,000) for a violation of § 1905 by a private sedan operator for failure to maintain the insurance required by § 1905;
- (f) A civil fine of seven hundred fifty dollars (\$750) for a violation of § 1906.2 by a private sedan operator for threatening, harassing, or engaging in abusive conduct toward a District enforcement official;
- (g) A civil fine of two thousand five hundred dollars (\$2,500) for a violation of § 1906.2 by a private sedan operator for attempting to use or for using physical force against any District enforcement official;
- (h) A civil fine of five hundred dollars (\$500) for a violation of § 1906.4 by a private sedan operator by logging in to the app if the operator knows the private sedan business is under suspension;
- (i) A civil fine of two thousand five hundred dollars (\$2,500) for a violation of § 1906.5 by a private sedan operator for providing service while under the influence of an illegal or legal intoxicants;
- (j) A civil fine of five hundred dollars (\$500) for a violation of § 1906.6 by a private sedan operator for using a taxicab or limousine stand;
- (k) A civil fine of seven hundred fifty dollars (\$750) for a violation of § 1906.6 by a private sedan operator for soliciting or accepting a street hail;
- (l) A civil fine of one thousand dollars (\$1,000) for a violation of § 1906.6 by engaging in false dispatch;

- (m) A civil fine of three thousand dollars (\$3,000) for a violation of § 1903.2 by a private sedan business for failure to maintain a current and accurate registry of the operators and vehicles associated with the business;
- (n) A civil fine of one thousand five hundred dollars (\$1,500) for a violation of §§ 1903.4-1903.7 by a private sedan business for failure to conduct an appropriate motor vehicle safety inspection or failure to verify that such an inspection has been completed;
- (o) A civil fine of three thousand dollars (\$3,000) for a violation of §§ 1903.9-1903.14 by a private sedan business for failure to maintain a required zero tolerance policy, failing to investigate a violation, or failure to suspend an operator;
- (p) A civil fine of two thousand five hundred dollars (\$2,500) for a violation of § 1903.20 by a private sedan business for failure to immediately notify the Office upon the suspension or termination of an operator;
- (q) A civil fine of four thousand dollars (\$4,000) for a violation of § 1903.21 by a private sedan business for failure to maintain 24/7/365 communication for enforcement and compliance purposes;
- (r) A civil fine of two thousand five hundred dollars (\$2,500) for a violation of § 1903.22 by a private sedan business for failure to prevent a private sedan operator from logging in to the app of the private sedan business's associated or affiliated digital dispatch service while the operator is suspended or after the operator has been terminated;
- (s) A civil fine of three thousand dollars (\$3,000) for a violation of § 1903.15 by a private sedan business for failure to maintain business records;
- (t) A civil fine of five thousand dollars (\$5,000) for a violation of § 1903.16(b) by a private sedan business for failure to conduct a required check of an operator's criminal background, presence on the national sex offender registry database, or driving record;
- (u) A civil fine of seven thousand dollars (\$7,500) for a violation of § 1903.16(b) by a private sedan business for allowing the registration of an operator where the private sedan business knew or should have known the operator was ineligible for registration;
- (v) A civil fine not to exceed twenty five thousand dollars (\$25,000) per day based on the circumstances, for a violation of § 1905 by a private sedan business, for each day or portion thereof where a private sedan business

fails to maintain in force and effect insurance coverage it has notified the Office it will provide;

- (w) A civil fine of five thousand dollars (\$5,000) for a violation of § 1905 by a private sedan business other than for a failure to maintain in force and effect insurance coverage it has notified the Office it will provide; and
- (x) A civil fine of twenty five thousand dollars (\$25,000) per day or portion thereof for a violation of § 1906.8 for engaging in conduct which hinders or prevents the District from receiving an amount which the private sedan business's associated or affiliated digital dispatch service must transmit to OCFO pursuant to § 1604.7, provided however, that a penalty shall not be assessed under both this section and § 1608.2(b) where a digital dispatch service and a private sedan business are not separate legal entities.

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.

Chapter 99, DEFINITIONS, is amended as follows:

Section 9901, DEFINITIONS, is amended as follows:

Subsection 9901.1, is amended to add the definitions as follows:

“App” - an application, as defined in this chapter.

“Application” – a piece of software designed to fulfill a particular purpose, which is downloadable by a user to a mobile device, such as a tablet or smartphone. For purposes of this title, unless otherwise stated, an app's purpose shall be assumed to be the digital dispatch of, or the digital dispatch and digital payment of, trips by vehicles-for-hire.

“Black car” – a luxury class vehicle which operates exclusively through advance reservation made by a digital dispatch service, which may not solicit or accept street hails, and for which the fare is calculated by time and distance.

“Compulsory/No Fault Motor Vehicle Insurance Act” - the Compulsory/No

Fault Motor Vehicle Insurance Act of 1982, effective September 18, 1982 (D.C. Law 4-155; D.C. Official Code § 31-2406 (2013 Repl. & 2015 Supp.)).

“Consumer Service Fund” – the Public Vehicle-for-Hire Consumer Service Fund as authorized by the Establishment Act, as defined in this chapter, as amended by the Vehicle-for-Hire Act, as defined in this chapter.

“Digital dispatch” – hardware and software applications and networks, including mobile phone applications, used for the provision of vehicle-for-hire services.

“Digital dispatch service” – a dispatch service that provides digital dispatch for vehicles-for-hire. The phrase “company that uses digital dispatch for public vehicle-for-hire service”, as used in the Establishment Act, as amended by the Vehicle-for-Hire Act, shall include only a digital dispatch service, and shall not include any other person regulated by this title in connection with the provision of a public vehicle-for-hire service, such as a taxicab company.

“DISB” – the Department of Insurance, Securities and Banking.

“Dispatch” – a means of booking a vehicle-for-hire through advance reservation.

“Dispatch service” – an organization, including a corporation, partnership, or sole proprietorship, operating in the District that provides telephone or digital dispatch, as defined in this chapter, for vehicles-for-hire.

“District enforcement official” - a vehicle inspection officer or other authorized official, employee, general counsel or assistant general counsel of the Office, or any law enforcement officer authorized to enforce a provision of this title or other applicable law.

“Establishment Act” - the District of Columbia Taxicab Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-301 *et seq.* (2014 Repl. & 2015 Supp.)).

“Hack Inspector” – a vehicle inspection officer as defined in this chapter.

“Limousine” – a luxury class vehicle which operates exclusively through advance reservation by the owner or operator, which may not solicit or accept street hails, and for which the fare is calculated by time.

“Luxury class vehicle” – a public vehicle-for-hire that:

- (a) Has a manufacturer's rated seated capacity of fewer than ten (10) persons;
- (b) Is not a salvaged vehicle or a vehicle rented from an entity whose predominant business is that of renting motor vehicles on a time basis; and
- (c) Is no more than ten (10) model years of age at entry into service and no more than twelve (12) model years of age while in service.

"MSA" – the Multi-State Area as defined in this chapter.

"Multi-State Area" – the area comprised of the District of Columbia, the State of Maryland and the Commonwealth of Virginia.

"Pre-arranged ride" - A period of time that begins when a private sedan operator accepts a requested ride through digital dispatch (an app), continues while the operator transports the passenger in the operator's private sedan, and ends when the passenger departs from the private sedan.

"Private sedan" – a private motor vehicle that shall:

- (a) Have a manufacturer's rated seating capacity of eight (8) or fewer, including the private vehicle-for-hire operator;
- (b) Have at least four (4) doors and meet applicable federal motor vehicle safety standards for vehicles of its size, type, and proposed use; and
- (c) Be no more than ten (10) model years of age at entry into service and no more than twelve (12) model years of age while in service.

The term "private sedan" in this title is synonymous with the term "private vehicle-for-hire" as defined in the Establishment Act, as amended by the Vehicle-for-Hire Act.

"Private sedan business" – an organization, including a corporation, partnership, or sole proprietorship, operating in the District that uses digital dispatch to connect passengers to a network of operators of private sedans, as defined in this chapter.

"Private sedan operator" – an individual who operates a personal motor vehicle to provide private sedan service, as defined in this chapter, in association with a private sedan business, as defined in this chapter.

“Private sedan service” - a class of transportation service by which a network of private sedan operators, as defined in this chapter, registered with a private sedan business, as defined in this chapter, provides vehicle-for-hire service through a digital dispatch service, as defined in this chapter.

“Public vehicle-for-hire” – classes of for-hire transportation which exclusively use operators and vehicles licensed by the Office pursuant to D.C. Official Code § 47-2829.

“Sedan” – a black car as defined in this chapter. The terms “sedan” and “black car” are synonymous in this title.

“Taxicab” – a class of public vehicle-for-hire which may be hired by dispatch or hailed on the street, and for which the fare complies with the provisions of § 801.

“Telephone dispatch” – a traditional means for dispatching a vehicle-for-hire, originating with a telephone call by the passenger. The term “telephone dispatch” in this title is synonymous with the term “dispatch” as defined in the Establishment Act, as amended by the Vehicle-for-Hire Act.

“Trade Dress” – a logo, insignia, or emblem established by a private sedan business for display on its associated vehicles while providing service.

“Vehicle-for-hire” – a public vehicle-for-hire or a private sedan, as defined in this chapter.

“Vehicle-for-Hire Act” – the Vehicle-for-Hire Innovation Amendment Act of 2014, effective March 10, 2015 (D.C. Law 20-0197; D.C. Official Code §§ 50-301 *et seq.*).

“Vehicle-for-hire industry” – all persons directly involved in providing public vehicle-for-hire and private sedan services, including companies, associations, owners, operators, and any individual who, by virtue of employment or office, is directly involved in providing such services.

“Vehicle inspection officer” – an Office employee trained in the laws, rules, and regulations governing vehicle-for-hire service to ensure the proper provision of service and to support safety through street enforcement efforts, including traffic stops of vehicles-for-hire, pursuant to Establishment Act, as amended by the Vehicle-for-Hire Act, and other applicable provisions of this title and other applicable laws.

Subsection 9901.1, is amended to remove the following definitions:

“Public vehicle inspection officer” – a Commission employee trained in the laws, rules, and regulations governing public vehicle-for-hire services to ensure the proper provision of service and to support safety through street enforcement efforts, including traffic stops of public vehicles-for-hire, pursuant to protocol established by the Commission

“Vehicle” – a public vehicle-for-hire subject to licensing and regulation by the Commission.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF SECOND EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF or the Department), pursuant to the authority set forth in An Act to enable the District of Columbia (District) 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 a new Chapter 98, entitled “Financial Eligibility for Long Term Care Services and Supports”, of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

Long term care services and supports are available for individuals with long-term medical needs who also meet specific financial eligibility (income and resources) requirements. In accordance with 42 U.S.C. §§ 1396a and 1396r-5; and 42 C.F.R. §§ 435.631, 435.726, 435.821, and 435.832, these second emergency and proposed rules provide a comprehensive regulatory framework for: (1) the determination of financial eligibility for long term care services and supports; and (2) the amount a beneficiary shall contribute to the cost of care for long term care services and supports following a determination of financial eligibility. This framework will ensure that accurate determinations of financial eligibility and contributions to cost of care are made, enabling eligible individuals to access these crucial services provided under the Medicaid program.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on May 22, 2015 at 62 DCR 006736. Comments were received and substantive changes were made, to remove references to liens imposed on the homes of institutionalized beneficiaries in Section 9082, to broaden language regarding parties with legal authority to act on behalf of an applicant or an applicant’s spouse in Section 9803, and to clarify language regarding the personal needs allowance for beneficiaries who are members of institutionalized couples or who receive residential supports from the Department on Disability Services (DDS), for these second emergency and proposed rules.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of District residents by maintaining Medicaid program integrity and preserving access to vitally important long term care services and supports. Long term care services and supports provide beneficiaries with crucial services including assistance with basic tasks of everyday life. Medicaid beneficiaries may receive these services in institutional/facility based settings, in the community, and in their homes. Accordingly, these services and supports are provided to some of the District’s most vulnerable residents. As the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has promulgated new Medicaid financial eligibility rules, the District must adopt new methodologies for determining and renewing eligibility for long term care services and supports without delay to continue to provide these much-needed services and supports to vulnerable residents.

This emergency rulemaking was adopted on December 2, 2015 and became effective on that date. These emergency rules shall remain in effect for one hundred and twenty (120) days until March 31, 2016 unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

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

A new Chapter 98, FINANCIAL ELIGIBILITY FOR LONG TERM CARE SERVICES AND SUPPORTS, is added to Title 29 DCMR, PUBLIC WELFARE, to read as follows:

9800 GENERAL PROVISIONS

- 9800.1 This chapter establishes standards governing financial eligibility determinations and post-eligibility treatment of income for long term care services and supports (LTCSS), which include health-related care and services provided in a nursing facility or Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID), or in a home or community setting through a Home and Community-Based Services Waiver (HCBS Waiver) program.
- 9800.2 Applicants and beneficiaries shall consist of the following three (3) eligibility groups:
- (a) Individuals who have been determined eligible for Social Security Income (SSI) by the U.S. Social Security Administration (SSA);
 - (b) Individuals who meet the income and resource requirements under the Special Income Standard (SIS), which is equal to three hundred percent (300%) of the SSI federal benefit rate (FBR); and
 - (c) Individuals whose gross countable income exceeds the SIS and who elect to spend their excess income down to the Medically Needy Income Level (MNIL) to become financially eligible for LTCSS.
- 9800.3 The Department of Health Care Finance (the Department) shall establish an applicant or beneficiary's financial eligibility for LTCSS after evaluating the applicant's or beneficiary's non-financial eligibility for LTCSS.
- 9800.4 A determination of non-financial eligibility for LTCSS shall include consideration of the following five (5) components:
- (a) District of Columbia residency, determined in accordance with Section 9502 of Title 29 DCMR;

- (b) U.S. citizenship or satisfactory immigration status, determined in accordance with Section 9503 of Title 29 DCMR;
- (c) Social Security number, determined in accordance with Section 9504 of Title 29 DCMR;
- (d) Age (eighteen (18) years or older for all LTCSS applicants and beneficiaries, and sixty five (65) years or older for applicants and beneficiaries seeking LTCSS under the Elderly and Persons with Physical Disabilities (EPD) waiver program on the basis of advanced age); and
- (e) Clinical determination that the applicant or beneficiary requires an institutional level of care.

9800.5 Determinations of financial eligibility for LTCSS shall include those determinations made at the initial application, annual renewals, and periodic redeterminations.

9800.6 A determination of financial eligibility for LTCSS shall include the following:

- (a) An income test, as described at Subsection 9801.1; and
- (b) A resource test, as described at Subsection 9802.1.

9800.7 In calculating gross countable income and gross countable resources, the Department shall only count the income and resources available to the applicant or the applicant’s spouse at the time of the initial eligibility determination.

9800.8 The Department shall redetermine financial eligibility for LTCSS every twelve (12) months, except for individuals referenced in Subsection 9800.2(c). Financial eligibility for these individuals shall be redetermined every six (6) months.

9800.9 A beneficiary shall immediately notify the Department of any change in circumstances that directly affects financial eligibility for LTCSS.

9800.10 The Department shall redetermine eligibility for beneficiaries identified at Subsection 9800.9 at the time the change is reported.

9800.11 After an applicant or beneficiary is determined financially eligible for LTCSS, the Department shall determine how much that individual shall contribute to the cost of care.

9801 INCOME TEST

9801.1 In order to be eligible for LTCSS, an applicant or beneficiary shall have gross countable income at or below the Special Income Standard (SIS), which is equal

to three hundred percent (300%) of the SSI federal benefit rate (FBR), except as identified at Subsection 9801.6.

- 9801.2 Individuals identified at Subsection 9800.2(a) shall be exempt from the income test in Subsection 9801.1.
- 9801.3 If an applicant or beneficiary has a community spouse, gross countable income shall be determined after spousal impoverishment protections for income have been applied.
- 9801.4 Gross countable income shall include the following:
- (a) Taxable income received from employment;
 - (b) Income received from sources other than employment; and
 - (c) Income from self-employment.
- 9801.5 Gross countable income shall exclude the following:
- (a) Earnings from an unmarried minor child who is living with an individual who provides care or supervision;
 - (b) Adoption subsidies;
 - (c) AmeriCorps/VISTA Income received under the National and Community Service Trust Act of 1993, effective September 21, 1993 (Pub.L. 103-82, 107 Stat. 787), as amended by the Serve America Act of 2009, effective April 21, 2009 (Pub.L. 111-13, 123 Stat. 1463; 42 U.S.C. §§ 12501 *et seq.*);
 - (d) Child Nutrition Payments;
 - (e) Payments received under the Domestic Volunteer Service Act of 1973, effective October 1, 1973 (Pub.L. 93-113, 87 Stat. 396), as amended by the Domestic Volunteer Service Act Amendments of 1984, effective May 21, 1984 (Pub.L. 98-288, 98 Stat. 189), as amended by the National and Community Service Trust Act of 1993, effective September 21, 1993 (Pub.L. 103-82, 107 Stat. 899), as amended by the Serve America Act of 2009, effective April 21, 2009 (Pub.L. No. 111-13, 123 Stat. 1581; 42 U.S.C. §§ 12501 *et seq.*);
 - (f) Earned Income Tax Credits;
 - (g) Educational benefits;

- (h) Energy assistance;
- (i) Foster care payments;
- (j) Housing assistance provided by the federal or District of Columbia government or non-profit organizations;
- (k) Incentive payments for Prenatal & Well-Baby Care and from the Work Incentive programs for current or former recipients of Temporary Aid to Needy Families (TANF) under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, effective August 22, 1996 (Pub. L. 104-193, 110 Stat. 2105; 42 U.S.C. §§ 1305 *et seq.*);
- (l) Non-cash benefits in the form of voucher, commodity or service;
- (m) Jury duty payments;
- (n) Money received by a third party for an applicant, beneficiary, or community spouse, unless an applicant, beneficiary, or community spouse has or will have access to the funds;
- (o) Money received by an applicant, beneficiary, or community spouse, on behalf of any third party;
- (p) Nutrition payments;
- (q) Rehabilitation Services Administration (RSA) Payments received under the Rehabilitation Act of 1973, effective September 26, 1973 (Pub.L. 93-112, 87 Stat. 355);
- (r) Reimbursements received from an individual or organization to cover past, current, or future expenses, if all the following conditions are met:
 - (1) The reimbursement is for actual expenses;
 - (2) The reimbursement is earmarked to cover those expenses; and
 - (3) The reimbursement is paid or documented separately from any other payment such as wages;
- (s) Payments received from roommates to cover their share of household expenses such as rent and utilities and which are paid by the applicant or beneficiary to the landlord or utility company;
- (t) Senior Community Service Employment Program (SCSEP) Income received under the Older Americans Act of 1965, approved July 14, 1965

(Pub.L. 89-73, 79 Stat. 218), as amended by the Older Americans Act Amendments of 2000, approved November 13, 2000 (Pub.L. 106-501, 114 Stat. 2226), as amended by the Older Americans Act Amendments of 2006, approved October 17, 2006 (Pub.L. 109-365, 120 Stat. 2522);

- (u) TANF underpayments;
- (v) Training income, such as Training Expense Allowances/Stipends; and
- (w) Utility allowances received through a federal or District government housing assistance program.

9801.6 An applicant or beneficiary who has gross countable income exceeding the SIS shall be permitted to spend down the excess income to the MNIL, in accordance with 42 C.F.R. § 435.831, to become financially eligible for LTCSS.

9801.7 The following standards shall apply in determining the income allocated to an applicant or beneficiary with a spouse:

- (a) If there is no trust or other legally enforceable document establishing ownership of the income, one half (1/2) of the income shall be considered available to each spouse;
- (b) If payment of income is provided for in a trust or other legally enforceable document, the income shall be considered available to each spouse in accordance with the allocation made in the document;
- (c) If there is no trust or other legally enforceable document establishing ownership of the income and payment of income is made in the names of both spouses, one half (1/2) of the income shall be considered available to each spouse;
- (d) If there is no trust or other legally enforceable document establishing ownership of the income and payment of income is made solely in the name of one spouse, the income shall be considered available only to that spouse; and
- (e) If there is no trust or other legally enforceable document establishing ownership of the income and payment of income is made in the names of either spouse, or both, and to another individual or individuals, the income shall be considered available to each spouse in the proportion to the spouse's interest. If payment is made to both spouses and no other interest is specified, one half (1/2) of the joint interest shall be considered available to each spouse.

- 9801.8 Following an initial eligibility determination, no income of a community spouse shall be considered available to a beneficiary during any month in which the beneficiary receives LTCSS.
- 9801.9 A community spouse shall be entitled to retain a Community Spouse Allowance.
- 9801.10 A Community Spouse Allowance shall equal the minimum monthly maintenance needs allowance (MMMNA) plus any excess shelter allowance.
- 9801.11 A community spouse may retain an amount higher than the Community Spouse Allowance if either spouse demonstrates at a fair hearing that a higher amount is necessary due to exceptional circumstances resulting in severe financial duress. Exceptional circumstances may include but are not limited to:
- (a) Recurring or extraordinary non-covered medical expenses;
 - (b) Amounts to preserve, maintain, or make major repairs to a home;
 - (c) Transportation costs; and
 - (d) Amounts necessary to preserve an income-producing resource.
- 9801.12 In accordance with Section 2970 of Title 1 of the DCMR and 42 C.F.R. § 431.200, an applicant, beneficiary, or community spouse may request a fair hearing to address the following matters:
- (a) The amount of the Community Spouse Allowance; or
 - (b) The amount of income determined available to the community spouse.
- 9801.13 At the first annual renewal following the initial eligibility determination, the District shall verify that an institutionalized spouse has made available any amount of income under a Community Spouse Allowance to the community spouse.
- 9802 RESOURCE TEST**
- 9802.1 In order to be eligible for LTCSS, an applicant or beneficiary shall not have gross countable resources that exceed four thousand dollars (\$4,000).
- 9802.2 Individuals identified at Subsection 9800.2(a) shall be exempt from the resource test in Subsection 9802.1.
- 9802.3 If an applicant or beneficiary has a community spouse, gross countable resources shall be determined after spousal impoverishment protections for resources have been applied.

- 9802.4 If an applicant or beneficiary's gross countable resources exceed four thousand dollars (\$4,000), the applicant or beneficiary may reallocate excess resources to excludable resource types without affecting eligibility for LTCSS.
- 9802.5 Gross countable resources shall exclude the following resource types:
- (a) The personal home of the applicant or beneficiary, if one (1) of the following conditions is met:
 - (1) The home equity interest does not exceed the maximum home equity limit set annually by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) and available at: <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Eligibility/Spousal-Improvement-Page.html> (last visited October 14, 2015);
 - (2) The community spouse of the applicant or beneficiary resides in the home; or
 - (3) A child of the applicant or beneficiary who is under age twenty-one (21) or has a disability resides in the home;
 - (b) Accounts receivable;
 - (c) Burial funds that are in a separate, designated account;
 - (d) Promissory notes, if the notes are not related to transfers of resources within the past sixty (60) months;
 - (e) Earned income tax credits;
 - (f) Energy assistance payments;
 - (g) Proceeds from a home sale, if the applicant or beneficiary purchases or intends to purchase a new home within the next twelve (12) months;
 - (h) Household and personal goods;
 - (i) Inaccessible resources, which the applicant or beneficiary can neither use for ongoing support nor sell;
 - (j) Indian lands;
 - (k) Jointly owned resources, if the owner is legally unable to liquidate the resources;

- (l) Land contracts;
- (m) Life insurance funded funerals;
- (n) Resources used to secure a loan for business purposes;
- (o) Resources not fit to sell or not capable of being sold;
- (p) Property pending sale;
- (q) U.S. Department of Housing and Urban Development (HUD) reimbursements;
- (r) One (1) vehicle per household (if there are multiple vehicles in the household, the vehicle with the highest value shall be excluded);
- (s) Higher education savings plans;
- (t) U.S. savings bonds, if penalties apply to early withdrawals or liquidations and they have not been renewed or reinvested during any immediately preceding period of Medicaid eligibility;
- (u) Individual Retirement Accounts;
- (v) Keogh accounts;
- (w) Other retirement accounts including, but not limited to, 401(k), 403(b), and 457 accounts; and
- (x) Funds or deposits with a Continuing Care Retirement Community (CCRC), unless all of the following conditions are met:
 - (1) The funds can be used to pay for care under the terms of the contract should other resources of the individual be insufficient;
 - (2) The entrance fee, or remaining portion, is refundable when the individual dies or leaves the community; and
 - (3) The fee confers no ownership interest in the community.

9802.6 The Department shall apply methods used by the Social Security Administration (SSA), detailed at: <https://secure.ssa.gov/apps10/poms.nsf/lnx/0501130700> (last visited October 14, 2015), for counting resources in which countable and excluded resource types are comingled.

- 9802.7 The Department shall determine the total gross countable resources available to an institutionalized spouse and community spouse at the:
- (a) Time of the initial eligibility determination; or
 - (b) Request of either spouse during the institutionalized spouse's first period of institutionalization lasting thirty (30) or more consecutive days.
- 9802.8 Any countable resources held by the institutionalized spouse, the community spouse, or both spouses shall be considered available to the institutionalized spouse at the time of the initial eligibility determination, unless:
- (a) The institutionalized spouse has assigned to the District any rights to support from the community spouse;
 - (b) The institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment, but the District has the right to bring a support proceeding against the community spouse without such assignment; or
 - (c) The District determines that the denial of eligibility would work an undue hardship.
- 9802.9 The Department shall determine the spousal share of resources allocated to each spouse either:
- (a) At the time of the initial eligibility determination; or
 - (b) At the request of either spouse during the institutionalized spouse's first period of institutionalization lasting thirty (30) or more consecutive days.
- 9802.10 A community spouse shall be entitled to retain a Community Spouse Resource Allowance equal to the spousal share, unless the spousal share is less than the minimum amount or greater than the maximum amount established annually by CMS and available at: <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Eligibility/Spousal-Impoverishment-Page.html> (last visited October 14, 2015).
- 9802.11 If the spousal share is less than the minimum amount, the institutionalized spouse may transfer excess countable resources to the community spouse to raise the Community Spouse Resource Allowance to the minimum amount.
- 9802.12 If the spousal share is greater than the maximum amount, the community spouse may only retain the maximum amount.

9802.13 Where an institutionalized spouse is allowed to transfer excess countable resources following the initial eligibility determination to a community spouse, the institutionalized spouse shall reallocate excess countable resources before the first annual renewal.

9802.14 In accordance with Section 2970 of Title 1 DCMR and 42 C.F.R. § 431.200, an applicant, beneficiary, or community spouse may request a fair hearing to address the following matters:

- (a) The spousal share of resources;
- (b) The amount of the Community Spouse Resource Allowance; or
- (c) The amount of resources attributed to each spouse.

9802.15 At the first annual renewal following the initial eligibility determination, the District shall verify that a beneficiary has transferred excess countable resources to the community spouse

9803 IMPROPER RESOURCE TRANSFERS AND PENALTY PERIOD

9803.1 At the time of the initial eligibility determination, the Department shall conduct a review to determine whether the applicant, the applicant’s spouse, or an individual with legal authority to act in place of or on behalf of the applicant or the applicant's spouse has improperly transferred resources for less than fair market value within sixty (60) months prior to the date of an application for LTCSS.

9803.2 The Department shall impose a penalty period if the applicant, the applicant’s spouse, or an individual with legal authority to act in place of or on behalf of the applicant or the applicant’s spouse has transferred resources for less than fair market value within sixty (60) months prior to the date of an application for LTCSS.

9803.3 The penalty period shall be the length of time during which an individual is ineligible for Medicaid coverage of LTCSS due to improper resource transfers made within sixty (60) months prior to the date of an application for LTCSS.

9803.4 The length of the penalty period shall be based on the following formula:

$$\begin{aligned}
 & \text{Total Uncompensated Value of All Transferred Resources} \\
 & \qquad \qquad \qquad \div \\
 & \text{Average Monthly Cost of a Private Nursing Facility Patient in the Community} \\
 & \qquad \qquad \qquad = \\
 & \qquad \qquad \qquad \text{Number of Months of Penalty Period.}
 \end{aligned}$$

- 9803.5 The Department shall determine the total uncompensated value of all transferred resources by subtracting the amount received by the individual for the improperly transferred resources from the fair market value of those resources.
- 9803.6 The Department shall determine the average monthly cost of a private nursing facility patient in the community on an annual basis, using a single standard figure for all LTCSS applicants.
- 9803.7 Where a partial month period exists at the end of the penalty period, the applicant is only eligible for LTCSS for the portion of the month after the penalty period ends.
- 9803.8 The Department may waive the penalty period if it could create an undue hardship. Undue hardship may exist:
- (a) For applicants in an institutional setting, if the individual has been threatened with eviction from a long-term care facility or medical institution and has exhausted all legal methods to prevent the eviction; or
 - (b) For applicants eligible for Home and Community-Based Services (HCBS) Waiver, if the individual's service provider has threatened to terminate services; and
 - (1) The individual to whom the resource was transferred is no longer in possession of the transferred resource and has no other resources of comparable value with which to pay the cost of care; and
 - (2) There is no family member or other individual or organization able and willing to provide care to the individual; or
 - (c) For all LTCSS applicants, if the applicant would be deprived of medical care that would endanger his or her life or health; or food, clothing, shelter, or other necessities of life; or
 - (d) For all LTCSS applicants, if any other undue hardship or good cause exemption exists, as may be defined by the Secretary for the U.S. Department of Health and Human Services or the Secretary for the U.S. Department of Agriculture.
- 9803.9 Transfers of resources under the following circumstances shall not be subject to the penalty period described in Subsection 9803.3:
- (a) The resource that was transferred was the applicant's personal home, and title to the home was transferred to:
 - (1) The spouse of the applicant;

- (2) A child of the applicant who:
 - (i) Was under the age of twenty-one (21);
 - (ii) Was blind or permanently and totally disabled; or
 - (iii) Had been residing in the home for at least two (2) years immediately before the date the applicant became institutionalized and who provided care to the applicant which permitted the applicant to reside at home, rather than in an institution; or
 - (3) A sibling of the applicant who had an equity interest in the home and who had been residing in the home for at least one (1) year immediately before the date the applicant became institutionalized.
- (b) Any type of resource that was transferred:
- (1) To the applicant's spouse or to another for the sole benefit of the spouse;
 - (2) From the applicant's spouse to another for the sole benefit of the spouse;
 - (3) To the applicant's child who is blind or permanently and totally disabled, or to a trust established for the sole benefit of such child; or
 - (4) To a trust established for the sole benefit of an individual under the age of sixty-five (65) who is disabled as defined by SSI.
- (c) Any type of resource that was transferred, and for which a satisfactory showing is made to the District that:
- (1) The applicant intended to dispose of the resources at fair market value;
 - (2) The resources were transferred exclusively for a purpose other than to qualify for medical assistance; or
 - (3) All resources transferred for less than fair market value have been returned to the applicant, or the fair market equivalent has been returned.

9803.10 Establishment of the following types of trusts shall not be subject to the penalty period described in Subsection 9803.3:

- (a) A “special needs” trust containing the resources of an individual under the age of sixty-five (65) with a disability, which may also contain the resources of other individuals and which meets the following conditions:
 - (1) The trust is established for the sole benefit of the individual by a parent, grandparent, legal guardian, or court; and
 - (2) The trust contains a provision stating that, upon the death of the individual, the District receives all amounts remaining in the trust, up to the total amount of medical assistance paid on behalf of the individual.
- (b) A “pooled” trust containing the resources of an individual with a disability which meets the following conditions:
 - (1) The trust is established for the sole benefit of the individual by a parent, grandparent, legal guardian, or court;
 - (2) The trust is established and managed by a non-profit association;
 - (3) A separate account is maintained for each beneficiary, but funds are pooled for investment and management purposes; and
 - (4) The trust contains a provision stating that, to the extent that any amounts remaining in the individual’s account upon his or her death are not retained by the trust, the trust pays to the District the amount remaining in the account up to the total amount of medical assistance paid on behalf of the individual.

9803.11 The purchase of an annuity shall not be subject to the penalty period described in Subsection 9803.3 under the following conditions:

- (a) Annuities purchased on or after February 8, 2006 name the District as the primary remainder beneficiary, or secondary remainder beneficiary after a community spouse or minor child or child with a disability, for an amount equal to the total amount of medical assistance paid on the behalf of the applicant; and
- (b) Annuities purchased on or after February 8, 2006, are irrevocable, non-assignable, actuarially sound, and provide for payments in equal amounts during the annuity term, with no deferral or balloon payments; or meet the requirements pertaining to retirement plans in 42 U.S.C. § 1396p(c)(1)(G)(i).

- 9803.12 For annuities purchased prior to February 8, 2006, actions taken by the individual that change the course of payments to be made by the annuity or treatment of the income or principal of the annuity subject the annuity to the requirements for those purchased on or after February 8, 2006.
- 9803.13 Routine changes and automatic events that do not require action by the individual do not subject an annuity purchased prior to February 8, 2006, to the requirements for those purchased on or after February 8, 2006.
- 9803.14 The purchase of a life estate interest in another individual's home shall not be subject to the penalty period described in Subsection 9803.3 when the purchaser lives in the home for at least one (1) year after the date of purchase.
- 9803.15 The full purchase price of the life estate interest shall be deemed a transfer of resources for less than fair market value if the purchaser has not lived in the home for at least one (1) year.
- 9803.16 Notwithstanding the length of time the purchaser lives in the home, if the purchase amount of the life estate interest is greater than the computed value of the interest, the difference is considered a transfer of resources for less than fair market value.
- 9803.17 The purchase of a promissory note or loan shall not be subject to the penalty period described in Subsection 9803.3 under the following conditions:
- (a) The repayment terms are actuarially sound;
 - (b) Payments are made in equal amounts with no balloon payments; and
 - (c) The note, loan or mortgage prohibits cancellation of the debt upon the death of the lender.

9804 POST-ELIGIBILITY TREATMENT OF INCOME

- 9804.1 The Department shall determine how much monthly income a beneficiary must contribute toward the cost of LTCSS after an initial eligibility determination.
- 9804.2 The Department shall project the beneficiary's gross countable monthly income for a six (6) month prospective period to determine a beneficiary's contribution to the cost of care.
- 9804.3 Gross countable monthly income shall be calculated as follows:
- (a) Income received on a yearly basis or less often than monthly shall be converted to a monthly amount or prorated;

- (b) If the amount or frequency of regularly received income is known, the Department shall average the income over the period between payments; or
- (c) If neither the amount nor the frequency of income is predictable, the Department shall not average the income but count income only for the month in which it is received.

9804.4 The Department shall subtract the following types of deductions from the beneficiary's gross countable monthly income:

- (a) A Personal Needs Allowance equal to:
 - (1) Seventy dollars (\$70) for a beneficiary in a nursing facility who does not receive a pension from the Department of Veterans Affairs;
 - (2) Ninety dollars (\$90) for a beneficiary in a nursing facility who receives a pension from the Department of Veterans Affairs;
 - (3) One hundred and forty dollars (\$140) for a couple if both spouses are institutionalized in a nursing facility and neither spouse receives a pension from the Department of Veterans Affairs;
 - (4) One hundred dollars (\$100) for a beneficiary who receives waiver funded residential supports through the District Department on Disability Services (DDS) and receives social security benefits;
 - (5) Seventy dollars (\$70) for a beneficiary in an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) who receives Supplemental Security Income (SSI); and
 - (6) One hundred dollars (\$100) for a beneficiary in an ICF/IID who receives Social Security Disability Income (SSDI).
- (b) A Community Maintenance Needs Allowance, for a beneficiary enrolled in an HCBS Waiver program only, equal to the Special Income Standard (SIS);
- (c) A Community Spouse Allowance, for a beneficiary who has a community spouse only;
- (d) A Dependent Family Allowance, equal to the annual MNIL, for a beneficiary who has:

- (1) Minor or dependent children, including disabled adult children of the beneficiary or community spouse, who reside in the personal home with the community spouse;
 - (2) Dependent parents of the beneficiary or community spouse who reside in the personal home with the community spouse; or
 - (3) Dependent siblings of the beneficiary or community spouse who reside in the personal home with the community spouse;
- (e) Incurred Medical Expenses, if the expenses are not subject to payment by a third party, including incurred medical expenses used to meet a spend down obligation;
 - (f) Remedial Care Expenses, equal to the amount of fees paid to a guardian, conservator, or representative payee;
 - (g) A Home Maintenance Deduction equal to the MNIL for a beneficiary residing in an institutional facility. A home maintenance deduction may be deducted only:
 - (1) For up to six (6) months;
 - (2) When a community spouse does not reside in the home; and
 - (3) If a physician certifies that the beneficiary is likely to return to the home within six (6) months; and
 - (h) The full amount of SSI or State Supplementary Payment Benefits for a beneficiary who resides in a long term care facility.

9804.5 The amount of the beneficiary's gross countable income that remains after allowable deductions and spousal impoverishment protections for income and resources (if applicable) have been applied is the amount of the beneficiary's contribution to the cost of care.

9804.6 The Department shall reduce its payment for LTCSS by the amount of the beneficiary's contribution to the cost of care.

9804.7 The Department shall reconcile the beneficiary's projected income with the beneficiary's actual income at the end of every six (6) month period in which a beneficiary receives Medicaid coverage of LTCSS, or whenever any significant change in the beneficiary's income or circumstances occurs.

9804.8 The reconciliation may include a period of up to six (6) months prior to the month in which the reconciliation is done.

- 9804.9 The Department may redetermine the beneficiary's contribution to the cost of care:
- (a) After the reconciliation process;
 - (b) At annual renewals; and
 - (c) When a beneficiary reports a significant change of income or other circumstances.
- 9804.10 Any redetermination of or adjustment to the beneficiary's contribution to the cost of care resulting from the reconciliation shall not be applied until timely and adequate notice of the redetermination or adjustment is provided to the beneficiary.
- 9804.11 The Department shall adjust the beneficiary's contribution to the cost of care prospectively when the income actually received by the beneficiary during the six (6) month reconciliation period differs from the beneficiary's projected income for that period.
- 9804.12 If the income actually received by the beneficiary during the six (6) month period exceeds the beneficiary's projected income for that period, an adjustment shall be added to the beneficiary's contribution to the cost of care in a future month or months to reflect the amount that should have been contributed during the six (6) month period.
- 9804.13 If an income change or change in circumstances renders a beneficiary ineligible for Medicaid coverage of LTCSS, a prospective adjustment cannot be added to the former beneficiary's contribution to the cost of care. Under these circumstances, the Department may seek to recover the full amount of the adjustment by requesting voluntary repayment from the former beneficiary.
- 9804.14 The Department may pursue recovery by appropriate action, pursuant to District law, against the income or resources of the former beneficiary if the Department is unable to recover the full amount of the adjustment through voluntary repayment from the former beneficiary.
- 9804.15 If the income actually received by the beneficiary during the six (6) month period is less than the beneficiary's projected income for that period, the beneficiary's contribution to the cost of care shall be reduced in a future month or months to reflect the amount that should not have been contributed during the six (6) month period.

9899**DEFINITIONS**

For the purposes of this chapter, the following terms shall have the meanings ascribed:

Community Maintenance Needs Allowance (CMNA): A standard income amount that an HCBS Waiver participant living at home may retain to afford the costs associated with living in the community, such as expenses related to mortgage, rent, food, utilities, taxes, and home repairs.

Community Spouse: A spouse of an institutionalized individual who is not institutionalized or enrolled in a Waiver program.

Community Spouse Allowance (CSA): The amount of the institutionalized spouse's income that can be maintained by or transferred to the community spouse. The CSA is the amount needed to maintain or raise the community spouse's income to the Minimum Monthly Maintenance Needs Allowance (MMMNA).

Community Spouse Resource Allowance (CSRA): An allowance of resources that can be maintained by or transferred to the community spouse without incurring penalties.

Cost of Care: The amount of money charged by a long term care facility or HCBS Waiver service provider for LTCSS.

Dependent: A dependent family member may include a parent, minor child, dependent child, or dependent sibling, including half and step siblings, of either member of a couple who resides with the community spouse and who may be claimed as a dependent by either member of the couple for tax purposes pursuant to 26 U.S.C. § 152.

Dependent Family Allowance: An allowance of income for each dependent family member residing with the community spouse.

Exceptional Circumstances: Circumstances that threaten the community spouse's ability to remain in the community due to severe financial duress.

Excess Shelter Allowance: An allowance of the community spouse's income for shelter including rent or mortgage payment, taxes, utilities, and insurance.

Fair Market Value: In accordance with 26 C.F.R. § 20.2031-1(b), the fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

Federal Benefit Rate: The share of the Supplemental Security Income (SSI) grant paid by the federal government, which does not include any applicable State supplement.

Gross Countable Income: Includes an individual's total gross earned and unearned income, excluding income from non-countable sources.

Gross Countable Resources: Includes all resources available to the individual, excluding exempt categories of resources.

Home and Community-Based Services Waiver (HCBS Waiver) Programs: HCBS Waiver programs, the Home and Community-Based Services Waiver for Persons who are Elderly and Individuals with Physical Disabilities (EPD), and the Home and Community-Based Services Waiver for Persons with Intellectual and/or Developmental Disabilities (IDD), that provide home and community-based services that assist Medicaid-eligible individuals to live in the community and avoid institutionalization.

Home Maintenance Deduction: A standard income amount that an individual residing in an institutional setting may retain to pay for the maintenance of the home.

Incurred Medical Expenses: Medically necessary medical expenses incurred by an individual, family member, or financially responsible relative that are not subject to payment by a third party.

Institutional Level of Care: The level of care furnished to individuals residing in a nursing facility or Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID).

Institutionalized Individual: An individual receiving an institutional level of care in an institutional setting (*i.e.*, nursing facility or Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)). An individual in an acute care facility is considered institutionalized if the individual receives, or is likely to receive, an institutional level of care for more than thirty (30) days.

Institutionalized Spouse: An individual who is residing in an institutional setting and who is married to a person who is not in a medical institution or nursing facility.

Land Contract: A contract between a seller and buyer of real property in which the seller provides financing to the buyer to purchase the property for an agreed-upon purchase price and the buyer repays the loan in installments.

Long term care services and supports (LTCSS): Health-related care and services, above the level of room and board, that are needed regularly due to a mental or physical condition, provided in a nursing facility or Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID), or in a home or community setting through a Home and Community-Based Services Waiver (HCBS Waiver) program.

Maximum Home Equity Limit: The amount established annually by CMS which limits the home equity interest an individual may have in his or her personal home, and still be eligible for LTCSS.

Medically Needy Income Level (MNIL): Fifty percent (50%) of the Federal Poverty Level (FPL) for a household of two (2) or larger; the MNIL for a household of one is ninety-five percent (95%) of that for a household of two.

Minimum Monthly Maintenance Needs Allowance (MMMNA): The minimum amount of monthly income that the community spouse is entitled to possess. This may consist solely of the community spouse's income or the sum total of the community spouse's income plus the Community Spouse Allowance.

Personal Home: An individual's primary residence.

Personal Needs Allowance (PNA): A standard income amount that an individual residing in an institution or receiving residential supports through the Department on Disability Services (DDS) may retain to pay for personal needs not provided by the institution.

Pooled Trust: A trust which contains the resources of an individual with a disability, is established for the sole benefit of the individual by a parent, grandparent, legal guardian, or court, and meets the requirements of 42 U.S.C. § 1396p(6)(4)(C).

Remedial Care Expenses: Amounts for fees paid to a guardian, conservator, or representative payee.

Sibling: One (1) of two (2) or more children related by blood or adoption through a common legal parent or through the marriage of the children's legal or biological parents.

Special Income Standard (SIS): Three hundred percent (300%) of the SSI federal benefit rate (FBR) defined by the Social Security Administration (SSA).

Special Needs Trust: A trust which contains the resources of an individual under the age of sixty-five (65) with a disability, is established for the sole benefit of the individual by a parent, grandparent, legal guardian, or court, and meets the requirements of 42 U.S.C § 1396p(d)(4)(a).

Spend Down: Spend down is the process by which an individual may use medical expenses to reduce countable income to the Medicaid income limit to meet financial eligibility requirements for Medicaid coverage.

Spousal Impoverishment Protections: Allowances and deductions to a couple's income and resources, defined in Section 1924 of the Social Security Act, that are designed to protect the income and resources of the community spouse. Spousal impoverishment protections apply to HCBS Waiver individuals and institutionalized individuals who were institutionalized in a long-term care facility on or after October 1, 1989.

Spousal Share: Half (1/2) of the total countable resources available to either the institutionalized or community spouse.

Spouse: A person married under District law, including members of common-law and same-sex couples whose marriages or civil unions are recognized under the Religious Freedom and Civil Marriage Equality Act of 2009 (D.C. Official Code § 46-401). The term does not include registered domestic partners.

State Supplementary Payment: Payments made to individuals residing in a Certified Residential Facility (CRF) or Adult Living Facility (ALF).

Comments on the proposed rule shall be submitted, in writing, to Claudia Schlosberg, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, Suite 900S, Washington, D.C. 20001, via telephone on (202) 442-8742, via 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 proposed rule may be obtained from the above address.

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

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8(c) (3), (4), and (19), 14, and 20f 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) (3), (4), and (19), 50-313, and 50-525 (2014 Repl. & 2015 Supp.)), hereby gives notice of its intent to adopt amendments to Chapter 8 (Operation of Public Vehicles for Hire) and Chapter 99 (Definitions) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This proposed rulemaking for Chapter 8 would establish a requirement for wheelchairs or other mobility equipment to be properly secured in any wheelchair accessible vehicle. The emergency rules are necessary because there is an immediate need to preserve and promote the safety and welfare of District passengers and operators by ensuring wheelchairs and other mobility equipment are properly secured in taxicabs. The proposed rulemaking for Chapter 99 would add a necessary definition for “wheelchair securement system”.

This emergency rulemaking was adopted by the Commission on October 14, 2015 and took effect immediately. These emergency rules shall remain in effect for one hundred and twenty (120) days after the date of adoption (expiring February 11, 2016), unless earlier superseded by an amendment or repeal by the Commission, or the publication of final rulemaking, whichever occurs first.

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

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

Section 819, CONSUMER SERVICE AND PASSENGER RELATIONS, is amended as follows:

A new Subsection 819.11 is added to read as follows:

819.11 Each operator of a wheelchair accessible vehicle shall ensure that wheelchair passengers are properly secured using the vehicle’s wheelchair securement system, by providing assistance as necessary or if requested by the passenger. Notwithstanding the provisions of § 819.10, no operator shall be required to transport a wheelchair passenger who refuses to be properly secured by the vehicle’s wheelchair securement system.

Chapter 99, DEFINITIONS, is amended as follows:

Section 9901, DEFINITIONS, is amended as follows:

Subsection 9901.1, is amended to add a new definition as follows:

“Wheelchair securement system” – a system which meets the requirements of 49 C.F.R. Part 38, § 38.23(d), to safely secure a wheelchair in a wheelchair accessible vehicle.

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 D.C. 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*.

DISTRICT OF COLUMBIA COMMISSION ON THE ARTS AND HUMANITIES**NOTICE OF PUBLIC MEETING****Board of Commissioners**

The Board of Commissioners of the District of Columbia Commission on the Arts and Humanities (DCCAH) will be holding a meeting on Thursday, December 17, 2015 at 3:30 p.m. The meeting will be held in the DCCAH Large Conference Room at 200 I Street, SE, Suite 1400, Washington, DC. Below is the draft agenda for this meeting. A final agenda will be posted to the DCCAH website at <http://dcarts.dc.gov/page/commissioner-meetings>.

For further information, please contact the front desk at (202) 724-5613.

DRAFT AGENDA

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|-----|--------------------------------|---------------------------|
| 1. | Public Comment Period | |
| 2. | Call to Order | Chairperson |
| 3. | Adoption of the Agenda | All Commissioners Present |
| 4. | Adoption of Minutes | All Commissioners Present |
| 5. | Chairperson's Report | Chairperson |
| 6. | Executive Director's Report | Executive Director |
| 7. | Office of the Poet Laureate | Poet Laureate |
| 8. | Committee Reports | Respective Committees |
| 9. | Panel Recommendations | |
| 10. | Unfinished Business | All Commissioners Present |
| 11. | New Business and Announcements | All Commissioners Present |
| 12. | Adjournment | Chairperson |

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
CONSTRUCTION CODES
ADMINISTRATIVE BULLETIN CC2015-01**

Issuer:	Melinda Bolling, Director
Issuance Date:	December 11, 2015
Effective Date:	Date of Publication in D.C. Register
Purpose:	This document sets forth procedures and requirements for the filing, review, approval, and documentation of underpinning details, and for special inspection of construction projects that (a) share a Party Wall with an attached or semi-detached one and two-family dwelling and (b) are not subject to the special inspection requirements of Chapter 17 of the Building Code.
Related Code Sections:	2013 District of Columbia Building Code: 12 A DCMR §§ 106.1, 109.3.8, 109. 3.13, 109.3.13.1.9; 2012 IBC §§1704 & 1705
Subject(s):	Underpinning of Party Walls shared with attached or semi-detached one and two-family dwellings

I. Background

The purpose of this Administrative Bulletin (Bulletin) is to provide guidance and clarity on underpinning details that permit applicants will be required to submit prior to permit issuance and to establish special inspection requirements when underpinning of a Party Wall is required in connection with Construction Work on projects that share a Party Wall with an attached or semi-detached one or two-family dwelling (including townhouses). This Administrative Bulletin is necessary to protect against any adverse effect on the structural strength and support of Party Walls as a result of Construction Work on a neighboring construction site.

The sensitive nature of structural work along a Party Wall necessitates periodic or continuous inspections, particularly for underpinning. Moreover, submission of sufficient information during the permit application process is needed, so that DCRA may review the proposed underpinning and confirm that a registered design professional has reviewed and/or certified the structural details of the proposed underpinning.

Consequently, effective upon publication of this Administrative Bulletin in the *DC Register*, DCRA shall require permit applicants proposing and permittees undertaking

Construction Work on a project that shares a Party Wall with an adjacent attached or semi-detached one and two-family dwelling to comply with the submittal documents and special inspection requirements set forth in this Administrative Bulletin. These requirements are applicable to the types of projects specified in this Administrative Bulletin regardless of whether the applicable code governing the project is the *Building Code*, *Existing Building Code*, or *Residential Code*. However, this Bulletin does not apply to projects that are subject to the special inspection requirements in Chapter 17 of the Building Code.

The term “Party Wall” shall mean any wall located on a property line between adjacent buildings, which is used or adapted for joint service between the two buildings. “Construction Work” for purposes of this Bulletin includes new construction, alteration, demolition, excavation, and raze activities.

This Administrative Bulletin does not relieve the party undertaking the Construction Work from complying with Section §3307.1 of the *2013 District of Columbia Building Code*, which requires adjoining public and private property to be protected from damage during construction, alteration, repair, demolition, or raze of a premises at the expense of the person causing the work. Section 3307.1 requires protection for lots and for all elements of a building or other structure, including but not limited to footings, foundations, Party Walls, chimneys, skylights, and roofs. Section 3307.1 also requires provisions to be made to control water runoff and erosion during construction, demolition, or raze activities.

II. Submittal Documents

Section 106.1.1.1 (item 13) of the *2013 District of Columbia Building Code* expressly requires permit holders to submit shop drawings with underpinning details. However, the shop drawing requirement has not been sufficient to identify projects involving Party Walls and to review the structural details of the proposed underpinning. The code official has authority, as set forth in Section 106.1 of the *Building Code*, “[w]here special conditions exist... to require additional construction documents to be prepared by a registered design professional.”

Pursuant to this authority, effective upon publication of this Administrative Bulletin in the *D.C. Register*, permit applicants for projects that will or do share a Party Wall with an attached or semi-detached one or two-family dwelling must determine whether underpinning is required to protect a Party Wall based on the nature of the Construction Work on the project. If an applicant is not clear about the requirement or necessity for underpinning, a DC-licensed engineer should be consulted.

Where there is a requirement or necessity for underpinning, the applicant shall provide the following information, plans, and details regarding underpinning-of the adjoining premises prior to permit issuance:

1. Pictures of the construction site showing the Party Wall and the adjoining premises;
2. Site and structure-specific plans, including details and sequence of work and identification of requirements for sheeting, preloading, wedging with steel wedges, jacking, or dry packing;
3. Details and calculations of sufficient clarity to show that the underpinning is designed and will be installed in a manner that will limit the lateral and vertical displacement of the adjacent structure to permissible values (which should be included in the submittal);
4. Lateral support for underpinning, if needed, shall be accounted for in the design of new construction; the calculations, design, and construction sequence of temporary lateral supports used prior to installation of foundation walls shall be included on the design drawings;
5. The design shall take into account the effects on foundation and structure produced by the lateral earth pressure exerted on the underpinning;
6. The owner shall retain a design professional registered in the District of Columbia to prepare the plans and construction documents. Once the plans are ready, the owner shall select a general contractor and Special Inspections Engineer of Record (SIER) and an Inspection and Testing Agency; each must be identified by name on the application. The SIER and testing agency must be selected from the list of agencies approved by DCRA to conduct special inspections and material testing. In no case shall the SIER and the material testing agency be retained by the general contractor or by any of its subcontractors;
7. A plan for monitoring adjacent structures or property where underpinning of a Party Wall is required, prepared by the design professional engineer, taking into account the structures or property to be monitored and the conditions thereof (based on an examination of the structure and the excavation of test pits). This document should include a contingency plan that outlines the procedures taken in the event the underpinning of the Party Wall exceeds the preset lateral and/or vertical movement threshold. These procedures should include (but are not limited to) identifying the cause of the movement, change in the monitoring frequency as well as the details of the remedial work required;
8. The owner or the permit applicant shall submit a "Statement of Special Inspections" completed by a design professional responsible-in-charge (whose seals and signatures are on the plans and construction documents) to DCRA

- Permitting Operations Division with the permit application as a prerequisite to the issuance of the building permit. The Statement of Special Inspections can be found on the DCRA website (http://dcra.dc.gov/sites/default/files/dc/sites/dcra/publication/attachments/Statement%20of%20Special%20Inspection_rev1_0.pdf). The Statement of Special Inspections shall reflect the scope of the special inspections related to various elements of the project, and the soil and concrete inspections listed in Section III below must be performed by the SIER or his/her personnel assigned to the project;
9. Compliance with the requirements of Section 3307.2 of the *2013 District of Columbia Building Code* for notification of adjoining property owners; and
 10. If not otherwise provided in the application, the submittal documents shall also include (a) dimensioned footing and foundation plans, cross-sections and proximity to lot lines; (b) dimensioned underpinning foundation systems (horizontal or vertical) and proximity to lot lines; (c) test pit results and photo of test pits at the location of existing footings; (d) width of existing footings; (e) geotechnical engineering evaluation of the in-situ soils.

III. Special Inspections

The *2013 District of Columbia Building Code*, 12-A DCMR, Section 109.3.8, authorizes the code official to require independent inspection agencies, including special inspection agencies, to perform inspections of any Construction Work. Sections 109.3.13.1 and 109.3.13.1.9 of 12-A DCMR authorize the code official to require special inspectors for construction or work requiring special knowledge and experience, involving unusual hazards, or requiring periodic or continuous inspection.

Underpinning involves unusual hazards and requires periodic or continuous inspection, as well as special knowledge and experience. The special inspections process, as implemented by DCRA, will allow for an additional level of oversight and monitoring of the design and construction of underpinning to support a Party Wall shared with an attached or semi-detached one or two family dwelling, and provide a greater level of comfort to property owners who adjoin a construction site.

Therefore, effective upon publication of this Administrative Bulletin in the *D.C. Register*, all underpinning of a Party Wall shared with an attached or semi-detached one or two family dwelling, shall be subject to the following inspections, in addition to any other required inspections, which must be performed by the SIER (and identified and approved prior to permit issuance).

A. Verification and Inspections of Soils:

1. Verify that the materials at the bottom of the underpinning pits are adequate to achieve the design-bearing capacity.
2. Verify that the excavation of underpinning pits meet the dimension specified on the approved plans and construction documents.
3. Verify that any deviation or nonconforming items has been brought to the notice of the structural engineer of record for resolution and evaluation before proceeding with the concreting operations.
4. Verify the installation of lateral bracing of Party Walls if required by the approved plans and construction documents.

B. Verification and Inspections of Concrete Construction:

1. Verify concrete batch mix in conformance with approved concrete mix design prior to placement.
2. Verify reinforcing steel, where included in approved design, is in conformance with submittal documents and code requirements including size, location, splicing, and clear cover.
3. Verify the excavations are free of debris and loose materials.
4. Inspect form work used to place concrete for stability & proper dimensions.
5. Prepare test cylinders per ASTM C-31 for laboratory verification of Engineer of Record's specified minimum compressive strength. Lab-cured specimen shall be used to verify the specified concrete strength.

The permit holder is responsible for coordinating and scheduling all inspections with the Special Inspections Engineer of record and the testing agency.

In order to get a final inspection and/or certificate of occupancy, a final report of Special Inspections must be submitted to DCRA after review and approval by the SIER in accordance with the requirements of DCRA's Special Inspection Program. (See DCRA website at: <http://dcra.dc.gov/service/special-inspections>). DCRA shall accept for review the report of Final Inspection for the underpinning as complete and approved as indicated along with any conditions set out by the Special Inspector.

A copy of this administrative bulletin is available at:
<http://dcra.dc.gov/page/administrative-bulletins>

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
CONSTRUCTION CODES
ADMINISTRATIVE BULLETIN CC2015-02**

Issuer:	Melinda Bolling, Director
Issuance Date:	December 11, 2015
Effective Date:	December 11, 2015
Purpose:	This document sets forth procedures and requirements for notification of owners of one-family or two-family dwellings or townhouses in Residence, Special Purpose and Mixed-Use Districts by parties undertaking construction work on adjoining premises.
Related Code Sections:	2013 District of Columbia Building Code: 12 A DCMR §§ 104.1.1, 105.3 and 3307.1
Subject(s):	Notification of adjoining property owners of Construction Work

I. Background

This Administrative Bulletin (Bulletin) sets forth procedures and requirements for notification of owners of detached one-family or two-family dwellings (including townhouses) in Residence, Special Purpose and Mixed-Use Districts by persons who intend to undertake Construction Work on adjoining premises. “Construction Work” for purposes of this Administrative Bulletin shall mean construction, alteration, repair, demolition, or raze of a premises or the excavation of property for which a building permit is required, except as otherwise excluded by this Administrative Bulletin. The property in Residence, Special Purpose or Mixed- Use Districts, on which Construction Work will take place, is referred to as the “Construction Site.”

Persons undertaking Construction Work in the District of Columbia must always be cognizant of their responsibility to protect adjoining premises, take appropriate safeguards and be aware of their potential liability for damage to adjoining property. Section 3307.1 of the *2013 District of Columbia Building Code* states the general requirement that:

Adjoining public and private property shall be protected from damage during construction, alteration, repair, demolition or raze of a premises at the expense of the person causing the

CC2015-02 (December 11, 2015)

work. Protection must be provided for lots, and for all elements of a building or other structure, including, but not limited to, footings, foundations, party walls, chimneys, skylights, and roofs. Provisions shall be made to control water runoff and erosion during construction or demolition or raze activities.

In a densely populated urban area like the District of Columbia, Construction Work on a Construction Site often creates a concern for adjoining residential neighbors. Consequently—and pursuant to Section 105.3, Item 11, of the *2013 Building Code*—this Bulletin establishes a requirement that all persons undertaking Construction Work on a Construction Site in a Residence, Special Purpose or Mixed Use District shall provide a notice to each property owner of a one-family or two-family dwelling or townhouse on a lot adjoining the Construction Site that complies with this *Administrative Bulletin*, in addition to any other notifications that may be required by the *Building Code* or by any other laws and regulations.

The notification procedures and requirements set forth in this Administrative Bulletin supplement notification requirements pursuant to other laws or regulations. These include, but are not limited to:

1. Section 3307.2 of the *2013 District of Columbia Building Code*, which imposes specific and detailed notification requirements for Construction Work that potentially affects the structural stability of adjoining property such as excavations or where a party wall or underpinning is involved; and
2. Section 105.1.7 of the *2013 District of Columbia Building Code*, which requires persons undertaking raze work to comply with specific notification requirements.

The notification shall be provided to each adjoining property owner prior to commencement of work and shall be required regardless of whether the permit was issued under the *Building Code*, *Residential Code* or *Existing Building Code*. Adjoining property shall mean any property with a common lot line with the Construction Site. Notification is not required for Construction Work that (a) occurs entirely within the interior of a building or structure; and (b) is authorized pursuant to a postcard permit issued by DCRA.

II. Notification Letter Requirements

A. Information Required with Permit Application.

Effective upon publication of this Administrative Bulletin in the D.C. Register, a permit applicant for Construction Work on a Construction Site shall be required, pursuant to the Code Official's authority in Section 105.3 (item 13), 12-A DCMR, to provide the following information in permit applications:

1. Identification of property addresses of all one-family or two-family dwellings or townhouses on a lot adjoining the Construction Site; and
2. A statement that the permit applicant will provide a notification letter to the owner of the identified adjoining properties, as required by this Administrative Bulletin, prior to the start of the Construction Work.

A permit application will be deemed incomplete without the information specified above.

B. Form of Notification

The owner of the Construction Site shall provide written notification prior to the start of Construction Work that includes the following information:

1. The scope of the project and its proposed start and completion dates;
2. A reference to District of Columbia regulations that cover issues commonly arising during Construction Work;
3. Contact information for the property owner, contractor, or other person to be contacted in the event of any construction-related issues; and
4. Additional information as the code official may specify.

An approved notification form is attached to this Administrative Bulletin.

C. Delivery of Notification

Delivery of the notification letter will be satisfied by mailing a copy to the tax owner of record of the adjoining property by first-class mail. The person sending the notification shall rely on the name and address obtained from the Real Property Assessment Database available through the District of Columbia Office of Tax & Revenue, for mailing purposes.

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D. Enforcement

This Administrative Bulletin is intended to facilitate communications between the person undertaking Construction Work and the adjoining property owner and is not intended to solicit approval or rejection of a proposed project. Rather, it simply serves as notification of the intended work.

If the work is commenced without giving the notice required by this Administrative Bulletin, the adjoining owner may seek to stop the work until the requisite notification letter is provided by seeking a stop work order from DCRA by calling DCRA's Illegal Construction Unit, at (202) 442-STOP (7867), or calling 311 during non-business hours.

A copy of this Administrative Bulletin is available at:

<http://dcra.dc.gov/page/administrative-bulletins>

Attachment to Administrative Bulletin CC2015-02

[Owner Letterhead]

OWNER PRE-CONSTRUCTION NOTICE

DATE: _____

TO: (tax record owner of adjoining property)

PROJECT ADDRESS: _____ Washington, DC 20 ____

(Street Address)

Dear Resident:

Soon construction will begin at the above address pursuant to a permit issued by the District of Columbia Department of Consumer and Regulatory Affairs (DCRA). As the owner of the property where the construction work will take place, I/we intend(s) to minimize any disruption or inconvenience by taking necessary precautions to protect your property.

The purpose of this letter is to provide an overview of the types of issues that commonly arise during construction, and to provide you with our contact information if you should have any concerns.

INFORMATION ABOUT THE PROJECT

1. DESCRIPTION OF PROJECT: _____

Permit(s) for the project will be kept on the work site and conspicuously displayed at a location visible from the street until the completion of the project. Additional information about the permit may be obtained on the DCRA website at: <http://pivs.dcrs.dc.gov/OBPAT/Default.aspx> or at the DCRA Records Room located at 1100 4th Street, SW, 2nd Floor, where the public can request and review documents associated with all issued building permits.

2. PROPOSED START AND COMPLETION DATE: _____

ISSUES THAT MAY ARISE DURING CONSTRUCTION WORK

1. PROTECTION OF ADJOINING PROPERTY. Adjoining property will be protected from damage, including lots, and all elements of a building or other structure, including but not limited to footings, foundations, party walls, chimneys, skylights, and roofs. Provisions will be made to control water runoff and erosion during construction, demolition, or raze activities.

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2. **CONSTRUCTION OUTSIDE OF PERMITTED HOURS.** Authorized construction hours permitted in the District of Columbia for work conducted under a permit are from 7 a.m. to 7 p.m., Monday through Saturday, excluding legal holidays. An after-hours permit from DCRA is required to work beyond permitted construction hours and is subject to noise regulation.

3. **CONSTRUCTION NOISE.** No noise from construction, excluding minor home repairs, is permitted within a residential, special purpose, or waterfront zone on any Sunday or legal holiday—or after 7:00 p.m. and before 7:00 a.m. Monday - Saturday. During permitted construction hours, the noise level will comply with the District of Columbia noise regulations (20 DCMR, Chapters 27, 28 and 29). District regulations require the noise level to be measured at the property line of the property on which the noise source is located. In a Residential or Special Purpose District, the noise level cannot exceed 60 db(A) during the daytime and 55 db(A) during the nighttime.

4. **LOCATION OF CONSTRUCTION MATERIAL.** Construction equipment and materials shall be stored and placed in a way that does not endanger the public, the workers, or adjoining property for the duration of the construction project.

5. **PORTABLE SANITARY FACILITIES.** The Occupational Safety and Health Administration (OSHA) requires the provision and availability of toilet facilities on construction jobsites. Any portable sanitary facilities will be located within the boundaries of the property line, and a permit will be obtained from DCRA for facilities to be used by workers on the construction site.

6. **EXTERIOR PROPERTY AREAS.** All exterior property and premises will be maintained in a clean, safe, and sanitary condition.

7. **RUBBISH AND GARBAGE.** The exterior and interior of the premises will be maintained free from any accumulation of rubbish and garbage. Rubbish will be disposed of in a clean and sanitary manner by placement in approved containers. The public space from the property line of the building or lot, and extending eighteen inches (18 in.) from the curb line (or the lateral lines of the roadway) into the abutting roadway, will be maintained in a clean condition.

8. **DUMPSTERS.** The undersigned property owner will be responsible for the collection and disposal of construction and demolition wastes and material. A dumpster may be used for this purpose, and if the dumpster is located on a roadway or other public space, a public space permit from DDOT will be obtained.

9. **FENCE DAMAGE:** This is a civil matter between the contractor and homeowner.

10. LEAD PAINT AND/OR ASBESTOS. Any demolition and razing activities will comply with the applicable regulations governing lead-based paint promulgated, or as may be promulgated, by the District's Department of Energy and Environment (DOEE) or the federal Environmental Protection Agency (EPA) and will conform to all pertinent lead abatement requirements in D.C. Official Code § 8-231.01 et seq. (2012 Repl. and 2013 Supp.), including all pertinent implementing regulations. Any asbestos removal will comply with all DDOE and EPA regulations and will be performed by a licensed asbestos removal contractor pursuant to an asbestos abatement permit issued by DOEE.

11. PEDESTRIAN TRAFFIC. District of Columbia regulations require pedestrians to be protected during construction. This protection may include walkways, directional barricades, or construction railings where appropriate.

12. SIGNAGE. Temporary construction signs giving the name and address of the engineers, architects, contractors and financing institutions involved in the project may be displayed at the construction site. This signage will comply with District of Columbia regulations.

13. PUBLIC SPACE. The District of Columbia prohibits the creation or placement of hazardous obstructions or deposits in public space. We will not occupy public space unless expressly authorized through a public space permit obtained from the District Department of Transportation (DDOT). Public space in the District of Columbia includes all the publicly owned property between lot lines, including streets, alleys, and parks. Public space also includes the area of a street devoted to open space, greenery, or parks, which lies between the lot line and the edge of the actual or planned sidewalk.

14. WATER. We will not take water from a fire hydrant unless permission has been granted by DC Water and a fire hydrant use permit has been obtained. We will not obstruct access to fire hydrants.

15. PARKING. If we need to occupy or use public space for construction activity, we will provide advance notice by posting "Emergency No Parking" signs 72 hours prior to the work.

16. SERVICE TRUCKS. If the construction work takes place on a residential parking zoned street, we will obtain a temporary parking permit to authorize parking for commercial vehicles, while the operator of the vehicle is actually involved in the performance of construction, maintenance, repair, or reconstruction work at an address on a residential permit parking street. All service-oriented trucks and vehicles will display the name, address, and phone number of their business on the side of the vehicle before being parked in a construction staging area.

17. TREES. A Special Tree removal permit issued by the Urban Forestry Administration of the District of Columbia Department of Transportation will be obtained prior to

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topping, cutting down, removing, girdling, breaking, or destroying any Special Tree.
"Special Tree" means a tree with a circumference of 55 inches or more.

CONTACT INFORMATION

If you have any concerns related to this project, please call or email the person identified below:

Name: _____
Company: _____
Phone: _____
Email: _____

Sincerely,

(Signature of person who owns property where the construction work will take place)

Name of Property Owner: _____

Name of General Contractor or Construction Manager for the Project:

GOVERNMENT OF THE DISTRICT OF COLUMBIA**OFFICE OF DISABILITY RIGHTS
DEVELOPMENTAL DISABILITIES COUNCIL****NOTICE OF UPCOMING PUBLIC BI-MONTHLY MEETINGS****D.C. Developmental Disabilities Council to Hold Bi-Monthly Meetings**

The meetings will be held at:

**District of Columbia Government
441 4th St., NW
Conference Room # 1117 South
Washington, DC 20001**

The meetings will be held on the third Thursday of the following months:

*Thursday, December 17, 2015 (10:00 am – 12:00 noon);

Thursday, February 18, 2016 (3:00 pm – 5:00 pm);

*Thursday, April 21, 2016 (10:00 am – 12:00 noon); and

Thursday, June 16, 2016 (3:00 pm – 5:00 pm).

Individuals who wish to attend these meetings are welcome and should call 202-724-8612 seven (7) business days prior to the meeting date to ensure the meeting has not been cancelled or rescheduled.

If you require reasonable accommodations for attendance, please contact Mat McCollough on 202-727-6744 or by email: mat.mccollough@dc.gov seven (7) business days before the public meeting to ensure appropriate accommodations.

*Please note, these meetings will be held from 10:00 am – 12:00 noon instead of the usual 3:00 pm – 5:00 pm meeting times.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT ON DISABILITY SERVICES

2016 BI-MONTHLY PUBLIC MEETING SCHEDULE

D.C. Statewide Independent Living Council

1125 15th Street, NW
Ninth Floor
Washington, DC 20005

The D.C. Statewide Independent Living Council (SILC) will hold bi-monthly public meetings regarding the operation of the D.C. state independent living program, as mandated by Title VII of the Rehabilitation Act of 1973, as amended and reauthorized. The following public meetings are to be conducted from 12 noon to 2:00 pm on the fourth Thursday of the selected month:

Dates	Location
Thursday, January 28, 2016	1400 Florida Avenue, NE
Thursday, March 24, 2016	1400 Florida Avenue, NE
Thursday, May 26, 2016	1400 Florida Avenue, NE
Thursday, July 28, 2016	1400 Florida Avenue, NE
Thursday, September 22, 2016	1400 Florida Avenue, NE

All of the SILC's general meetings are open to the public. These public meetings will be held at the D.C. Center for Independent Living, which is located at 1400 Florida Avenue, NE, Washington, DC 20002.

Individuals who wish to attend a meeting should RSVP at least ten (10) calendar days prior to the scheduled meeting date if interpretation services, including oral language translation or American Sign Language (ASL), or other reasonable accommodations are required. Please contact Darnise Henry Bush, DDS SILC Program Liaison, at 202-442-8432, or by email at darnise.bush@dc.gov.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FUNDING AVAILABILITY (NOFA)

FISCAL YEAR 2016

DC Environmental Literacy Advancement Grant (ELAG)

Announcement Date: December 11, 2015**Request for Applications (RFA) Release Date: December 30, 2015**

The Office of the State Superintendent of Education (OSSE) – Division of Health and Wellness, is soliciting applications for the District of Columbia Environmental Literacy Advancement Grant pursuant to the “Environmental Literacy Specialist Pilot Program Amendment Act of 2015.” The purpose of this grant is to increase the capacity of nonprofit and community based organizations (CBOs) to provide environmental education programs to District schools represented in the 2016 Environmental Literacy Leadership Cadre.

Eligibility: OSSE will make this grant available through a competitive process. Eligible applicants must be nonprofits or CBOs with 501(c)(3) status.

Award Period: The grant period begins upon date of award notification and ends on Sept. 30, 2016.

Available Funding for Award: The total funding available for this award period is \$345,000.

An external review panel or panels will be convened to review, score, and rank each application. The review panel(s) will be composed of neutral, qualified, professional individuals selected for their expertise, knowledge or related experiences. The application will be scored against a rubric and application will have multiple reviewers to ensure accurate scoring. Upon completion of its review, the panel(s) shall make recommendations for awards based on the scoring rubric(s). OSSE’s Division of Health and Wellness will make all final award decisions.

For additional information regarding this grant competition, please contact:

Grace Manubay
Environmental Literacy Coordinator
Division of Health and Wellness Office of the State Superintendent of Education
Grace.Manubay@dc.gov

The RFA and all supporting documents will be available on <http://grants.osse.dc.gov>, or by contacting [Grace Manubay at Grace.Manubay@dc.gov](mailto:Grace.Manubay@dc.gov).

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FUNDING AVAILABILITY (NOFA)

FISCAL YEAR 2016

DC Environmental Literacy Fellowship Grant (ELFG)

Announcement Date: December 11, 2015

Request for Applications (RFA) Release Date: January 6, 2016

The Office of the State Superintendent of Education (OSSE) – Division of Health and Wellness, is soliciting applications for the District of Columbia Environmental Literacy Fellowship Grant pursuant to the “Environmental Literacy Specialist Pilot Program Amendment Act of 2015.” The purpose of this grant is to support teachers at District schools represented in the 2016 Environmental Literacy Leadership Cadre who are serving as environmental literacy specialists by coordinating programs and activities related to school-based environmental literacy programs such as creating, if applicable, or maintaining the school garden, implementing composting and recycling programs, and implementing the 2012 DC Environmental Literacy Plan.

Eligibility: OSSE will make this grant available through a competitive process. Eligible applicants must be nonprofits or community based organizations (CBOs) with 501(c)(3) status.

Award Period: The grant period begins upon date of award notification and ends on Sept. 30, 2016.

Available Funding for Award: The total funding available for this award period is \$176,000. Eligible organizations may apply for an award amount of up to \$22,000 per fellow.

An external review panel or panels will be convened to review, score, and rank each application. The review panel(s) will be composed of neutral, qualified, professional individuals selected for their expertise, knowledge or related experiences. The application will be scored against a rubric and application will have multiple reviewers to ensure accurate scoring. Upon completion of its review, the panel(s) shall make recommendations for awards based on the scoring rubric(s). OSSE’s Division of Health and Wellness will make all final award decisions. For additional information regarding this grant competition, please contact:

Grace Manubay
Environmental Literacy Coordinator
Division of Health and Wellness
Office of the State Superintendent of Education
Grace.Manubay@dc.gov

The RFA and all supporting documents will be available on <http://grants.osse.dc.gov>, or by contacting Grace Manubay at Grace.Manubay@dc.gov.

**ELSIE WHITLOW STOKES COMMUNITY FREEDOM PUBLIC CHARTER SCHOOL
REQUEST FOR PROPOSALS**

Project Management, Architectural, or General Contractor Services

Elsie Whitlow Stokes Community Freedom PCS invites all interested parties to submit proposals to provide either project management, architectural, or general contractor services for a full HVAC and roof replacement. Proposals are due no later than 12:00 PM on January 15, 2016. The complete RFP can be obtained by contacting Erika Bryant at erikab@ewstokes.org.

Erika Bryant
Executive Director
Elsie Whitlow Stokes Community Freedom Public Charter School
Phone: (202) 265-7237
Email: erikab@ewstokes.org

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, Washington, DC, intends to issue permits (#6202-R2 and #6203-R2) to Architect of the Capitol to operate two identical 1,000 kWe emergency generator sets with 1,495 hp MTU Model 16 V2000G85TB diesel-fired engines. The emergency generators are located at the Russell Senate Office Building, Delaware and Constitution Avenues NE, Washington, DC. The contact person for the applicant is James Styers, Environmental Coordinator at (202)226-6636.

The applications to operate the emergency generators and the draft renewal permits and supporting documents 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 John C. Nwoke at (202) 724-7778.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

John C. Nwoke
Environmental Engineer, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
John.Nwoke@dc.gov

No written comments or hearing requests postmarked after January 11, 2016 will be accepted.

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 two air quality permits (Nos. 6255-R2 and 6256-R2) to the Architect of the Capitol to operate two identical existing 1,000 kWe emergency generator sets with 1,495 HP diesel fired engines at the Longworth House Office Building, located at Independence & New Jersey Avenues SE, Washington DC. The contact person for the facility is William M. Weidemeyer, PE, Superintendent, at (202) 225-7012.

The permit applications and supporting documentation, along with the draft permits 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 Olivia Achuko at (202) 535-2997.

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 permits and any request for a public hearing should be addressed to:

Olivia Achuko
Environmental Engineer, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Olivia.Achuko@dc.gov

No written comments or hearing requests postmarked after January 11, 2016 will be accepted.

For more information, please contact Olivia Achuko at (202) 535-2997.

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 #6507-R1 to the Architect of the Capitol, to operate an existing cross-draft custom made model Carolina-Virginia paint booth at the Planning and Project Management Division – Blue Plains Building, located at 4700 Shepherd Parkway SW, Washington, DC . The contact person for the applicant is James Styers, P.E., Environmental Engineer, at (202) 226-6636.

Estimated Emissions

Estimated maximum emissions from the equipment are 3.07 tons per year of volatile organic compounds (VOCs) and 0.011 tons per year of hazardous air pollutants (HAPs).

Emission Limitations

The following are the proposed emission limits for the equipment:

- 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 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 Abraham T. Hagos at (202) 535-1354.

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:

Abraham T. Hagos
Environmental Engineer, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Abraham.Hagos@dc.gov

No written comments or hearing requests postmarked after January 11, 2016 will be accepted.

For more information, please contact Abraham T. Hagos at (202) 535-1354.

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 #6544-R1 to the Architect of the Capitol to operate an existing 620 kWe emergency generator set with a 890 HP diesel-fired engine at the Hart Senate Office Building, located at 2nd Street NE & Constitution Avenue NE, Washington DC. The contact person for the facility is Takis Tzamaras, Superintendent, at (202) 224-2021.

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 January 11, 2016 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 #6600-R1 to the Architect of the Capitol, to operate a Col-Met side down draft paint booth at the U.S. Government Publishing Office, located at 732 North Capitol Street, NW, Washington, DC . The contact person for the applicant is James Styers, P.E., Environmental Engineer, at (202) 226-6636.

Estimated Emissions

Estimated maximum emissions from the equipment are 5.10 tons per year of volatile organic compounds (VOCs) and 0.01 tons per year of hazardous air pollutants (HAPs).

Emission Limitations

The following are the proposed emission limits for the equipment:

- 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 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 Abraham T. Hagos at (202) 535-1354.

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:

Abraham T. Hagos
Environmental Engineer, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Abraham.Hagos@dc.gov

No written comments or hearing requests postmarked after January 11, 2016 will be accepted.

For more information, please contact Abraham T. Hagos at (202) 535-1354.

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 #6882 to the Architect of the Capitol, to construct and operate a side down draft model COL-Met/BAF-39 paint booth at the Planning and Project Management Division, Blue Plains Building, located at 4700 Shepherd Parkway SW, Washington, DC . The contact person for the facility is James Styers, P.E., Environmental Engineer, at (202) 226-6636.

Estimated Emissions

Estimated maximum emissions from the equipment are 1.3 tons per year of volatile organic compounds (VOCs) and 0.1 tons per year of hazardous air pollutants (HAPs).

Emission Limitations

The following are the proposed emission limits for the equipment:

- 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 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 Abraham T. Hagos at (202) 535-1354.

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:

Abraham T. Hagos
Environmental Engineer, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Abraham.Hagos@dc.gov

No written comments or hearing requests postmarked after January 11, 2016 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 an air quality permit (#6884) to Cello Partnership DBA Verizon Wireless to construct and operate a 30 kWe emergency generator set with a 49 hp diesel-fired engine at 4925 East Capitol Street SE, Washington DC. The contact person for facility is Joseph Joyce, P.E., at 301 512-2438. The applicant’s mailing address is 9000 Junction Drive, Annapolis Junction, MD 20701.

Emissions:

Maximum emissions from the 30 kWe emergency generator, operating five hundred (500) hours per year, are expected to be as follows:

	Maximum Annual Emissions
Pollutant	(tons/yr)
Total Particulate Matter (PM Total)	0.003
Sulfur Dioxide (SO ₂)	< 0.001
Nitrogen Oxides (NO _x)	0.113
Volatile Organic Compounds (VOC)	0.017
Carbon Monoxide (CO)	< 0.05

The proposed overall emission limits for the equipment are as follows:

- a. Emissions from this unit shall not exceed those in the following table as measured according to the procedures set forth in 40 CFR 89, Subpart E. [40 CFR 60.4205(b), 40 CFR 60.4202(a)(2) and 40 CFR 89.112(a)]:

Pollutant Emission Limits (g/kW-hr)		
NMHC+NO _x	CO	PM
7.5	5.5	0.60

- b. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- c. In addition to Condition II(b) exhaust opacity, measured and calculated as set forth in 40 CFR 86, Subpart I, shall not exceed [40 CFR 60.4205(b), 40 CFR 60.4202(a), and 40 CFR 89.113]:
 - 1. 20 percent during the acceleration mode;

2. 15 percent during the lugging mode;
 3. 40 percent during the peaks in either the acceleration or lugging modes. *Note that this condition is streamlined with the requirements of 20 DCMR 606.1.*
- d. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The 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 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 January 11, 2016 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 Permit #6999 to Cassidy Turley Commercial Real Estate Services, Inc. d/b/a Cushman & Wakefield to operate one Caterpillar 500 kWe diesel-fired emergency generator set with a 749 bhp engine at APA Ten G LLC, located at 10 G Street, NE Washington, DC 20002. The contact person for the facility is Todd Wise, Chief Engineer, at (202) 607-7710.

Emergency Generator to be Permitted

Equipment Location	Address	Generator/ (Engine) Size	Engine Model/ Serial Number	Permit No.
10 G Street Ave. NE Washington, DC	10 G Street Ave. NE, Washington, DC 20002	500 kWe/ 749 hp	3412/ 81Z19486	6999

The proposed emission limits are as follows:

- a. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions from the generator engine are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	1.03
Oxides of Nitrogen (NO _x)	4.49
Total Particulate Matter (PM Total)	0.13
Volatile Organic Compounds (VOCs)	0.13
Oxides of Sulfur (SO _x)	1.51

The application to operate the generator engine and the draft permit and supporting documents 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 John C. Nwoke at (202) 724-7778.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

John C. Nwoke
Environmental Engineer, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
John.Nwoke@dc.gov

No written comments or hearing requests postmarked after January 11, 2016 will be accepted.

For more information, please contact John C. Nwoke at (202) 724-7778.

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 Permit #7000 to Cassidy Turley Commercial Real Estate Services, Inc. d/b/a Cushman & Wakefield to operate one Caterpillar 500 kWe diesel-fired emergency generator set with a 749 bhp engine at APA 750 LLC, located at 750 First Street, NE Washington, DC 20002. The contact person for the facility is Todd Wise, Chief Engineer, at (202) 607-7710.

Emergency Generator to be Permitted

Equipment Location	Address	Generator/ Engine Size	Engine Model/ Serial Number	Permit No.
APA 750 LLC 750 First Street NE Washington DC	750 First Street NE Washington DC 20002	500 kWe/ 749 hp	3412/ 81Z10417	7000

The proposed emission limits are as follows:

- a. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions from the generator engine are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	1.03
Oxides of Nitrogen (NO _x)	4.49
Total Particulate Matter (PM Total)	0.13
Volatile Organic Compounds (VOCs)	0.13
Oxides of Sulfur (SO _x)	1.51

The application to operate the generator engine and the draft permit and supporting documents 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 John C. Nwoke at (202) 724-7778.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

John C. Nwoke
Environmental Engineer, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
John.Nwoke@dc.gov

No written comments or hearing requests postmarked after January 11, 2016 will be accepted.

For more information, please contact John C. Nwoke at (202) 724-7778.

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 No. 7059 to Joint Base Anacostia-Bolling (JBAB) to construct and operate a 125 kWe emergency generator set with a 197 hp diesel-fired engine at the DC Army National Guard, Building 350, located at 370 Brookley Avenue SW, Washington, DC 20032. The contact person for facility is Kristin Riggs, Installation Environmental Program Associate, at (202) 767-0193. The applicant’s mailing address is 370 Brookley Avenue SW, Washington, DC 20032.

Emissions:

Maximum emissions from the 125 kW emergency generator, operating five hundred (500) hours per year, is expected to be as follows:

	Maximum Annual Emissions
Pollutant	(tons/yr)
Total Particulate Matter (PM Total)	0.009
Sulfur Dioxide (SO ₂)	0.016
Nitrogen Oxides (NO _x)	0.258
Volatile Organic Compounds (VOC)	0.008
Carbon Monoxide (CO)	0.064

The proposed overall emission limits for the equipment are as follows:

- a. Emissions from this unit shall not exceed those in the following table as measured according to the procedures set forth in 40 CFR 89, Subpart E. [40 CFR 60.4205(b), 40 CFR 60.4202(a)(2) and 40 CFR 89.112(a)]:

Pollutant Emission Limits (g/kW-hr)		
NMHC+NO _x	CO	PM
4.0	3.5	0.20

- b. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- c. In addition to Condition II(b) exhaust opacity, measured and calculated as set forth in 40 CFR 86, Subpart I, shall not exceed [40 CFR 60.4205(b), 40 CFR 60.4202(a), and 40 CFR 89.113]:

1. 20 percent during the acceleration mode;
 2. 15 percent during the lugging mode;
 3. 40 percent during the peaks in either the acceleration or lugging modes. *Note that this condition is streamlined with the requirements of 20 DCMR 606.1.*
- d. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The 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 Abraham T. Hagos at (202) 535-1354.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Abraham T. Hagos
Environmental Engineer, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Abraham.Hagos@dc.gov

No written comments or hearing requests postmarked after January 11, 2016 will be accepted.

For more information, please contact Abraham T. Hagos at (202) 535-1354.

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 an air quality permit (#7062) to Georgetown University to construct and operate a 350 kWe emergency generator set with a 530 hp natural gas-fired engine at the North East Triangle Residence of Georgetown University, located at 3700 O Street NW, Washington, DC 20057. The contact person for facility is Gregory Simmons, Associate Vice President, Facilities Operations, Design and Construction, at 202 594-6523. The applicant’s mailing address is 3700 O Street NW, Washington, DC 20057.

Emissions:

Maximum emissions from the 350 kWe emergency generator, operating five hundred (500) hours per year, are expected to be as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Total Particulate Matter (PM Total)	0.05
Sulfur Dioxide (SO ₂)	< 0.01
Nitrogen Oxides (NO _x)	0.29
Volatile Organic Compounds (VOC)	0.20
Carbon Monoxide (CO)	0.58

The proposed overall emission limits for the equipment are as follows:

- a. Emissions from the unit shall not exceed those in the following table [40 CFR 60.4233(e), and 40 CFR 60 Subpart JJJJ, Table 1, 40 CFR 1048]:

Pollutant Emission Limits (g/HP-hr)*			
NO _x	CO	VOC	NMHC + NO _x
1.0	2.0	0.7	2.0

*See also the EPA Certificate of Conformity submitted with the permit application. The unit is certified as a non-emergency unit and therefore must meet the non-emergency standards.

- b. Visible emissions shall not be emitted into the outdoor atmosphere from this generator set, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- c. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the

public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

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 January 11, 2016 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

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 Standing Advisory Board. The meeting will be at 1225 I Street, NW, 4th Floor, Washington, DC 20005 on Thursday, December 17, 2015 at 3:00 pm. The call in number is 1-877-668-4493; access code: 737 423 807.

The Advisory Board meeting is open to the public.

If you have any questions, please contact Debra Curtis at (202) 741-0899.

DEPARTMENT OF HEALTH**PUBLIC NOTICE**

The District of Columbia Board of Social Work (“Board”) hereby gives notice of a cancellation of its regular meeting, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, D.C. Official Code § 3-1204.05 (b)) (2012 Repl.).

Due to the holiday schedule, the Board’s regular meeting scheduled for Monday, December 28, 2015, will be cancelled. The Board’s next regular meeting will resume on Monday, January 25, 2015. The meeting will be open to the public from 9:30 AM until 11:00 AM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Act of 2010, D.C. Official Code § 2-574(b), the meeting will be closed from 11:00 AM to 2:00 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health’s Events webpage at www.doh.dc.gov/events to view the agenda.

DEPARTMENT OF HEALTH**PUBLIC NOTICE**

The District of Columbia Board of Veterinary Medicine (“Board”) hereby gives notice of a change in its regular meeting, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2012 Repl.) (“Act”).

The Board previously followed a bi-monthly meeting schedule; however, at its recent meeting on November 19, 2015, it resolved to resume its monthly meeting schedule. Accordingly, the Board’s next meeting will be held on Thursday, December 17, 2015. The meeting will be open to the public from 9:30 AM until 10:30 AM to discuss various agenda items and any comments and/or concerns from the public. In accordance with section 405(b) of the Open Meetings Amendment Act of 2010, D.C. Official Code § 2-575(b), the meeting will be closed from 10:30 AM to 12:30 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The Board’s subsequent meeting will be held on the third Thursday of each month at 9:30 AM.

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health Events link at <http://doh.dc.gov/events> for additional information.

MUNDO VERDE PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Legal Services and General Counsel**

Mundo Verde PCS seeks bids for legal services and general counsel. The RFP with bidding requirements and supporting documentation can be obtained by contacting Elle Carne at ecarne@mundoverdepcs.org. **All bids not addressing all areas as outlined in the RFP will not be considered.**

The deadline for application submission is 4:00pm December 21, 2015.

PERRY STREET PREPARATORY PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Human Resources**

The Perry Street Preparatory Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 solicits proposals for human resource services:

Proposals shall be received no later than 5:00 P.M., Tuesday, December 22 2015.

Prospective Firms shall submit one electronic submission via e-mail to the following address:

Bid Administrator
psp_bids@pspdc.org

Please include the bid category for which you are submitting as the subject line in your e-mail (e.g. Food Service). Respondents should specify in their proposal whether the services they are proposing are only for a single year or will include a renewal option.

DISTRICT OF COLUMBIA RETIREMENT BOARD**NOTICE OF OPEN PUBLIC MEETING**

December 17, 2015

1:00 p.m.

900 7th Street, N.W.
2nd Floor, DCRB Boardroom
Washington, D.C. 20001

The District of Columbia Retirement Board (DCRB) will hold an Open meeting on Thursday, December 17, 2015, at 1:00 p.m. The meeting will be held at 900 7th Street, N.W., 2nd floor, DCRB Boardroom, Washington, D.C. 20001. A general agenda for the Open Board meeting is outlined below.

Please call one (1) business day prior to the meeting to ensure the meeting has not been cancelled or rescheduled. For additional information, please contact Deborah Reaves, Executive Assistant/Office Manager at (202) 343-3200 or Deborah.reaves@dc.gov.

AGENDA

- | | | |
|-------|-----------------------------------|-----------------|
| I. | Call to Order and Roll Call | Chairman Bress |
| II. | Approval of Board Meeting Minutes | Chairman Bress |
| III. | Chairman's Comments | Chairman Bress |
| IV. | Executive Director's Report | Mr. Stanchfield |
| V. | Investment Committee Report | Ms. Blum |
| VI. | Operations Committee Report | Mr. Ross |
| VII. | Benefits Committee Report | Mr. Smith |
| VIII. | Legislative Committee Report | Mr. Blanchard |
| IX. | Audit Committee Report | Mr. Hankins |
| X. | Other Business | Chairman Bress |
| XI. | Adjournment | |

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT**NOTICE OF FUNDING AVAILABILITY****Emerging Business District Demonstration Grants**

The Office of the Deputy Mayor for Planning and Economic Development (DMPED) and the Department of Small and Local Business Development (DSLBD) are soliciting applications for the **Emerging Business District Demonstration Grants**. DMPED intends to award up to three (3) grants from the \$300,000 in total available funding for Fiscal Year 2016. The application deadline is Monday, January 11, 2016 at 2:00 p.m.

The purpose of Emerging Business District Demonstration Grants is to subsidize the organizing operations necessary to establish a Business Improvement District. The Agencies are interested in supporting Business Improvement Districts ("BIDs") in a diversity of geographic regions within the District.

Eligible applicants: BID Organizations with budgets of less than \$1,000,000 or nonprofit organizations that has a federal 501(c)(3) or 501(c)(6) recognized tax exemption. Applicants must demonstrate affected property owner commitment to the program through matching grants of at least 25% of the proposed program's total budget. For additional eligibility requirements and exclusions, please review the Request for Applications (RFA) which will be posted at <http://dslbd.dc.gov/service/current-solicitations-opportunities> by Friday, December 11, 2015.

Eligible Use of Funds: Funds may be used for economic research or community/business outreach to establish a BID. Funds can be used for expenses incurred during the Period of Performance, which is February 1, 2016 through September 30, 2016. For additional examples of eligible uses of funds and exclusions, please review the RFA.

Application Process: Interested applicants must complete an online application by **Monday, January 11, 2016** at 2:00 p.m. Applications submitted via hand delivery, mail or courier service will not be accepted. Applications received after the deadline will not be forwarded to the review panel. Instructions and guidance regarding application preparation can be found in the RFA, which will be available at <http://dslbd.dc.gov/service/current-solicitations-opportunities> on December 11, 2015.

Selection Process: Grant recipients will be selected through a competitive application process. All applications from eligible applicants that are received before the deadline will be forwarded to a review panel to be evaluated, scored, and ranked based on the selection criteria listed below.

1. Capacity and Experience of the Applicant (25 points)
2. Strength of the Project Implementation Plan (25 points)
3. Financial Viability of Applicant Organization (25 points)
4. Creativity and Innovation (25 points)

A program team from both Agencies will review the panel reviewers' recommendations. DMPED will make the final determination of grant awards. A grantee will be selected by January 20, 2016.

Award of Grants: Up to three (3) grants totaling \$300,000 will be awarded.

For More Information: Attend the Pre-Application Information Session on Tuesday, December 15, 2015 at 2:00 p.m. The session will be held at 441 4th Street, NW, Suite 850 North. This is a secure building and entrance requires government-issued identification.

Questions may be sent to Lauren Adkins at the Department of Small and Local Business Development at lauren.adkins@dc.gov or 202-727-3900.

Reservations: DMPED and DSLBD reserve the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.

THURGOOD MARSHALL ACADEMY PUBLIC CHARTER HIGH SCHOOL**REQUEST FOR PROPOSALS****Caterer for Gala**

Thurgood Marshall Academy—a nonprofit, college-preparatory, public charter high school—seeks a vendor to cater its annual fundraising gala.

The **full RFP** is available on the **Employment Opportunities** page under the About tab of www.thurgoodmarshallacademy.org. Alternatively, e-mail a request for the full RFP to dschlossman@tmapchs.org no later than 5 pm on Friday, January 8, 2016 (bidders are advised that email will be checked only occasionally between Dec. 19, 2015, and Jan. 3, 2016).

Amendments to or extension of the RFP, if any, will be posted exclusively on the web page described above.

Contact: For further information regarding the RFP contact **David Schlossman at 202-276-4722 or dschlossman@tmapchs.org**. Further information about Thurgood Marshall Academy—including our nondiscrimination policy—may be found at www.thurgoodmarshallacademy.org.

Deadline & Submission: Submit bids responsive to the full RFP via **email to dschlossman@tmapchs.org** no later than **Monday, January 11, 2016**.

WASHINGTON LATIN PUBLIC CHARTER SCHOOL**NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT****Echo Hill Outdoor School**

Pursuant to the School Reform Act, D.C. 38-1802 (SRA) and the D.C. Public Charter Schools procurement policy, Washington Latin PCS hereby submits this Notice of Intent to award the following Sole Source Contract:

Vendor: Echo Hill Outdoor School.

Description of Service Procured: Echo Hill Outdoor School hosts an academic learning environment on the Chesapeake Bay estuary with immediate access to farmland, wetlands, marshlands and a mile of coast line on the Chesapeake Bay. The staff provides academic, hands on classes in ecology and history and human interactions with the environment through the lens of the Chesapeake Bay. EHOS also conducts team/community building exercises as a part of their program. They also provide constant care and supervision for visitors/students on a residential campus capable of accommodating and feeding a large number of students/guests, well over 100.

Amount of Contract: \$27,000

Selection Justification: The Echo Hill Outdoor School is the only operation that offers academic level classes on a campus with immediate access to working farmland, swamplands, marshlands, and a significant stretch of shoreline on the Chesapeake Bay, who also has facilities to comfortably accommodate and feed the number of students/teachers (nearly 100) attending, while also providing 24 hour supervision and care for visitors.

For further information regarding this notice contact Bear Paul at bpaul@latinpcs.org no later than 12:00 PM December 18, 2015.

Washington Latin Public Charter School
5200 2nd Street NW
Washington, DC 20011
(202) 223-1111 (p)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19098 of Kevin Murphy, as amended¹, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, and the nonconforming structure requirements under § 2001.3, to allow a three-story rear addition to an existing one-family dwelling in the R-4 District at premises 440 Ridge Street, N.W. (Square 513, Lot 64).

HEARING DATE: Applicant waived right to a public hearing

DECISION DATE: November 10, 2015 (Expedited Review Calendar).

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated June 29, 2015, from the Zoning Administrator (“ZA”), which stated that Board of Zoning Adjustment (“Board” or “BZA”) approval is required for the following:

“Special exception pursuant to § 223.1 to allow a two-story infill addition to an existing nonconforming single family structure that has already exceeded maximum lot occupancy as per § 2001.3. (§ 3104).”

(Exhibit 7.) The Board, on its own motion, amended the application to add the relief from OP recommended from the lot occupancy requirements under § 403.2 (Exhibit 37), in addition to the relief initially requested, and required the Applicant to obtain an updated ZA letter or self-certification to reflect the amended relief. The Applicant submitted a revised ZA letter reflecting the amended relief. (Exhibit 40.)

Pursuant to 11 DCMR § 3118, this application was tentatively placed on the Board’s expedited review calendar for decision without hearing as a result of the Applicant’s waiver of his 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”) 1B, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1B, which is automatically a party to this application. The ANC did not submit a report regarding this application.

¹The Applicant initially filed for special exception relief under § 223 for a rear addition not meeting the nonconforming structure requirements of § 2001.3. (Exhibit 1.) The Office of Planning (“OP”) recommended that the Applicant also needed relief from the lot occupancy requirements under § 403.2 (Exhibit 37), in addition to the relief initially requested. The Board, on its own motion, added the relief OP recommended, and required the Applicant to obtain an updated ZA letter to reflect the amended relief. (Exhibit 40.) The caption has been amended accordingly.

BZA APPLICATION NO. 19098**PAGE NO. 2**

The Office of Planning (“OP”) submitted a timely report in support of the application as amended. (Exhibit 37.) The District Department of Transportation (“DDOT”) submitted a report expressing no objection to the approval of the application. (Exhibit 27.)

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.

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, 403.2, and 2001.3. 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, 403.2, and 2001.3, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, 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 THE APPROVED PLANS AT EXHIBIT 10.**

VOTE: **3-0-2** (Marnique Y. Heath, Frederick L. Hill, and Peter G. May to APPROVE; Jeffrey L. Hinkle, not present, not voting; 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: December 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

BZA APPLICATION NO. 19098**PAGE NO. 3**

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. 19111 of Victory Village Development Corporation, as amended,¹ pursuant to 11 DCMR § 3104.1, for a special exception to allow a community service center under § 334, and pursuant to § 3103.2, for a variance from the parking space access requirements of § 2117.4 to allow tandem parking for the community service center in the R-4 District at premises 1533 9th Street, N.W. (Square 397, Lot 31).

HEARING DATE: November 17, 2015
DECISION DATE: November 17, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6 – original, Exhibit 38 - revised.)

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission (“ANC”) 6E and to owners of property 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. ANC 6E submitted a report dated November 16, 2015, noting that at a duly noticed public meeting on September 1, 2015, with a quorum present, it voted 6-0 to support the application. (Exhibit 36.)

¹ By letter dated November 5, 2015, the Applicant requested to amend the application to add a request for variance relief from the parking space access requirements of § 2117.4 which provides as follows:

2117 ACCESS, MAINTENANCE, AND OPERATION

2117.4 Except as provided in §§ 2117.5 and 2117.6, each required parking space shall be accessible at all times directly from improved alleys with a minimum width of ten feet (10 ft.) or improved public streets via graded and unobstructed private driveways that form an all-weather surface.

The Applicant stated that “the existing curb cut for the Property on 9th Street, N.W. will be subject to review and approval by DDOT’s Public Space Committee (“PSC”) because of the proposed change in the use of the Property. Should the PSC deny the use of the existing curb cut, the proposed parking layout would require a variance from § 2117.4 ...” (Exhibit 32.)

The Applicant filed a revised self-certification form to reflect the amended relief. (Exhibit 38.) The caption has been changed accordingly.

BZA APPLICATION NO. 19111
PAGE NO. 2

The Office of Planning (“OP”) submitted a timely report dated November 10, 2015 recommending approval of the application as amended. (Exhibit 33.) OP also testified in support of the application at the hearing. The D.C. Department of Transportation submitted a timely report expressing no objection to the application. (Exhibit 34.)

Special Exception Relief:

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 special exception relief under § 334. The only parties to the application were the Applicant and the ANC which expressed support for the application. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 334, that the requested relief can be granted, 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.

Variance Relief:

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for a variance from § 2117.4. The only parties to this case were the Applicant and the ANC which supported the application. 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 filed in this case, the Board concludes that in seeking a variance from § 2117.4, the Applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 31B.**

VOTE: **3-0-2** (Marnique Y. Heath, Michael G. Turnbull, and Frederick L. Hill to Approve; Jeffrey L. Hinkle not present, not voting; one Board seat vacant).

BZA APPLICATION NO. 19111
PAGE NO. 3

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: December 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 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. 19113 of Lerner South Capitol Street JV LLC, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for variances from the side yard requirements under § 775.5, and the loading requirements under § 2201.1, and a special exception from the roof structure requirements under § 411.11, to allow roof structures not meeting the setback requirement under § 770.6(b), and single enclosure requirements under § 411.3, to construct a new multi-family apartment building in the C-3-C District at premises 1000 South Capitol Street S.E. (Square 697, Lot 46).

HEARING DATE: November 24, 2015
DECISION DATE: November 24, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6.)

The Board of Zoning Adjustment ("Board") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 6D, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6D, which is automatically a party to this application.

ANC 6D filed a report dated November 10, 2015, indicating that at a regularly scheduled, duly noticed public meeting on November 9, 2015, with a quorum of Commissioners present, the ANC considered the application. The ANC voted 5-0-1 to recommend approval of the application with three conditions. (Exhibit 28.) At the request of the Board during the public hearing, the Applicant clarified that the third condition, regarding a commitment to provide affordable housing, would be in effect for as long as the project remains a rental building. The Board noted that the conditions proffered by the ANC were generally not related to the relief requested, therefore it was not inclined to adopt them as conditions to the order; however, because the Applicant indicated during the hearing that it accepted the third condition, the Board has adopted that condition.

The Office of Planning ("OP") submitted a timely report on November 16, 2015, recommending approval of the application, (Exhibit 29,) and testified in support at the public hearing. The District Department of Transportation ("DDOT") submitted a timely report on November 17, 2015 indicating that it had no objection to the Applicant's requests for variance and special exception relief. (Exhibit 30.)

BZA APPLICATION NO. 19113
PAGE NO. 2

Half Street SE, LLC, owner of the adjacent property, filed a letter noting that it has no objection to the application, but requesting that the Board adopt the Applicant's loading management plan, as referenced in DDOT's report in Exhibit 30, as a condition of approval. (Exhibit 32.) The Board declined to adopt the specific elements of the Applicant's loading management plan as conditions of the order to allow the Applicant flexibility to work with DDOT on the plan, if necessary.

Variance Relief

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for variances from the side yard requirements under § 775.5 and the loading requirements under § 2201.1. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that in seeking a variance from 11 DCMR §§ 775.5 and 2201.1, the Applicant has met the burden of proving under § 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.

Special Exception Relief

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 from the roof structure requirements under § 411.11, to allow roof structures not meeting the setback requirement under § 770.6(b), and single enclosure requirements under § 411.3. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 411.11, 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.

BZA APPLICATION NO. 19113
PAGE NO. 3

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. It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBITS 27B1 – 27B6, AND SUBJECT TO THE FOLLOWING CONDITION:**

1. The Applicant, or any successor owner/operator of the site, in a rental apartment building development, shall make two units affordable: one for a household with an income that is 80-120% of Area Median Income and one for a household with an income that is 50-80% of Area Median Income. The number of bedrooms in each unit shall be in keeping with the unit distribution in the completed building. The Applicant shall verify the income of each household living in an affordable unit and set the rent at no more than 30% of each household's income.

VOTE: **3-0-2** (Marnique Y. Heath, Marcie I. Cohen, and Frederick L. Hill, to APPROVE; Jeffrey L. Hinkle not participating and 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: December 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 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

BZA APPLICATION NO. 19113**PAGE NO. 4**

CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

441 4TH STREET, N.W.
SUITE 200-SOUTH
WASHINGTON, D.C. 20001

PUBLIC NOTICE OF CLOSED MEETINGS FOR DECEMBER 2015

In accordance with § 405(c) of the Open Meetings Act, D.C. Official Code § 2-575 (c), on October 27, 2015, the Board of Zoning Adjustment voted 4-0-1 to hold *closed meetings telephonically on Monday, November 30th, Decembers 7th, 14th, and 21st*, beginning at 4:00 p.m. for the purpose of obtaining legal advice from counsel and/or to deliberate upon, but not voting on the cases scheduled to be publicly heard or decided by the Board on the day after each such closed meeting, as those cases are identified on the Board's meeting and hearing agendas for December 1st, December 8th, December 15th, and December 22nd, 2015.

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

**Marnique Y. Heath, Chairperson, Frederick L. Hill, Vice-Chairperson,
Jeffrey L. Hinkle, Board Seat Vacant, and a Member of the Zoning Commission.
Clifford W. Moy, Secretary of the Board of Zoning Adjustment,
Sara A. Bardin, Director, Office of Zoning.**

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 08-33C
Z.C. Case No. 08-33C
Conference Center Associates I, LLC
(Modification of Consolidated Planned Unit Development @ Parcel 121/31)
November 9, 2015

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia (“Commission”) was held on September 24, 2015 to consider the request of Conference Center Associates I, LLC (“Applicant”) for a modification of the consolidated planned unit development (“PUD”) approved in Z.C. Case No. 08-33, and the time extensions granted in Z.C. Case Nos. 08-33A and 08-33B. The property, Parcel 121/31, which is the subject of this application is located at the intersection of Irving Street, N.E. and Michigan Avenue, N.E. (the “Property”). The public hearing was held in accordance with the provisions of 11 DCMR §3022 and the Commission considered the application pursuant to 11 DCMR §§ 2400 *et seq.*

FINDINGS OF FACT

1. Z.C. Case No. 08-33 included both a Consolidated PUD approval and a first-stage PUD approval. The consolidated PUD project approved in Z.C. Order No. 08-33, which became final and effective on December 25, 2009, authorized the construction of a hotel, conference center, restaurant, parking structure, and retail space on the eastern half of the Property. The 314 room hotel (which includes a restaurant) and conference center has frontage along Michigan Avenue, N.E. and Irving Street, N.E. and a four-story above-grade structure along Michigan Avenue that will include retail uses at grade and in a basement level and 400 parking spaces. A 200-space surface parking lot on the northern portion of the Property was also approved in the consolidated PUD application. Z.C. Order No. 08-33 also authorized the rezoning of the Property from unzoned (designated as GOV) to the C-3-A Zone District. (Exhibit [“Ex.”] 1.)
2. The first-stage PUD approval included two nine story buildings with a measured building height of 94.5 feet (as measured from the curb at Irving Street) that will be no taller than 90 feet as measured from the finished grade at the building. The two buildings will be dedicated to either additional hotel and/or residential units and may include more space for conference center uses. A below-grade parking structure including 295 parking spaces is also included in the first-stage PUD approval. The first-stage PUD approval is effective until December 25, 2014. (Ex.1.)
3. On December 21, 2011, the Applicant filed an application requesting that the Commission grant a two-year time extension in which the Applicant was required to file a building permit application for the consolidated PUD and Zoning Map Amendment application. Pursuant to Z.C. Order No. 08-33A, the Commission determined that the Applicant had met the relevant requirements of Section 2408.8 of the Zoning Regulations and extended the time period in which the Applicant was required to file a building permit application for the consolidated PUD until December 25, 2013. (Ex.1.)

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4. In the December 21, 2011 time extension application, the Applicant also requested approval to extend the period of the first-stage PUD approval. Pursuant to Condition No. 20 of Z.C. Order No. 08-33, the first-stage PUD approval is effective until December 25, 2014. The Applicant requested that the first-stage PUD approval be extended until December 25, 2016. In Z.C. Order No. 08-33A, the Commission denied the two-year time extension request for the first-stage PUD application approved in ZC Order No. 08-33. However, the Commission's denial was "without prejudice to the Applicant filing a renewed request once the issue becomes ripe." (Ex.1.)
5. On December 23, 2013, the Applicant filed a second time extension application which sought an additional two years, until December 25, 2015, in which time it would be required to file a building permit application to construct the approved consolidated PUD project and file the PUD Covenant which will change the zoning of the Property from unzoned to C-3-A. The Applicant also requested a one-year time extension of the approval of the first-stage PUD approval, so that the first-stage PUD approval would be extended until December 25, 2015. Pursuant to Z.C. Order No. 08-33B, the Commission determined that the Applicant had met the relevant requirements of § 2408.10 of the Zoning Regulations and extended the time period in which the Applicant was required to file a building permit application for the consolidated PUD and the first stage PUD approval until December 25, 2015. (Ex.1.) On June 29, 2015, the Applicant filed a third time extension application which sought approximately seven months until July 31, 2016, in which time it would be required to file a building permit application to construct the approved consolidated PUD project. The Commission took action to approve the third time extension at the same meeting it approved this application.
6. On June 29, 2015, the Applicant filed the current application as a minor modification request in accordance with § 3030 of the Regulations. The Applicant sought approval of the following modifications to the plans approved in Z.C. Case No. 08-33:
 - Change in hotel brand from SpringHill Suites by Marriott to a combined Residence Inn/Courtyard by Marriott. The previously approved plan included 314 hotel rooms. The proposed plan includes 336 hotel rooms (168 for the Residence Inn and 168 for the Courtyard by Marriott). The gross floor area of the hotel has increased by 26,194 square feet. The Conference Center ballroom also increased in size to better accommodate anticipated uses and a roof terrace level was added. The gross floor area of the conference center has increased by 14,743 square feet. The total increase in gross floor area for the consolidated PUD is 40, 980 square feet, resulting in a floor area ratio ("FAR") of 1.63 (rather than the previous 1.46);
 - The height of the four-story above-grade parking structure/conference center has increased from 49 feet, nine inches to 58 feet, two inches. The additional building height allows for retail space that has a floor to ceiling height of 14 feet, and additional height at the ballroom level which provides support space for ballroom functions and the opportunity to create an outdoor terrace. These increases in height

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of the parking structure/conference center also improve the pedestrian experience and view corridors from Michigan Avenue, N.E. to the future second phase of development on the property. These view corridors are also enhanced by the removal of the columns which were previously located below the conference center at the ground floor;

- The location of the “white table cloth” restaurant has not changed, but the entrance to the restaurant has been relocated so that it is adjacent to the hotel entrance on Michigan Avenue, N.E.;
- The hotel building has been extended to the property line on Irving Street. The approved project was previously set back from the property line along Irving Street a distance of 19 feet, nine and one-fourth inches. This created a non-conforming side yard which required flexibility from the Zoning Commission. The Applicant is no longer requesting side yard flexibility along the Irving Street façade as the structure is now located on the property line. A series of court niches have been created along this façade to provide dynamism to the building’s façade along Irving Street, N.E. Based on input from District Department of Transportation (“DDOT”) staff, the landscape and streetscape plans along Irving Street, N.E. have been modified to accommodate the extension of the hotel building to the property line;
- The basement level of the parking structure has been modified to include parking spaces. This allows for a reduction in the number of surface parking spaces on the Property, while still maintaining the previously approved count of 600 parking spaces in the project; and
- The Commission previously granted flexibility from the roof structure requirements regarding setbacks and the requirement to have a single enclosure. Due to programmatic changes in the hotel, the shape of the roof structure has changed and the amended roof structure still requires flexibility from the setback requirements and from the requirement to be included in a single enclosure. (Ex.1, 1C.)

In a post-hearing submission dated October 19, 2015, the Applicant submitted an Amended Roof Plan which showed the roof structure being set back 11 feet, six inches from the exterior wall of the building that has frontage along Michigan Avenue, N.E. The Applicant noted that this setback exceeded the roof structure setback (10 feet, six inches) that was originally approved by the Commission. The amended roof plan submitted by the Applicant also showed revisions to the amount of green roof area that will be provided on the roof of the hotel building. (Ex. 22.)

7. The Applicant noted that otherwise, the proposed consolidated PUD project remains the same as the project that was approved in Z.C. Case No. 08-33, a hotel and conference center with an above-grade parking structure, and ground-floor retail uses. The Applicant also stated that it was not proposing any substantive changes to the benefits and amenities

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package which was approved by the Advisory Neighborhood Commission (“ANC”) and the Commission in Z.C. Case No. 08-33. Due to the redistricting of the ANCs in accordance with the results of the 2010 Census, the Property is now located in ANC 5A, rather than ANC 5C. The only modification that is being proposed to the benefits and amenities package is to change the reference from ANC 5C (the previous ANC) to ANC 5A (the ANC in which the property is currently located) in Condition Nos. 14, 15, and 17. (Ex.1D.)

8. The Office of Planning (“OP”) submitted a report, dated July 17, 2015, which noted that the Office of Planning could not conclude that the proposed modifications would be of little or no importance as contemplated under § 3030.2. The OP report further stated: “However, OP is not opposed to the general direction of the proposed modifications and recommends that the application be set down for public hearing. OP requests the applicant provide the GAR score as part of its pre-hearing statement prior to the public hearing.” (Ex. 5.)
9. At the Commission's July 24, 2015 public meeting, the Commission removed the minor modification request from its consent calendar, and instead set it down for a public hearing.
10. The Applicant submitted a supplemental statement, dated September 4, 2015, which included the names and resumes of expert witnesses, addressed transportation related issues and also included a GAR scorecard. In regard to the transportation issues, the Applicant noted that it filed a technical memorandum with DDOT on August 21, 2015, which analyzed the number of vehicular trips that will be generated by the modified PUD project. This memorandum concluded:

As a result, the modification to the development program would generate 9 additional AM peak hour trips (6 inbound and 3 outbound), 11 additional PM peak hour trips (6 inbound and 5 outbound), and 138 additional daily trips. The additional trips generated by the modified development program are minimal and would not result in any significant additional impact beyond that previously studied in the 2008 TIS. In addition, these additional trips would not meet DDOT Comprehensive Transportation Review (CTR) thresholds for additional vehicular study were they considered alone. DDOT CTR guidelines state that developments generating more than 25 peak hour trips in the peak direction should be studied for vehicular impacts, suggesting that developments generating less than this threshold would have minimal additional impact. Since the modified program would generate only 6 additional peak hour trips in the peak inbound direction in both the AM and PM peak hours, there will not a be significant adverse impact associated with the additional rooms and conference square footage, due to the resulting minimal increase in vehicular trips. (Ex. 16, 16B, 16D.)

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11. The Applicant's supplemental statement also noted that DDOT representatives requested that the Applicant provide additional information and detail on the public right-of-way configuration for the portions of the North Capitol Street ramp and Irving Street that will lead into the Irving Street access into the site. The Applicant provided that analysis. The Applicant noted that it understood that the ultimate configuration of the public right-of-way adjacent to the site will be reviewed and approved through DDOT permitting processes (which may include the DDOT Policy and Process for Access to the DC Interstate and Freeway System and the public space permitting process) and that the Applicant and DDOT will work together to create the appropriate public right-of-way configuration.
12. At the public hearing, the Applicant's architect, Sean Stadler (admitted as an expert in architecture) presented testimony describing the proposed modifications to the hotel and conference center project. In response to questions from the Commission, the Applicant's design team agreed to provide a post-hearing submission which addressed: (i) increasing the depth of the roof structure setback on the hotel building; (ii) increasing the amount of green roof area on the hotel building; and (iii) enhancing the appearance of the parking structure through additional green screening elements. (Public Hearing Transcript ["Tr."] of 9/24/15, p. 40.)
13. In a post-hearing submission dated October 19, 2015, the Applicant submitted an Amended Roof Plan which showed the roof structure being set back 11 feet, six inches from the exterior wall of the building that has frontage along Michigan Avenue, N.E. The Applicant noted that this setback exceeded the roof structure setback (10 feet, six inches) that was originally approved by the Commission. The amended roof plan submitted by the Applicant also showed revisions to the amount of green roof area that will be provided on the roof of the hotel building. The amount of green roof area proposed is now very similar to the amount of green roof area that was approved by the Commission. The Applicant also included an Amended View from Michigan Avenue which shows the increased size of the green wall of the parking structure that faces Michigan Avenue, N.E. (Ex. 22, 23.)

AGENCY REPORTS

14. OP submitted its report on September 14, 2015. OP recommended approval of the proposed modifications of the approved PUD. OP noted that, "The proposed changes are not inconsistent with the Comprehensive Plan and are in many respects an improvement over the original proposal. The proposed modifications would not change the decisions upon which the PUD was approved by the Zoning Commission." (Ex. 18.)
15. DDOT submitted a report, dated September 11, 2015, which noted that DDOT had no objection to the proposed modifications with the following conditions: (i) the Applicant complete a CTR as part of the future second phase of the project approved through the first-stage PUD; and (ii) the Applicant be responsible for the design, approvals, costs, and

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construction associated with the re-configuration of the Irving Street and North Capitol Street ramp prior to the issuance of a Certificate of Occupancy for consolidated PUD phase of the project. (Ex. 17.) The Applicant agreed to these requests, which have been conditions of this Order.

16. The Deputy Mayor for Planning and Economic Development submitted a letter in support of the application. The Deputy Mayor noted that it “agreed with the Applicant’s view that the proposed modifications are entirely consistent with the Zoning Commission’s original approval of the application.” (Ex. 15.)

ANC REPORT

17. ANC 5A submitted a letter into the record on July 9, 2015. This letter noted that at a regularly scheduled public meeting on June 24, 2015, with a quorum present, ANC 5A unanimously approved a motion to support this application by a vote of 6-0, subject to modifications in all related documents substituting ANC 5A for 5C. Due to the redistricting of the ANCs in accordance with the results of the 2010 Census, the Property is now located in ANC 5A. ANC 5A wanted the record of this case to clearly reflect that the Property is located within the boundaries of ANC 5A. (Ex. 4.)

PARTIES AND/OR PERSONS IN SUPPORT OR OPPOSITION

18. There were no other persons or parties in opposition to this application.

CONCLUSIONS OF LAW

Upon consideration of the record of this application, the Commission concludes that the Applicant’s modifications to the approved plans are consistent with the intent of the previous PUD approvals made in Z.C. Order Nos. 08-33, 08-33A, and 08-33B. The Commission agrees with the conclusions of OP that the proposed modifications are in many respects an improvement over the original proposal. The Commission acknowledges the steps that the Applicant made to increase the roof structure setback to 11 feet, six inches on the hotel building, the increased amount of green roof area provided on the hotel building, and the enhanced green screening provided on the parking structure. The Commission concludes that the proposed modifications are in the best interest of the District of Columbia and are consistent with the intent and purpose of the Zoning Regulations and the Zoning Act. The Commission also concludes that the approval of the modification application is not inconsistent with the Comprehensive Plan.

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 issues and concerns raised in the written report of the affected ANC. As noted above, ANC 5A submitted a letter in support of this application, provided that the appropriate conditions reflect that the Property is now located in ANC 5A. The revised conditions noted below reflect that change.

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The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (DC Law 8-163, D.C. Official Code § 6-623.04), to give great weight to OP recommendations. OP recommended approval of this application and the Commission concurs in its recommendation. The Commission also notes the conditions that were raised by DDOT and acknowledges the Applicant's agreement to continue to abide by those requirements which were established in Condition No. 6 of Z.C. Order No. 08-33.

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 this application for review and approval of a modification to an approved planned unit development for the Property. The Commission hereby modifies Condition Nos. 1, 6, 14, 15, and 17 of Z.C. Order No. 08-33 to read as follows:

1. The PUD project shall be developed in accordance with the plans and materials submitted by the Applicant marked as Exhibits 18, 19, 36 and 39 of Zoning Commission Case No. 08-33, as amended by the plans and materials submitted as Exhibits 1C and 23 of Zoning Commission Case No. 08-33C.

6. The Applicant shall undertake the following traffic mitigations:
 - a. **Prior to the issuance of a certificate of occupancy for the consolidated portion of the PUD project**, the Applicant shall undertake (subject to DDOT approval) and pay all costs associated with the following improvements to the transportation system on Irving Street and Michigan Avenue adjacent to the Property: relocation of the Irving Street entrance drive into the Property; installation of a new traffic signal at the Irving Street entrance and appropriate signage that will alert drivers (from all directions) about the Irving Street signalized intersection; creation of a separate westbound approach off of Irving Street; improved roadway striping and signage; the removal of the "slip lane" from Irving Street to Michigan Avenue through the redesign and construction of a revised intersection of Michigan Avenue and Irving Street; installation of expanded new 10 foot sidewalks in the public space adjacent to the Property; and replacement of the bus shelter located on Michigan Avenue adjacent to the Property;

 - b. **Prior to the issuance of a certificate of occupancy for the consolidated portion of the PUD project**, the Applicant shall be responsible for the design, approvals, costs, and construction (subject to DDOT approval) with the re-configuration of the Irving Street and North Capitol Street; and

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- c. The Applicant shall complete a Comprehensive Traffic Review (CTR) as part of its second-stage PUD application for the portion of the project approved by the first-stage PUD.
- 14. The Applicant shall provide ANC 5A or SMD 5A05 with meeting room space for monthly public meetings on a scheduled basis, free of charge.
- 15. The Applicant shall establish a program to offer reduced rates for reasonable use of the hotel and conference center, including use of the conference facilities and rooms for the ballroom, by residents of ANC 5A, on a space available basis.
- 17. The Applicant shall provide meeting space for ANC 5A residents' annual holiday party for a period of 20 years from the date the hotel opens. The meeting space will be free of charge and will be on a space available basis.

At the conclusion of the public hearing on September 24, 2015, upon motion by Vice-Chairman Cohen, as seconded by Commissioner Miller, the Zoning Commission took final action to **APPROVE** this 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 November 9, 2015, upon motion by Commissioner Miller, as seconded by Commissioner Turnbull, the Zoning Commission took final action to **APPROVE** this application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the *D.C. Register* on December 11, 2015.

ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION

SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**NOTICE OF FILING****Z.C. Case No. 15-24A****(Gallaudet University and The JBG Companies – First-Stage PUD and Related Map Amendment @ Parcel 129/112)****November 25, 2015****THIS CASE IS OF INTEREST TO ANCs 5D and 6C**

On November 25, 2015, the Office of Zoning received an application from Gallaudet University and The JBG Companies (together, the “Applicant”) for approval of a first-stage planned unit development (“PUD”) and related map amendment for the above-referenced property.

The property that is the subject of this application consists one of four development parcels, Parcel 4, known as Parcel 129/112, located between 5th and 6th Street, N.E. This case is related to Z.C. Case No. 15-24 and the Applicant has asked the Commission to come the two cases into one case. Together, the Applicant seeks to rezone, for the purposes of this project, Parcels 1 and 2 from the C-M-1 Zone District to the C-3-A Zone District and Parcels 3 and 4 from the C-M-1 Zone District to the C-3-C Zone District.

The Applicant proposes to develop a mixed-use project to include residential, institutional, office, and retail uses. The maximum building height for Parcels 1 and Parcel 2 will be 70 feet, and the maximum density will be 2.6 floor area ratio (“FAR”) and 2.70 FAR, respectively. The maximum building height for Parcels 3 and 4 will be 120 feet, and the maximum density will be 7.7 FAR and 7.4 FAR, respectively.

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**NOTICE OF FILING**

**Z.C. Case No. 15-32
(1126 9th St. NW, LLC – Consolidated PUD and
Related Map Amendment @ Square 369, Lot 880)
November 9, 2015**

THIS CASE IS OF INTEREST TO ANC 2F

On November 27, 2015, the Office of Zoning received an application from 1126 9th St. NW, LLC (the “Applicant”) for approval of a consolidated planned unit development (“PUD”) and related map amendment for the above-referenced property.

The property that is the subject of this application consists of Lot 880 in Square 369 in northwest Washington, D.C. (Ward 2), on property located at 1126 9th Street, N.W. The property is currently zoned DD/C-2-A and DD/C-2-C. The Applicant is proposing a PUD-related map amendment to rezone the property, for the purposes of this project, to the DD/C-2-C Zone District.

The property is currently improved with two one-story buildings and related surface parking. The Applicant proposes to construct a mixed-use multi-family building of retail and residential uses, with a full-service grocery store at ground level. The maximum height of the building will be 73’4” and the total gross floor area will be approximately 273,308 square feet, with a maximum density of 3.12 floor area ratio (“FAR”).

The applicant is requesting approval of this PUD in order to create a residential project with office and/or retail uses on the ground floor and second floor of the site. This project will create approximately 28 new residential units, and approximately 7,644 gross square feet (“GSF”) of commercial space on the ground floor and second floor, with a total project gross floor area of approximately 40,290 GSF. The Applicant is also requesting approval for the second level of the project to be utilized as residential, which would result in a use mix of approximately 33 new residential units, approximately 3,723 GSF of commercial space on the ground floor and second floor and no change to the total project gross floor area. The proposed project will have an overall density of approximately 5.3 FAR and maximum heights of 100 feet along 9th Street and 54 feet, 2 inches (with two loft bump ups creating a building height of 61 feet, 4 inches) feet along M Street. Loading will be from the rear of the property, accessible via an existing alley. The Project will include two non-compliant surface parking spaces and no underground parking.

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

12-Month Schedule of Monthly Meeting Dates for 2016

The Zoning Commission of the District of Columbia, in accordance with § 3005.1 of the District of Columbia Municipal Regulations, Title 11, Zoning, hereby gives notice that it has scheduled the following meetings. Meetings are held in the Jerrily R. Kress Memorial Hearing Room, Suite 220 South of 441 4th Street, N.W., #1 Judiciary Square, beginning at 6:30 p.m.

The dates of the Monthly Meetings for the following year of the Zoning Commission of the District of Columbia are as follows:

Regular Monthly Meeting	Second Monthly Meeting
January 11, 2016	January 25, 2016
February 8, 2016	February 29, 2016
March 14, 2016	March 28, 2016
April 11, 2016	April 25, 2016
May 9, 2016	May 23, 2016
June 13, 2016	June 27, 2016
July 11, 2016	July 25, 2016
September 12, 2016	September 26, 2015
October 17, 2016	--
November 14, 2016	--
December 12, 2016	--

Please note that these dates are subject to change.

Additional meetings as needed may be called by the presiding officer or by three (3) members. However, no meetings or hearings are held in the month of August.

The proposed agenda for each meeting is posted in the office of the Commission and available to the public at least four days prior to the meeting.

For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

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