

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council enacts Act 21-236, Local Jobs and Tax Incentive Act of 2015
- D.C. Council schedules a public roundtable on the District Department of Transportation’s Proposed Vision Zero Regulations
- Department of Energy and Environment announces funding availability for the Lead Poisoning Prevention Outreach Project
- Board of Ethics and Government Accountability solicits comments on a draft advisory opinion on the meaning of the phrase “devoted substantially” as it is used in Section 1807.4 of the District Personnel Manual
- Department of Health Care Finance announces changes to the Medicaid Hospice Routine Home Care Payment Rates
- Public Service Commission solicits comments on Washington Gas Light Company’s 2015 Annual Report on the Replacement and Encapsulation Program
- D.C. Taxicab Commission implements new standards for taxicab companies and associations and sets guidelines for retiring older vehicles

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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DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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MAYOR

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ADMINISTRATOR

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-236

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 21, 2015

To amend Chapter 46 of Title 47 of the District of Columbia Official Code to provide an abatement of real property taxes on real property leased by The Advisory Board Company and located at Lots 25, 39, 41, 800, 825, 830, 831, and 832, Square 450.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Local Jobs and Tax Incentive Act of 2015”.

Sec. 2. Chapter 46 of Title 47 of the District of Columbia Official Code is amended as follows:

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

“47-4665.01. The Advisory Board Company – definitions.

“47-4665.02. The Advisory Board Company – tax abatement.

“47-4665.03. The Advisory Board Company – compliance.

“47-4665.04. The Advisory Board Company – community benefits.

“47-4665.05. The Advisory Board Company – certification by Mayor.

(b) New sections 47-4665.01 through 47-4665.05 are added to read as follows:

“§ 47-4665.01. The Advisory Board Company - definitions.

“For the purposes of §§ 47-4665.02 through 47-4665.05, the term:

“(1) “Abatement period” means October 1, 2020, through September 30, 2030, the time during which the incentive will be applied.

“(2) “Accumulated New District Resident Hires” is the goal for Net New District FTE Hires pursuant to the incentive agreement.

“(3) “Annual reporting date” means September 30 preceding every tax year of the Abatement Period.

“(4) “Company” means The Advisory Board Company.

“(5) “Community Benefits Agreement” means the agreement entered into between the Mayor and the Company pursuant to § 47-4665.04.

“(6) “District resident” means an FTE whose principal place of residence is located within the District and who is on the annual reporting date subject to District personal income tax.

“(7) “FTE” means an employee of the Company, or one of its subsidiaries or affiliates, who is eligible for the full employee healthcare benefits of the Company, or its applicable subsidiary or affiliate, in accordance with its standard policies.

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“(8) “Incentive agreement” means the agreement entered into between the Mayor and the Company outlining the Company’s incentive requirement, which shall include incentives for hiring 1,000 Net New District FTE Hires.

“(9) “Lease commencement” means the date on which the Company occupies the Property with its employees.

“(10) “Lease execution” means the date on which the Company signs the lease for the Property.

“(11) “Net New District FTE Hires” means the aggregate number of District residents whose primary workplace is located in the District in excess of the resident employment baseline.

“(12) “Project” means the initial tenant improvements to the premises located on the Property undertaken by the Company or its contractor to construct the space for initial occupancy.

“(13) “Property” means Lots 25, 39, 41, 800, 825, 830, 831, and 832, Square 450.

“(14) “Resident employment baseline” means the total number of District residents whose primary workplace is located in the District, as established in the incentive agreement, as of the date of the lease execution.

“(15) “Total employment baseline” means the total number of FTEs, whose primary workplace is located in the District, as established in the incentive agreement, as of the date of the lease execution.

“§ 47-4665.02. The Advisory Board Company - tax abatement.

“(a) Subject to subsections (c) and (d) of this section and §§ 47-4665.03 and 47-4665.04, the real property taxes imposed by Chapter 8 of this title with respect to the Property shall be abated in an amount not to exceed \$6 million per tax year during the abatement period. The abatement shall be apportioned equally between each tax year’s installment billing. The abatement shall be non-refundable and shall not be credited to other tax years.

“(b) The amount of the abatement authorized in subsection (a) of this section shall be determined as follows:

“(1) If the Company exceeds the total employment baseline and meets the annual requirements for the Accumulated New District Resident Hires, as measured on the annual reporting date, then the abatement for each such tax year shall equal \$6 million;

“(2) If the Company’s annual total of Net New District FTE Hires is less than the requirements for the Accumulated New District Resident Hires for the same period, but the Company exceeds the total employment baseline, then the abatement for each such tax year shall be calculated based on the ratio of actual Net New District FTE Hires to the requirement for Accumulated New District Resident Hires as of the annual reporting date; or

“(3) If there are fewer FTEs than the total employment baseline as of the annual reporting date, then the abatement for each such tax year shall be zero.

“(c) The Property shall be eligible for the abatement authorized in subsection (a) of this section each year of the abatement period as long as the Company:

“(1) Maintains a lease for the premises located on the Property that meets the requirements in subsection (d) of this section;

“(2) Maintains the total employment baseline;

ENROLLED ORIGINAL

“(3) Fulfills the requirements of the Community Benefits Agreement; and

“(4) Complies with §§ 47-4665.02 through 47-4665.05, including the requirements of the incentive agreement.

“(d) The terms of the Company’s lease for the Property shall meet the following requirements:

“(1) The premises subject to the lease shall be located in the District;

“(2) The lease execution shall occur on or before December 31, 2015;

“(3) The premises leased by the Company shall include at least 425,000 square feet of net rentable area; and

“(4) The term of the initial lease term shall be at least 15 years.

“(e) During the abatement period, the Property shall not be eligible for the abatement authorized under § 47-811.03.

“§ 47-4665.03. The Advisory Board Company - compliance.

“(a) If the Mayor, pursuant to § 2-219.03a, determines that the Company is in compliance with the hiring requirements of §§ 47-4665.01 through 47-4665.05 and the incentive agreement, the Company shall be deemed to be in compliance with the provisions of part A of subchapter X of Chapter 2 of Title 2 of the District of Columbia Official Code.

“(b) On or before October 31, the Company shall provide the Mayor with the following information pertaining to the previous tax year:

“(1) A detailed report as of the annual reporting date that identifies the:

“(A) Number of employees whose primary workplace is located in the District;

“(B) Number of District resident employees;

“(C) Median salary of the District resident employees;

“(D) Median tenure of District resident employees; and

“(E) Total employment baseline; and

“(2) A certification of compliance with the Community Benefits Agreement.

“(c) The Company shall comply with the requirements contained in § 2-218.46, with regard to the Project.

“§ 47-4665.04. The Advisory Board Company - community benefits.

“Within 30 days of the effective date of the Local Jobs and Tax Incentive Act of 2015, passed on 2nd reading on December 1, 2015 (Enrolled version of Bill 21-353), the Company shall enter into a community benefits agreement with the Mayor that shall include requirements for training, employment, and youth development and free services to underserved communities in the District.

“§ 47-4665.05. The Advisory Board Company - certification by the Mayor.

“(a) In each year of the abatement period, the Mayor shall certify to the Office of Tax and Revenue the Property’s eligibility for the abatement set forth in § 47-4665.02. The Mayor’s certification shall include:

“(1) The Company’s taxpayer identification number and the identity of any related entity that is occupying all or part of the eligible premises, including the entity’s taxpayer identification number;

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“(2) A description of the eligible property, by street address and square, lot, parcel, or reservation number, and a description of the eligible premises, including the floor, or floors, location, and square footage;

“(3) The date of lease commencement and the term of the lease; and

“(4) Any other information that the Mayor considers necessary or appropriate.


“(b) Upon receiving the verifying documents from the Company, as required by subsection (a) of this section, the Mayor shall certify to the Office of Tax and Revenue by December 1 following each annual reporting date the Property’s eligibility to receive an abatement pursuant to § 47-4665.02. The Office of Tax and Revenue shall process the abatement before the first semi-annual billing of the tax year.”.


Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
December 21, 2015

ENROLLED ORIGINAL

AN ACT
D.C. ACT 21-237

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 21, 2015

To approve, on an emergency basis, Modification Nos. 6 and 7 and proposed Modification No. 8 to Contract No. CW24576 with Intergraph Corporation to manage and maintain the District's Computer Aided Dispatch System and to authorize payment for the goods and services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modification Nos. 6, 7, and 8 to Contract No. CW24576 Approval and Payment Authorization Emergency Act of 2015".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 6 and 7 and proposed Modification No. 8 to Contract No. CW24576 with Intergraph Corporation to manage and maintain the District's Computer Aided Dispatch System and authorizes payment in the amount of \$1,416,781.44 for the goods and services received and to be received under the contract for the period from October 1, 2015, through September 30, 2016.

Sec. 3. Fiscal impact statement.

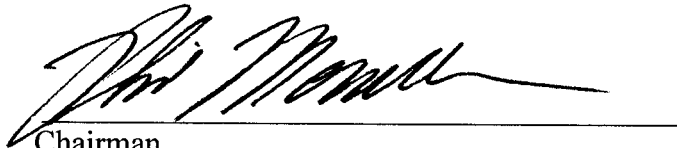
The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. Effective date.

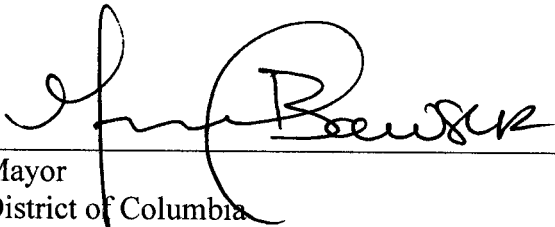
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than

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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 21, 2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-238

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 21, 2015

To approve, on an emergency basis, Modification Nos. 001 and 005 and proposed Modification No. 002 to Contract No. DCFA-2015-C-2292SS with PFC Associates, LLC to operate and provide occupational and ancillary health care services at the Police and Fire Clinic and to authorize payment for the goods and services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modification Nos. 001, 002, and 005 to Contract No. DCFA-2015-C-2292SS Approval and Payment Authorization Emergency Act of 2015".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modifications Nos. 001 and 005 and proposed Modification No. 002 to Contract No. DCFA-2015-C-2292SS with PFC Associates, LLC to operate and provide occupational and ancillary health care services at the Police and Fire Clinic and authorizes payment in the amount of \$9,125,876.38 for the goods and services received and to be received under the contract for the period from November 1, 2015 through June 30, 2016.

Sec. 3. Fiscal impact statement.

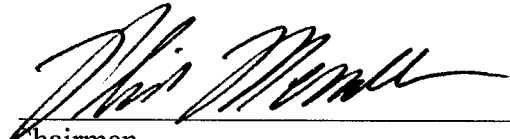
The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. 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

ENROLLED ORIGINAL

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 21, 2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-239

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 21, 2015

To approve, on an emergency basis, Modification Nos. 3, 4, 4A, 5, and 6 to Contract No. GAGA-2013-C-0029 to allow the District of Columbia Public Schools to continue purchasing equipment under the American Express Buy Down Account Program and to authorize payment for the goods and services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Contract No. GAGA-2013-C-0029 Modification Approval and Payment Authorization Emergency Act of 2015".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 3, 4, 4A, 5, and 6 to Contract No. GAGA-2013-C-0029 for option year 2 of the American Express Buy Down Account Program for the District of Columbia Public Schools and authorizes payment of \$15 million for the goods and services received and to be received under the contract.

Sec. 3. Fiscal impact statement.

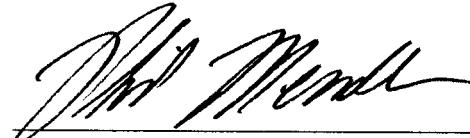
The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. Effective date.

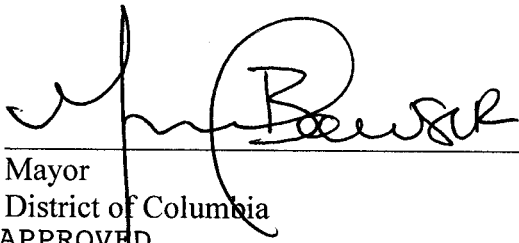
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than

ENROLLED ORIGINAL

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 21, 2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-240

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 21, 2015

To amend, on an emergency basis, the Prevention of Child Abuse and Neglect Act of 1977 to encourage foster children to have connections with individuals who would have been considered siblings but for the termination of parental rights or death of a parent.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Encouraging Foster Children To Have Connections with Siblings Emergency Amendment Act of 2015".

Sec. 2. The Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1301.01 *et seq.*), is amended as follows:

(a) Section 102(3)(F)(ii) (D.C. Official Code § 4-1301.02(3)(F)(ii)) is amended by striking the phrase "separation of siblings" and inserting the phrase "separation of siblings, including individuals who would have been considered siblings of the child but for the termination of parental rights or death of a parent," in its place.

(b) Section 303(a-1)(5) (D.C. Official Code § 4-1303.03(a-1)(5)) is amended by striking the phrase "siblings," and inserting the phrase "siblings, including individuals who would have been considered siblings of the child but for the termination of parental rights or death of a parent," in its place.

Sec. 3. Fiscal impact statement.


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

Sec. 4. Effective date.

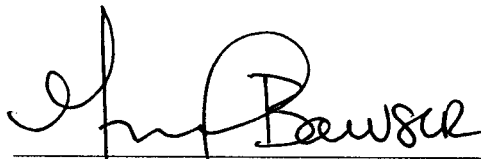
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

ENROLLED ORIGINAL

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 21, 2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-241

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 21, 2015

To amend, on an emergency basis, section 47-4658 of the District of Columbia Official Code to clarify the real property tax abatement for Lot 72 in Square 5041 and Lot 811 in Square 5056.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Parkside Parcel E and J Mixed-Income Apartments Tax Abatement Emergency Amendment Act of 2015".

Sec. 2. Section 47-4658 of the District of Columbia Official Code is amended as follows:

(a) The heading is amended to read as follows:

"§ 47-4658. Lot 72, Square 5041 and Lot 811, Square 5056."

(b) Subsection (a) is amended to read as follows:

"(a) Subject to subsection (b) of this section, the real property described as Lot 72 in Square 5041 and Lot 811 in Square 5056 shall be allowed an annual real property tax abatement equal to the amount of the real property taxes assessed and imposed by Chapter 8 of this title of up to a total maximum amount for each lot of \$300,000 per year for 10 property tax years commencing for Lot 72 and Lot 811 at the beginning of the first month following the date that specific lot is issued a final certificate of occupancy ("commencement date") and ending for each lot at the end of the 10th full real property tax year following the lot's commencement date."

(c) Subsections (c) and (d) are amended to read as follows:

"(c) Notwithstanding any other provision of law and provided that the final certificate of occupancy is issued on or before September 20, 2018, upon the issuance of a final certificate for Lot 72 or Lot 811, any fees or deposits charged to and paid by the owner of that specific lot for the development of Lot 72 or Lot 811, including private space or building permit fees or public space permit fees ("related fees"), shall be refunded and any prospective related fees forgiven.

"(d) The tax abatements and fees and deposits exemptions provided pursuant to this section shall be in addition to, and not in lieu of, any other tax relief or assistance from any other source applicable to the development of Lot 72 or Lot 811."

Sec. 3. Applicability.

This act shall apply as of December 11, 2015.

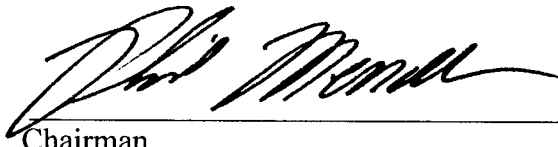
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Sec. 4. Fiscal impact statement.

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

Sec. 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 21, 2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-242

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 21, 2015

To order, on an emergency basis, the closing of a portion of the public alley system in Square 70, bounded by 22nd Street, N.W., N Street, N.W., 21st Street, N.W., New Hampshire Avenue, N.W., and M Street, N.W., in Ward 2.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Closing of a Public Alley in Square 70, S.O. 15-23283, Emergency Act of 2015".

Sec. 2. (a) Pursuant to section 404 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-204.04), and consistent with the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-201.01 *et seq.*), the Council finds the portion of the public alley system in Square 70, as shown on the Surveyor's plat filed in S.O. 15-23283, is unnecessary for alley purposes and orders it closed, with title to the land to vest as shown on the Surveyor's plat.

(b) The approval of the Council of this alley closing is contingent upon:

(1) The recordation of a covenant establishing new portions of the alley system by easement over the surface of the closed alley, to a height of 16 feet and a width of 30 feet, as shown on the Surveyor's plat in S.O. 15-23283 that includes an agreement by the owner of the property encumbered by the easement to maintain the new portions of the alley system; and

(2) The satisfaction of all conditions in the official file for S.O. 15-23283 before the recordation of the alley closing.

Sec. 3. Transmittal.

The Council shall transmit copies of this act, upon its effective date, to the Office of the Surveyor and the Office of the Recorder of Deeds.

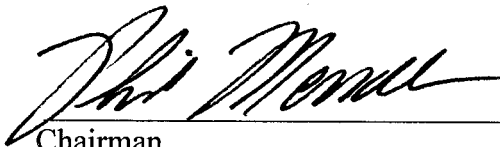
Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report for the Closing of a Public Alley in Square 70, S.O. 15-23283, Act of 2015, passed on 2nd reading on December 1, 2015 (Enrolled version of Bill 21-179), as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

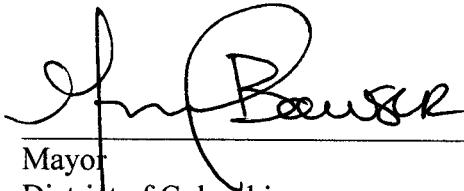
ENROLLED ORIGINAL

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 21, 2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-243

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 21, 2015

To authorize, on an emergency basis, the Mayor to assemble the W Street Trash Transfer site, Lots 36, 41, and 802 in Square 3942 and Parcels 0143/107 and 0143/110, through the use of eminent domain.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Lots 36, 41, and 802 in Square 3942 and Parcels 0143/107 and 0143/110 Eminent Domain Authorization Emergency Act of 2015".

Sec. 2. Findings.

The Council finds that:

- (1) The District of Columbia Water and Sewer Authority ("DC Water") currently operates a site south of N Place, S.E., north of the Anacostia River and between 1st and Canal Streets, S.E. ("DC Water Site").
- (2) Pursuant to the Anacostia Waterfront Framework Plan, the District of Columbia plans to dispose of and develop a portion of the DC Water Site so as to leverage other large-scale District investments in the Capitol Riverfront/Near Southeast neighborhood, such as the South Capitol Street Bridge project and Nationals Park, thereby serving to accelerate and promote economic vitality as well as enhance economic development in the District of Columbia.
- (3) For the planned disposition and development to proceed, it is necessary for DC Water to relocate the functions currently at the DC Water Site.
- (4) The District of Columbia and DC Water have entered into a Memorandum of Understanding for DC Water to relocate a portion of the uses from the DC Water Site to a site in Prince Georges County, Maryland.
- (5) The District desires to relocate the current DC Water Site uses not being relocated to the Prince Georges County site, including customer care and sewer service operations, to Lots 36, 41, and 802 in Square 3942 and Parcels 0143/107 and 0143/110 ("W Street Site").
- (6) The W Street Site is currently occupied by a private trash transfer station.
- (7) The trash transfer station is a blighting factor in Brentwood and its

ENROLLED ORIGINAL

surrounding communities.

(8) Residents of Brentwood and the surrounding communities have concerns regarding the noxious fumes that emanate from the trash transfer station and pervasive vermin, and have complained that there is an increased incidence of health concerns.

(9) The W Street Site trash transfer station continues to operate as an open air trash transfer station, which allows its pungent odors to reach much farther than they would if the facility were closed.

(10) Since August 2012, the District Department of the Environment has conducted at least 37 inspections and issued 8 notices of infractions to the W Street Site trash transfer station.

(11) The W Street Site will provide an opportunity to construct and establish an updated customer care and sewer service operation for DC Water that is more centrally located within the District of Columbia.

(12) The relocation of DC Water to the W Street Site shall not be considered as a permanent solution to the future use of the site. The permanent future use of the W Street Site should include sustainable economic development and be made in consultation with the surrounding community.

Sec. 3. Exercise of eminent domain.

The Mayor may exercise eminent domain in accordance with the procedures set forth in subchapter II of Chapter 13 of Title 16 of the District of Columbia Official Code to acquire Lots 36, 41 and 802 in Square 3942 and Parcels 0143/107 and 0143/110 for the purposes set forth in section 2.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

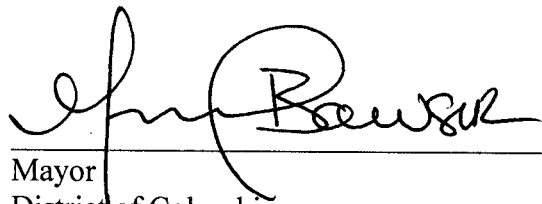
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

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 21, 2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-244

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 22, 2015

To approve, on an emergency basis, multiyear Contract No. DCPL-2016-C-0005 with Smoot/Gilbane III MLK, A Joint Venture, to provide Construction Manager At-Risk services for the renovation of the Martin Luther King Jr. Memorial Library from the date of award through December 31, 2019.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Proposed Multiyear Contract No. DCPL-2016-C-0005 Approval Emergency Act of 2015".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code §1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code §2-352.02), the Council approves multiyear Contract No. DCPL-2016-C-0005 with Smoot/Gilbane III MLK, A Joint Venture, for Construction Manager At-Risk services for the renovation of the Martin Luther King Jr. Memorial Library from the date of award through December 31, 2019.

Sec. 3. Fiscal impact statement.


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

Sec. 4. 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

ENROLLED ORIGINAL

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 22, 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**

B21-540 Vehicle-for-Hire Accessibility Amendment Act of 2015

Intro. 12-22-15 by Councilmember Cheh and referred sequentially to the Committee on Finance and Revenue until March 1, 2016 and then to the Committee on Transportation and the Environment

B21-541 Accountancy Practice Act of 2015

Intro. 12-21-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business, Consumer, and Regulatory Affairs

PROPOSED RESOLUTIONS

PR21-489 District of Columbia Boxing and Wrestling Commission Adam Weers
Confirmation Resolution of 2015

Intro. 12-22-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business, Consumer, and Regulatory Affairs

PR21-490 District of Columbia Boxing and Wrestling Commission Andrew Huff
Confirmation Resolution of 2015

Intro. 12-22-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business, Consumer, and Regulatory Affairs

PR21-492 District of Columbia Boxing and Wrestling Commission Kim Lockett
Confirmation Resolution of 2015

Intro. 12-16-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business, Consumer, and Regulatory Affairs

PR21-493 Local Rent Supplement Program Contract No. 2014-LRSP-05A Approval
Resolution of 2015

Intro. 12-21-15 by Chairman Mendelson at the request of the Mayor, and retained by the Council with comments from the Committee on Housing and Community Development

PR21-494 District of Columbia Water and Sewer Authority Board of Directors Joshua
Lopez Confirmation Resolution of 2015

Intro. 12-21-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment

**Council of the District of Columbia
COMMITTEE ON THE JUDICIARY AND COMMITTEE ON
BUSINESS, CONSUMER & REGULATORY AFFAIRS
NOTICE OF JOINT PUBLIC HEARING
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004**

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

AND

**COUNCILMEMBER VINCENT B. ORANGE, SR., CHAIRPERSON
COMMITTEE ON BUSINESS, CONSUMER & REGULATORY AFFAIRS**

ANNOUNCE A PUBLIC HEARING ON

**BILL 21-0211, THE “EMPLOYMENT PROTECTIONS FOR VICTIMS OF DOMESTIC
VIOLENCE AMENDMENT ACT OF 2015”**

AND

BILL 21-0244, THE “FAIR CREDIT HISTORY SCREENING ACT OF 2015”

**Tuesday, January 26, 2016, 1:00 p.m.
Room 123, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

On Tuesday, January 26, 2016, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on the Judiciary, and Councilmember Vincent B. Orange, Sr., Chairperson of the Committee on Business, Consumer, & Regulatory Affairs, will hold a joint public hearing on Bill 21-0211, the “Employment Protections for Victims of Domestic Violence Amendment Act of 2015”, and Bill 21-0244, the “Fair Credit History Screening Act of 2015”. The hearing will be held in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 1:00 p.m.

The stated purpose of Bill 21-0211 is to amend the Accrued Sick and Safe Leave Act of 2008 to protect victims of domestic violence, sexual assault, and stalking from discrimination in the workplace; to require an employer to provide reasonable accommodations to an employee who is a victim of domestic violence, sexual assault, or stalking; and to prevent an employer from

discharging, demoting, or suspending such an employee in retaliation for having received an accommodation or for taking time off from work due to a violent incident.

The stated purpose of Bill 21-0244 is to remove barriers to gainful employment by prohibiting the consideration of a job applicant's credit history until after a conditional offer of employment is made; to establish penalties; and to give authority for enforcement to the Office of Human Rights.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the hearing should contact Kate Mitchell, Committee Director, at (202) 727-8275, or via e-mail at kmitchell@dccouncil.us, and provide their name, telephone number, organizational affiliation, and title (if any) **by close of business, January 21, 2016**. Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes. Witnesses should bring **twenty copies** of their written testimony and, if possible, also submit a copy of their testimony electronically to kmitchell@dccouncil.us.

For witnesses who are unable to testify at the hearing, written statements will be made part of the official record. Copies of written statements should be submitted either to the Committee or to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. The record will close at the end of the business day on February 9, 2016.

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

**COUNCILMEMBER DAVID GROSSO
COMMITTEE ON EDUCATION
ANNOUNCES A PUBLIC HEARING**

on the

B21-350, “Substitute Teacher Leave Clarification Amendment Act of 2015”

on

**Friday, January 29, 2016
10:00 a.m., Hearing Room 123, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Councilmember David Grosso announces the scheduling of a public hearing of the Committee on Education on B21-0350, “Substitute Teacher Leave Clarification Amendment Act of 2015.” The hearing will be held at 10:00 a.m. on Friday, January 29, 2016 in Room 123 of the John A. Wilson Building.

The stated purpose of B21-350 is to exempt substitute teachers and substitute aides who are employed by educational institutions from accruing paid sick leave.

Those who wish to testify are asked to telephone the Committee on Education, at (202) 724-8061, or email Jessica Giles, Committee Assistant, at jgiles@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Wednesday, January 27, 2016. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. Witnesses appearing on his or her own behalf should limit their testimony to three minutes; witnesses representing organizations should limit their testimony to five minutes.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee on Education, Council of the District of Columbia, Suite 116 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on February 12, 2016.

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

REVISED

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

AND

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

ANNOUNCE A JOINT PUBLIC HEARING ON

**BILL 21-385, THE "CITIZENS WITH INTELLECTUAL DISABILITIES CIVIL
RIGHTS RESTORATION ACT OF 2015"**

**WEDNESDAY, JANUARY 27, 2016
11:00 A.M., ROOM 412, JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004**

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health and Human Services, and Councilmember Kenyan McDuffie, Chairperson of the Committee on the Judiciary, announce a joint public hearing on Bill 21-385, the "Citizens with Intellectual Disabilities Civil Rights Restoration Act of 2015." The hearing will take place at 11:00 a.m. on Wednesday, January 27, 2016 in Room 412 of the John A. Wilson Building. **This revised notice reflects a correction in the date of the hearing from November 27, 2015 to January 27, 2016.**

The purpose of this bill is to establish that civil commitment is no longer required for persons supported by the Department of Disability Services (DDS) in order to receive residential services. It ceases new civil commitments of persons with intellectual disabilities, except commitments for those found to be incompetent to stand trial in a criminal case. It terminates existing commitments unless a person or his or her substitute decision-maker provides informed consent to continue commitment to the Superior Court within 90 days of the effective date of the legislation. It creates the legal framework for supported decision making where people with intellectual disabilities can make decisions with the help of their families.

Those who wish to testify should contact Malcolm Cameron, Legislative Analyst to the Committee on Health and Human Services, at 202-741-0909 or via e-mail at mcameron@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Monday, January 25, 2016. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. Witnesses

should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

For those unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements can be emailed to mcameron@dccouncil.us or mailed to Malcolm Cameron at the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Room 115, Washington, D.C., 20004. The record will close at 5:00 p.m. on Wednesday, February 10, 2016.

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

NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE ON
The District Department of Transportation's Proposed Vision Zero Regulations

Friday, January 8, 2016
at 11:00 a.m.
in Room 500 of the
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

On Friday, January 8, 2016, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public oversight roundtable on the District Department of Transportation's recently proposed Vision Zero regulations. The roundtable will begin at 11:00 a.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

The purpose of the roundtable is to discuss and to hear testimony regarding the District Department of Transportation's recently proposed Vision Zero regulations. These regulations would, amongst other things, significantly raise the fines for a number of traffic offenses and institute a series of new traffic offenses. The proposed regulations were published in the D.C. Register on December 11, 2015, and may be accessed at <http://www.dcregs.dc.gov/Gateway/NoticeHome.aspx?NoticeID=5771905>.

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 January 22, 2016.

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

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

COUNCILMEMBER VINCENT B. ORANGE, SR.

**ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE OF THE
COMMITTEE ON BUSINESS, CONSUMER, AND REGULATORY
AFFAIRS**

**Review of District Agencies' Compliance with Certified Business Enterprise
Expenditure Goals**

**Monday, January 25, 2016, 9:00 am
John A. Wilson Building, Room 412
1350 Pennsylvania Ave., NW
Washington, D.C. 20004**

Councilmember Vincent B. Orange, Sr. announces the scheduling of a public oversight roundtable of the Committee on Business, Consumer, and Regulatory Affairs to review District government agencies' compliance with the Fiscal Year 2015 certified business enterprise ("CBE") expenditure goals and to examine the agencies' plans for complying with CBE utilization requirements in Fiscal Year 2016. The public oversight roundtable is scheduled for Monday, January 25, 2016, at 9:00 a.m. in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

The purpose of the public oversight roundtable is to hear from the Department of Small and Local Business Development, the Office of the District of Columbia Auditor, and appropriate District government agencies on compliance with CBE utilization requirements.

Individuals and representatives of organizations who wish to testify at the public oversight roundtable are asked to contact Ms. Faye Caldwell of the Committee on Business, Consumer, and Regulatory Affairs at (202) 727-6683 or by email at fcaldwell@dccouncil.us. Witnesses are asked to furnish their names, addresses, telephone number, email address, and organizational affiliation, if any, by the close of business, Friday, January 22, 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 roundtable, written statements are encouraged and will be made part of the official record. The official record will remain open until the close of business of Monday, February 8, 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.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: January 1, 2016
Petition Date: February 16, 2016
Hearing Date: February 29, 2016
Protest Date: April 27, 2016
License No.: ABRA- 100896
Licensee: Gladstone Dainty
Trade Name: Just Chicken
License Class: Retailer's Class "C" Tavern
Address: 926-928 U Street, N.W.
Contact: Cynthia Simms: (202) 821-3043

WARD 1 ANC 1B SMD 1B02

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 27, 2016 at 1:30 pm.

NATURE OF OPERATION

Tavern serving American Cuisine with a Total Occupancy Load of 40 seats. Request made for Entertainment Endorsement.

HOURS OF OPERATION

Sunday through Saturday 24 Hours

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Monday through Thursday 9 am - 2 am, Friday and Saturday 9 am - 3 am

HOURS OF LIVE ENTERTAINMENT

Monday through Thursday 6 pm - 2 am, Friday and Saturday 6 pm - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Posting Date: December 25, 2015
Petition Date: February 8, 2016
Hearing Date: February 22, 2016

License No.: ABRA-023516
Licensee: Axis Bar & Grill, LLC
Trade Name: Sudhouse
License Class: Retailer’s Class “C” Tavern
Address: 1340 U Street, N.W.
Contact: Allison Farouidi: (202) 459-1267

WARD 1

ANC 1B

SMD 1B12

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

NATURE OF SUBSTANTIAL CHANGE

Class C Tavern transferring to a new location. A community-oriented beer hall used for social space and gatherings including Entertainment Endorsement and a Sidewalk Café. Total number of seats: 90. Total Occupancy Load: 105. Total number of Sidewalk Café seats: 10.

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

Sunday 12pm- 2am, Monday 4pm- 12am, Tuesday through Thursday 4pm-2am, Friday 4pm–3am, Saturday 2pm-3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: January 1, 2016
Petition Date: February 16, 2016
Hearing Date: February 29, 2016
Protest Date: April 27, 2016

License No.: ABRA-101203
Licensee: Shaw Dining, LLC
Trade Name: The Bird
License Class: Retailer's Class "C" Restaurant
Address: 1337 11th Street, N.W.
Contact: Stephen J. O'Brien: (202) 625-7700

WARD 2 ANC 2F SMD 2F04

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 27, 2016 at 4:30 pm.

NATURE OF OPERATION

Restaurant specializing in poultry dishes with seating for 99 and a Total Occupancy Load of 125 inside premises. Request made for a Sidewalk Café with 65 seats and a Summer Garden with 35 seats.

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

Sunday through Thursday 8 am – 1 am, Friday and Saturday 8 am – 2 am

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

Sunday through Thursday 8 am – 11 pm, Friday and Saturday 8 am – 12 am

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

The District of Columbia Public Charter School Board (“PCSB”) hereby gives notice of BASIS DC Public Charter School’s request to amend its charter agreement to adopt the Performance Management Framework as its goals and academic achievement expectations beginning in SY2015-2016. A public hearing regarding this item will be held on January 25, 2016 at 6:30 p.m.; a vote will be held on February 22, 2016 at 6:30 p.m. To submit public comments, you may do so by one of the actions below. All comments must be submitted on or before January 22, 2016. For questions, please contact Laterica (Teri) Quinn, Equity and Fidelity Specialist, at 202-328-2660 or lquinn@dcpsb.org.

Submitting Public Comment:

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

2. Sign up to testify in-person at the public hearing on January 25, 2016, by emailing a request to public.comment@dcpsb.org by no later than 4 p.m. on Thursday, January 21, 2016.

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

The District of Columbia Public Charter School Board (“PCSB”) hereby gives notice of Creative Minds International Public Charter School’s request to amend its charter agreement by revising four of its goals, including: (1) changing its math assessments (2) revising its ELA goal to permit credit for both growth and achievement, and (3) expanding its state assessment goals for both ELA and math to include grades 6 -8 in addition to grades 3-5, which are already written into the school’s existing goals. A public hearing regarding this item will be held on January 25, 2016 at 6:30 p.m.; a vote will be held on February 22, 2016 at 6:30 p.m. To submit public comments, you may do so by one of the actions below. All comments must be submitted on or before January 22, 2016. For questions, please contact Laterica (Teri) Quinn, Equity and Fidelity Specialist, at 202-328-2660 or lquinn@dcpsb.org.

Submitting Public Comment:

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

2. Sign up to testify in-person at the public hearing on January 25, 2016, by emailing a request to public.comment@dcpsb.org by no later than 4 p.m. on Thursday, January 21, 2016.

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

The District of Columbia Public Charter School Board (“PCSB”) hereby gives notice of DC Scholars Public Charter School’s request to amend its charter agreement to adopt the Performance Management Framework as its goals and academic achievement expectations beginning in SY2016-2017. A public hearing regarding this item will be held on January 25, 2016 at 6:30 p.m.; a vote will be held on February 22, 2016 at 6:30 p.m. To submit public comments, you may do so by one of the actions below. All comments must be submitted on or before January 22, 2016. For questions, please contact Laterica (Teri) Quinn, Equity and Fidelity Specialist, at 202-328-2660 or lquinn@dcpsb.org.

Submitting Public Comment:

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

2. Sign up to testify in-person at the public hearing on January 25, 2016, by emailing a request to public.comment@dcpsb.org by no later than 4 p.m. on Thursday, January 21, 2016.

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
TUESDAY, MARCH 15, 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 ONE

19201 **Application of Bourbon Two Real Estate, LLC**, pursuant to 11 DCMR §
ANC-1C 3103.2, for a variance from the rear yard setback requirements under § 774.1, to
 establish a restaurant in the C-2-A District at premises 1771 U Street N.W.
 (Square 2557, Lots 10 and 11).

WARD SIX

19206 **Application of 1302 Pennsylvania Avenue SE, LLC**, pursuant to 11
ANC-6B DCMR § 3103.2, for variances from the FAR requirements under § 771.2, the lot
 occupancy requirements under § 772.1, the rear yard requirements under § 774.1,
 the nonconforming structure requirements under § 2001.3, and the off-street
 parking requirements under § 2101.1, to permit a third floor addition to an
 existing two-story, mixed-use building in the C-2-A District at premises 1300
 Pennsylvania Avenue S.E. (Square 1043, Lot 122).

WARD EIGHT

19208 **Application of James H. Shelton, III**, pursuant to 11 DCMR § 3103.2, for a
ANC-8E variance from the use requirements under § 300.3, to allow a one-family dwelling
 to be converted into a flat in the R-2 District at premises 1243 Alabama Avenue
 S.E. (Square 5946, Lot 70).

WARD ONE

19212 **Application of 410 GooDBuddy LLC**, pursuant to 11 DCMR § 3103.2, for a
ANC-1A variance from the off-street parking requirements under § 2101.1, to allow the
 construction of a flat in the R-4 District at premises 1000 Lamont Street N.W.
 (Square 2845, Lot 129).

BZA PUBLIC HEARING NOTICE

MARCH 15, 2016

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WARD THREE

19214 **Application of Pamela J. Hall**, pursuant to 11 DCMR § 3104.1, for a special
ANC-3B exception under § 223, not meeting the rear yard requirements under § 404.1, and
the court width requirements under § 406, to construct a one-story deck to the rear
of an existing one-family dwelling in the R-3 District at premises 3836 Beecher
Street N.W. (Square 1301, Lot 1057).

WARD SIX

19215 **Application of K Street Development Company, LLC, et al.**, pursuant to
ANC-6E 11 DCMR § 3104.1, for a special exception from the rooftop structure
requirements pursuant to §§ 411.11 and 411.5, to permit the renovation and
expansion of an existing commercial building in the DD/C-2-C District (Housing
Priority Area A) at premises 470-476 K Street N.W. (Square 516, Lots 44, 64,
and 65).

WARD SIX

19217 **Application of MR 608 T Contract LLC, et al.**, pursuant to 11 DCMR §
ANC-6E 3103.2, for variances from the loading requirements under § 2201, and the height
requirements under § 2604.2, to permit the construction of a seven-story mixed-
use building in the ARTS/C-2-B District at premises 608, 610, 614, and 618 T
Street, N.W. (Square 441, Lots 32, 33, 35, and 852).

WARD FIVE

19218 **Application of Sujatha Jahagirdar and Charles Bergen**, pursuant to 11
ANC-5B DCMR § 3104.1, for a special exception from the accessory apartment
requirements pursuant to § 202.10, to permit an accessory apartment in the R-1-B
District at premises 1511 Lawrence Street N.E. (Square 4010, Lot 38).

PLEASE NOTE:

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

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

BZA PUBLIC HEARING NOTICE

MARCH 15, 2016

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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.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL 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. & 2015 Supp.)), and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption of a new Section 988, entitled “Medicaid Fee Schedule,” of Chapter 9 (Medicaid Program) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

DHCF reimburses Medicaid providers other than institutional providers whose rates are determined pursuant to a reimbursement methodology, in accordance with a Medicaid fee schedule. The Medicaid fee schedule is posted on a website maintained by DHCF. The fee schedule requires periodic adjustments, when necessary, to reflect changes in federal and District requirements, nationally-recognized coding systems, medical practice, and the relative value of services. These rules require DHCF to publish a notice in the *D.C. Register* at least thirty (30) days prior to the effective date of changes to the Medicaid fee schedule, unless the notice exceeds two (2) pages. If the notice of the changes to the Medicaid fee schedule exceeds two (2) pages, these rules will require DHCF to post the changes in the fee schedule on a website maintained by DHCF and include the website address in the notice that is published in the *D.C. Register*.

An initial Emergency and Proposed Rulemaking was published in the *D.C. Register* on May 22, 2015 at 62 DCR 006692. No comments were received. A Notice of Second Emergency and Proposed Rulemaking was published in the *D.C. Register* on October 2, 2015 at 62 DCR 013059. No comments were received and no substantive changes have been made. The Director has adopted these rules as final on December 22, 2015 and they shall become effective on the date of publication of this rulemaking in the *D.C. Register*.

Chapter 9, MEDICAID PROGRAM, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

A new Section 988, MEDICAID FEE SCHEDULE, is added to read as follows:

988 MEDICAID FEE SCHEDULE

988.1 The Medicaid fee schedule includes reimbursement rates for Medicaid covered services and is posted at www.dc-medicaid.com.

988.2 Medicaid covered services that are listed on the fee schedule include, but are not limited to, the following services:

- (a) Laboratory and x-ray services;
- (b) Physicians' services;
- (c) Medical care and other types of remedial care;
- (d) Home health services;
- (e) Dental services;
- (f) Durable Medicaid Equipment (DME);
- (f) Diagnostic, screening, preventive, and rehabilitative services; and
- (g) Hospice care.

988.3 DHCF shall review the Medicaid fee schedule periodically. The Medicaid fee schedule may be adjusted where necessary to:

- (a) Comply with changes in federal or District requirements;
- (b) Comply with changes in nationally-recognized coding systems, such as Healthcare Common Procedure Coding System (HCPCS), Current Procedural Terminology (CPT), and Code on Dental Procedures and Nomenclature (CDT);
- (c) Establish an initial allowable amount for a new procedure or a procedure based on information that was not available when the fee schedule was established for the current calendar year; and
- (d) Adjust the allowable amount when DHCF determines that the current allowable amount is:
 - (1) Not appropriate for the service provided;
 - (2) Based on errors in data or calculation; or
 - (3) Ineffective for proper or efficient administration of the State Medicaid Program

988.4 DHCF shall publish a Public Notice in the *D.C. Register* which informs the public of changes to the Medicaid fee schedule. The Public Notice shall be published at least thirty (30) calendar days in advance of the change. The Notice shall describe the type of change, the reason for the change, the effective date of the change, and the Medicaid reimbursement rate. If the Public Notice of the changes to the Medicaid fee schedule exceeds two (2) pages, DHCF shall post the changes in the

fee schedule consistent with the requirements set forth in this section on a website maintained by DHCF and include the website address in the Public Notice.

988.5 In those instances where a Medicaid fee is included in a rule, DHCF shall amend and publish the revised rule in the *D.C. Register* pursuant to the procedures of title I of the District of Columbia Administrative Procedure Act, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code §§ 2-501 *et seq.*), and the requirement of § 988.4 shall not apply.

999 DEFINITIONS

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

Medicaid Fee Schedule - a comprehensive list of fee maximums used to reimburse providers on a fee-for-service basis.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 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 of an amendment to Section 1916, entitled “In-Home Supports,” of Chapter 19 (Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

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

The ID/DD Waiver was approved by the Council of the District of Columbia (Council) and renewed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, for a five-year period beginning November 20, 2012. An amendment to the ID/DD Waiver was approved by the Council through the Medicaid Assistance Program Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-155; 61 DCR 9990 (October 3, 2014)). CMS approved the amendment to the ID/DD Waiver effective September 24, 2015.

In-home supports services are essential to ensuring that persons enrolled in the ID/DD Waiver continue to receive services and supports in the comfort of their own homes or family homes. The most recent Notice of Final Rulemaking for 29 DCMR § 1916 (In-Home Supports Services) was published in the *D.C. Register* on March 21, 2014, at 61 DCR 002464. A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on October 3, 2014, at 61 DCR 010388, amending the previously published final rules by increasing the rates, using the approved rate methodology, to reflect the increase in the D.C. Living Wage to comply with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.* (2012 Repl.)). DHCF received and considered comments in response to the first emergency and proposed rulemaking and promulgated a Notice of Second Emergency and Proposed Rulemaking, which was published in the *D.C. Register* on March 20, 2015, at 62 DCR 003436. The second emergency and proposed rules amended the previously published emergency and proposed rules by: (1) increasing the rates, using the approved rate methodology, to reflect the anticipated increase in the D.C. Living Wage for 2015 to comply with the Living Wage Act of 2006; (2) changing language in Subsection 1916.8(a)(1) to clarify that providers of in-home supports services shall “provide evidence” of the community activities a person attends; (3) clarifying that daily progress notes should provide information to incoming staff about any follow-up needed at end of a shift; (4) clarifying language regarding the maximum daily hours and calendar year timeframe for in-home supports; and (5) adding a new subsection to provide clarity on rates for in-home supports services if they are extended in the event of a temporary emergency. The second emergency and proposed rulemaking

was adopted on January 7, 2015, became effective on that date, and remained in effect until May 7, 2015. No comments were received, and DHCF then promulgated a Notice of Third Emergency and Proposed Rulemaking, which was published in the *D.C. Register* on May 15, 2015, at 62 DCR 006089. The third emergency and proposed rules further amended the previously published second emergency and proposed rules by: (1) clarifying words and/or phrases to reflect more person-centered language and to simplify interpretation of the rule; (2) clarifying service definitions; (3) requiring the use of Department on Disability Services (DDS) approved person-centered thinking and discovery tools; (4) requiring that supports are aimed at skill building and include opportunities for community integration and competitive integrated employment; (5) adding requirements for the In-Home Supports Plan; (6) removing references to Shared Living services; and (7) adding that In-Home Supports can be provided with, but not at the same time as, Companion Services. The third emergency and proposed rulemaking was adopted on May 4, 2015, became effective on that date, and remained in effect until September 1, 2015. DHCF did not receive any comments in response to the third emergency and proposed rulemaking. DHCF promulgated a Notice of Fourth Emergency and Proposed Rulemaking, which was published in the *D.C. Register* on October 2, 2015, at 62 DCR 013062, to continue the changes reflected in the third notice of emergency and proposed rulemaking described above. The fourth emergency and proposed rulemaking was adopted on September 14, 2015, became effective when CMS approved the ID/DD Waiver amendment on September 24, 2015, and remains in effect until January 12, 2016, or the publication of these final rules in the *D.C. Register*, whichever occurs first. No comments were received and no substantive changes were made to the fourth emergency and proposed rulemaking.

The Director of DHCF adopted these rules as final on December 22, 2015, and they shall become effective on the date of publication of this notice in the *D.C. Register*.

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

Section 1916, IN-HOME SUPPORTS SERVICES, is deleted in its entirety and amended to read as follows:

1916 IN-HOME SUPPORTS SERVICES

1916.1 The purpose of this section is to establish standards governing Medicaid eligibility for in-home supports services for persons enrolled in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (Waiver), and to establish conditions of participation for providers of these services.

1916.2 In-home supports are services provided to people enrolled in the Waiver who have an assessed need for assistance with acquisition, retention or improvement in skills related to activities of daily living that are necessary to enable the person to reside successfully at home in their community and participate in community activities based upon what is important to and for the person as documented in his or her Individual Support Plan (ISP) and reflected in his or her Person-Centered Thinking

and Discovery tools. Services may be provided to people in the home or community, with the place of residence as the primary setting.

1916.3 To be eligible for reimbursement, in-home supports services shall be:

- (a) Included in a person's ISP and Plan of Care and related to the person's ISP goals;
- (b) Habilitative in nature; and
- (c) Provided to a person living independently or with family or friends and not receiving other residential supports such as supported living, supported living with transportation, residential habilitation, or host home support services.

1916.4 In-home supports services include a combination of hands-on care, habilitative supports, skill development and assistance with activities of daily living. Supports provided shall be aimed at teaching the person to increase his or her skills and self-reliance.

1916.5 In-home supports eligible for reimbursement shall include the following:

- (a) Training and support in activities of daily living and independent living skills;
- (b) Support to enhance opportunities for meaningful adult activities and skills acquisition that support community integration and a person's independence, including management of financial and personal affairs and awareness of health and safety precaution;
- (c) Support to enhance opportunities for community exploration aimed at discovery of new and emerging interests and preferences, including activities aimed at supporting the person to have one or more new relationships;
- (d) Support to build community membership;
- (e) Training on, and assistance in the monitoring of health, nutrition, and physical wellness;
- (f) Implementation of a home therapy program under the direction of a licensed clinician;
- (g) Training and support to coordinate or manage tasks outlined in the Health Care Management Plan, if applicable;

- (h) Assistance in performing personal care, household, and homemaking tasks that are specific to the needs of the person, except that this may not comprise the entirety of the service;
- (i) Assistance with developing the skills necessary to reduce or eliminate behavioral episodes by implementing a Behavioral Support Plan (BSP) or positive strategies;
- (j) Opportunities for the person to seek employment and vocational supports to work in the community in a competitive and integrated setting;
- (k) Assistance with the acquisition of new skills or maintenance of existing skills based on individualized preferences and goals identified in the In-Home Supports Plan, ISP, and Plan of Care; and
- (l) Coordinating transportation to participate in community events consistent with this service.

1916.6 Each provider rendering in-home supports services shall:

- (a) Be a Waiver provider agency; and
- (b) Comply with Sections 1904 (Provider Qualifications) and 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 DCMR.

1916.7 Each Direct Support Professional (DSP) rendering in-home supports services shall comply with Section 1906 (Requirements for Direct Support Professionals) of Chapter 19 of Title 29 DCMR.

1916.8 In-home support services shall be authorized in accordance with the following provider requirements:

- (a) The Department on Disability Services (DDS) shall provide a written service authorization before the commencement of services;
- (b) The service name and provider delivering services shall be identified in the ISP and Plan of Care;
- (c) The ISP and Plan of Care shall document the amount and frequency of services to be received;
- (d) The In-Home Supports Plan, ISP, and Plan of Care shall be submitted to and authorized by DDS annually or as needed; and

- (e) The provider shall submit each quarterly review to the person's DDS Service Coordinator no later than seven (7) business days after the end of the first quarter, and each subsequent quarter thereafter.

1916.9 Each provider shall comply with the requirements under Section 1908 (Reporting Requirements) of Chapter 19 of Title 29 DCMR, Section 1909 (Records and Confidentiality of Information) of Chapter 19 of Title 29 DCMR, Section 1911 (Individual Rights) of Chapter 19 of Title 29 DCMR and Section 1938 (HCBS Setting Requirements) except that the progress notes as described in Subsection 1909.2(m) shall be maintained on a per visit basis.

1916.10 Each provider of Medicaid reimbursable in-home support services shall assist each person in the acquisition, retention, and improvement of skills related to activities of daily living, such as personal grooming, household chores, eating and food preparation, and other social adaptive skills necessary to enable the person to reside in the community. To accomplish these goals, the provider shall:

- (a) Use the DDS-approved person-centered thinking tools and the person's Positive Personal Profile and Job Search and Community Participation Plan to develop a functional assessment that includes what is important to and for the person, within the first thirty (30) calendar days of providing services. This assessment shall be reviewed and revised annually or more frequently as needed;
- (b) Assist with and actively participate in the development of the person's In-Home Supports Plan, ISP, and Plan of Care, at the person's preference;
- (c) Review the person's In-home Supports Plan, ISP and Plan of Care goals, DDS-approved person-centered thinking tools, Positive Personal Profile and Job Search and Community Participation plan, objectives, and activities at least quarterly, and more often as necessary and submit quarterly reports to the person, family or representative, as appropriate, guardian, and the DDS Service Coordinator no later than seven (7) business days after the end of the first quarter or each subsequent quarter thereafter and in accordance with the requirements described under Section 1908 (Reporting Requirements) and Section 1909 (Records and Confidentiality of Information) of Chapter 19 of Title 29 DCMR.

1916.11 An In-Home Supports Plan shall be maintained in the home where services are provided with a copy also maintained at the Provider's main office. The In-Home Supports Plan shall include:

- (a) Activities and supports that will be provided during the service, based upon what is important to and important for the person, as identified in the Person Centered Thinking and Discovery tools and reflected in the person's ISP;

- (b) A staffing plan and schedule;
 - (c) A list of licensed non-medical professionals who will be providing services, if applicable; and
 - (d) Emergency and contingency plans to address potential behavioral, health or emergency events.
- 1916.12 In-home supports services shall only be provided for up to eight (8) hours per day unless there is a temporary emergency. In the event of a temporary emergency, DDS may authorize up to sixteen (16) hours per day for up to one hundred and eighty (180) days, during the person's ISP year.
- 1916.13 In the event of a temporary emergency, a written justification for an increase in hours shall be submitted with the In-Home Supports Plan, ISP, and Plan of Care by the provider to DDS. The written justification must include:
- (a) An explanation of why no other resource is available;
 - (b) A description of the temporary emergency;
 - (c) An explanation of how the additional hours of in-home supports services will support the person's habilitative needs;
 - (d) A revised copy of the in-home Supports Plan, ISP, and Plan of Care reflecting the increase in habilitative supports to be provided; and
 - (e) The service authorization from the Medicaid Waiver Supervisor or other Department on Disability Services Administration designated staff.
- 1916.14 All Direct Support Professionals, including family members, who provide in-home supports services shall comply with Section 1906 (Requirements for Direct Support Professionals) of Chapter 19 of Title 29 DCMR.
- 1916.15 Family members who provide in-home supports services and reside in the same home as the person receiving services may only be paid for in-home support services that are in accordance with the person's ISPs goals.
- 1916.16 In-home supports services shall not be provided to persons receiving the following residential services:
- (a) Host Home;
 - (b) Residential Habilitation;
 - (c) Supported Living; and

(d) Supported Living with Transportation.

1916.17 In-home supports services may be used on the same day, or in combination with Medicaid State Plan Personal Care Aide (PCA) services, ID/DD PCA services, and Companion services, provided the services are not rendered at the same time.

1916.18 In-home supports services shall not be used to provide supports that are normally provided by medical professionals.

1916.19 In-home supports services, including those provided in the event of a temporary emergency shall be billed at the unit rate. The reimbursement rate shall be twenty-three dollars and twenty-eight cents (\$23.28) per hour, billable in units of fifteen (15) minutes at a rate of five dollars and eight-two cents (\$5.82), and shall not exceed eight (8) hours per twenty-four (24) hour day. A standard unit of fifteen (15) minutes requires a minimum of eight (8) minutes of continuous service to be billed. Reimbursement shall be limited to those time periods in which the provider is rendering services directly to the person.

1916.20 Reimbursement for in-home supports services shall not include:

- (a) Room and board costs;
- (b) Routine care and general supervision normally provided by the family or unpaid individuals who provide supports, or for services furnished to a minor by the child's parent or step-parent or by a person's spouse;
- (c) Services or costs for which payment is made by a source other than Medicaid;
- (d) Travel or training of travel skills to Supportive Employment, Day Habilitation, Individualized Day Supports, or Employment Readiness; and
- (e) Costs associated with the DSP engaging in community activities with the people they support.

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

Medical Professionals – Individuals who are trained clinicians and deliver medical services.

Temporary Emergency – A sudden change in the medical condition or behavioral status of a person receiving in-home supports services or their caregiver that warrants additional hours of in-home supports services.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (2014 Repl.)), and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of amendments to Section 1925, entitled “Individualized Day Supports” of Chapter 19 (Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Register (DCMR).

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

The ID/DD Waiver was approved by the Council of the District of Columbia (Council) and renewed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), for a five (5) year period beginning November 20, 2012. An amendment to the ID/DD Waiver was approved by the Council through the Medicaid Assistance Program Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-155; 61 DCR 9990 (October 3, 2014)). CMS approved the amendment to the ID/DD Waiver effective September 24, 2015.

Individualized day supports services provide crucial habilitation supports in the community to ensure that a person’s community integration is increased and the particular skills necessary for independence and community involvement outside the home are developed and maintained in ways that enhance community integration outcomes. The most recent Notice of Final Rulemaking for 29 DCMR § 1925 (Individualized Day Supports) was published in the *D.C. Register* on March 7, 2014, at 61 DCR 001952. A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on October 16, 2015, at 62 DCR 013565, amending the previously published final rules by: (1) clarifying the requirements for a person to participate in individualized day supports; (2) changing the requirements for what Medicaid reimbursable individualized day supports shall provide, including adding the provision of one nutritionally adequate meal per day for persons who live independently or with their families and select to receive this; (3) modifying the provider requirements; (4) adding documentation and reporting requirements, including detailed requirements for the initial community integration plan, ongoing community integration plan, and quarterly reports, as well as timeframes for reporting; (5) changing the requirements for a Direct Support Professional in individualized day supports; (6) requiring the development and review and revision, as needed, of a Positive Personal Profile and Job Search and Community Participation Plan; (7) adding minimum service authorization limits, and clarifying that the service may be authorized with other day or

vocational supports, not to exceed a combined total of 40 services hours per week; (8) clarifying when transportation may be part of Medicaid reimbursable individualized day supports; (9) describing limitations on individualized day supports; (10) clarifying that individualized day supports may commence at a facility-based day or vocational program, but that attendance at such program is not required; (11) allowing a DSP to be a relative of the person receiving services; (12) adding a 1:1 service ratio; and (13) reducing the rate for Individualized Day Supports small group service. The emergency and proposed rulemaking was adopted on October 6, 2015, became effective on that date, and remains in effect until February 2, 2016, or the publication of these final rules in the *D.C. Register*, whichever occurs first. No comments were received and no changes were made to the emergency and proposed rulemaking.

The Director of DHCF adopted these rules as final on December 22, 2015 and they shall become effective on the date of publication of this notice in the *D.C. Register*.

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

Section 1925, INDIVIDUALIZED DAY SUPPORTS, is amended to read as follows:

1925 INDIVIDUALIZED DAY SUPPORTS

- 1925.1 This section establishes standards governing Medicaid eligibility for individualized day supports services for persons enrolled in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver), and shall establish conditions of participation for providers of individualized day supports services seeking Medicaid reimbursement.
- 1925.2 The following rules pertain only to Medicaid reimbursable individualized day supports services to be received by an individual enrolled in the ID/DD Waiver, hereinafter referred to as “person” or “persons”.
- 1925.3 In order to receive Medicaid reimbursement for individualized day supports services, the person’s Individual Support Plan (ISP) and Plan of Care, must document that the need for the service is consistent with the person’s assessed needs and personally chosen goals including what is important to and for the person as documented in his or her Person-Centered Thinking and Discovery Tools and recorded in the Individual Support Plan (ISP) and Plan of Care, and show at least one of the following:
- (a) That the person chooses to participate in habilitation services in a variety of integrated and inclusive community-based settings which enable the person to attain or maintain his or her maximum functional level and gain greater independence;

- (b) That the person is transitioning into retirement or is retired and chooses to continue habilitation services in a variety of integrated and inclusive community-based settings;
- (c) That the person has person-centered ISP goals for community integration and participation including building, strengthening and maintaining relationships with persons not paid to be with the person or vocational exploration that may lead to further employment services and supports;
- (d) That the person is likely to be successful in achieving one or more of his or her ISP goals through individualized day supports; or
- (e) That the person has a documented need for individualized day supports due to medical or safety issues that are consistent with the Health Care Management Plan (HCMP) and Behavioral Support Plan.

1925.4 Medicaid reimbursable individualized day supports services shall:

- (a) Be habilitative in nature;
- (b) Be delivered in integrated, inclusive community settings; and
- (c) Be provided in a group consisting of no more than two (2) persons.

1925.5 Medicaid reimbursable individualized day supports services shall provide:

- (a) Highly individualized, pre-planned activities and opportunities that occur within integrated and inclusive community settings and that emphasize the development of skills to support community participation and involvement, self-determination, community membership, community contribution, retirement or vocational exploration, and life skills training;
- (b) Activities that maximize the person's functional abilities for successful participation in integrated community activities and opportunities that match a person's interests and goals;
- (c) Activities that support the person's informed choice in identifying his or her own areas of interest and preferences;
- (d) Activities that provide community-based opportunities for personal and adult skill development through socialization, participation in membership-based community groups and associations, and forming and maintaining relationships with other community members;
- (e) Training in the safe and effective use of one or more modes of accessible public transportation and/or coordination and provision of transportation

by the individualized day supports provider to support participation in community activities consistent with the intent of this service; and

- (f) For persons who live in their own home or with their family and who select this, IDS may include provision of one nutritionally adequate meal including preparation, packaging, and delivery, as needed. The provision of meals shall take place during typical lunchtime hours (11 am – 1 pm) prepared based on the person's specific needs as per the Level of Need Assessment (LON), and when necessary, the nutritionist/doctor's recommendation. This meal must be one-third (1/3) of a person's Recommended Dietary Allowance (RDA) and must be comprised of foods the person enjoys eating when not medically contraindicated.

1925.6 In order to be eligible for Medicaid reimbursement, each individualized day supports provider entity shall:

- (a) Comply with Section 1904 (Provider Qualifications) and Section 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 DCMR;
- (b) For current providers, provide verification of passing the Department on Disability Services (DDS) Provider Certification Review (PCR) for the last three (3) years. For providers with less than three (3) years of PCR certification, provide verification of a minimum of three (3) years of experience providing day, employment, residential or respite services to the ID/DD population, evidence of certification or licensure from the jurisdiction in which the service was delivered, and evidence of PCR certification for each year that the provider was enrolled as a waiver provider in the District of Columbia, if applicable;
- (c) Provide oversight, supervision and training of all Direct Service Personnel (DSP) providing individualized day supports; and
- (d) Maintain a staff-to-person ratio as indicated in the ISP and Plan of Care up to a maximum ratio of one to two (1:2), while always ensuring that services meet the person's needs and are provided appropriately and safely.

1925.7 Services shall only be authorized for Medicaid reimbursement if the following conditions are met:

- (a) DDS provides a written service authorization before service delivery begins;
- (b) The individualized day supports service name and enrolled provider are identified in the ISP, Plan of Care and Summary of Support Services;

- (c) The amount and frequency of services to be received is documented in the ISP, Plan of Care and Summary of Support Services;
- (d) Services shall not conflict with the service limitations described under Subsection 1925.12;
- (e) The staffing plan and initial community integration plan described under Subsection 1925.10 are submitted within three (3) business days of the start of services using the template required by DDS;
- (f) An on-going community integration plan, using the template required by DDS, and described under Subsection 1925.10 is submitted thirty (30) calendar days, plus seven (7) business days, from the start date of the individualized day supports service and then within seven (7) business days after the conclusion of each ISP quarter; and
- (g) A quarterly report, using the template required by DDS, is submitted within seven (7) business days after the conclusion of the each ISP quarter.

1925.8 Each Direct Support Professional (DSP) providing individualized day supports shall meet all of the requirements in Section 1906 (Requirements for Direct Support Professionals) of Chapter 19 of Title 29 DCMR, and requirements in Subsection 1925.9 in order to be eligible for Medicaid reimbursement.

1925.9 In order to be eligible for Medicaid reimbursement each DSP providing individualized day supports services shall meet the following requirements:

- (a) Have at least one year experience working with people with Intellectual and Developmental Disabilities;
- (b) Meet additional training requirements for an Individualized Day Supports DSP, as required by DDS policy and procedure, within one year of the effective date of the waiver amendment;
- (c) Assist with the development of the initial and on-going community integration plans to implement the individualized day supports services;
- (d) Coordinate the scheduled activities specified under the initial and on-going community integration plans;
- (e) Assist with the writing of quarterly reports; and
- (f) Utilize positive behavioral support strategies and crisis interventions as described in the approved Behavioral Support Plan to address emergency situations; and
- (g) Support persons enrolled in the Waiver to learn to use public transportation.

1925.10 Each provider approved to provide individualized day supports services shall, in order to be eligible for Medicaid reimbursement, maintain documents for monitoring and audit reviews as described under Section 1909 (Records and Confidentiality of Information) of Chapter 19, of Title 29 DCMR, and maintain the following additional records:

- (a) A contingency plan that describes how the individualized day supports will be provided when the primary DSP is unavailable; and, if the lack of immediate support poses a serious threat to the person's health and welfare, how the support will be provided when back-up DSPs are also unavailable;
- (b) An initial community integration plan, during the first thirty (30) days a person is receiving individualized day supports, utilizing the template required by DDS and containing the following information:
 - (1) The name of the person receiving the service;
 - (2) Service start date;
 - (3) The names of the primary and back-up DSPs that will be delivering the service during the first thirty (30) days of service;
 - (4) The back-up staffing plan if neither the primary or back-up DSPs are available to deliver the service;
 - (5) Goals in ISP that trigger authorization for individualized day supports;
 - (6) Schedule of service and calendar of activities for the first thirty (30) days;
 - (7) Back-up activities for the first thirty (30) days; and
 - (8) Goals to be achieved in the first thirty (30) days of service and methods that will be used to achieve the goals.
- (c) After a person has received individualized day supports for thirty (30) calendar days, an on-going community integration plan utilizing the template required by DDS and containing the following information:
 - (1) The name of the person receiving the services;
 - (2) The names of the primary and back-up DSPs delivering services;

- (3) The back-up staffing plan if neither the primary or back-up DSPs are available to deliver the service;
 - (4) Goals for the service falling under any of the following categories: Community Membership; Relationships & Natural Supports; Career Exploration & Employment; Retirement (for individuals 61 or older); Community Contribution; Self-Determination; Community Navigation; Wellness/Fitness, or others as listed in the community integration plan template;
 - (5) The highly individualized, integrated community activity/activities or opportunity/opportunities that will support achievement of the goals;
 - (6) Specific skills the person will be assisted to learn that can help with achievement of his/her goals and help the person participate successfully, and as independently as possible, in the Activities/Opportunities;
 - (7) Measureable outcomes promoting community integration which are expected and will indicate the goals have been achieved;
 - (8) Calendar of activities for the quarter and back-up activities for the quarter; and
 - (9) Teaching objectives, strategies and measurable outcomes for skill development goals;
- (d) Within seven (7) business days of the conclusion of each ISP quarter, submit to the DDS service coordinator a quarterly report, utilizing the template required by DDS and containing the following information:
- (1) Description of person's attendance and participation;
 - (2) Description of person's relationship with the assigned DSPs;
 - (3) Description of the person's relationships with others paired with the person to receive the service, if applicable;
 - (4) Description of how the activities and opportunities offered through individualized day supports contributed to the achievement of the person's service goals;
 - (5) Description of skill development gains and next steps to continue progress on skill development; and

- (6) Description of career and vocational exploration activities and outcomes for working-age participants in individualized day supports.
- (e) A Positive Personal Profile and Job Search and Community Participation Plan shall be developed annually and reviewed at least quarterly, and that is updated as needed, based upon what is being learned about the person's needs and interests by the individualized day supports provider. Positive Personal Profile and Job Search and Community Participation Plan shall be used to inform, and attached to, the initial and on-going community integration plans.
- 1925.11 In order to be eligible for Medicaid reimbursement, each Provider approved to provide individualized day supports services shall comply with Section 1908 (Reporting Requirements); Section 1909 (Records and Confidentiality of Information), except that quarterly reports shall meet the requirements within Subsection 1925.10, above; and Section 1911 (Individual Rights) of Chapter 19 of Title 29 DCMR.
- 1925.12 Medicaid shall only reimburse individualized day supports services for a minimum of two (2) and a maximum of six (6) hours per day; and a minimum of four (4) and a maximum of thirty (30) hours per week. This service may be offered in combination with Day Habilitation, Employment Readiness, Supported Employment services as a wraparound service in combination with any of the aforementioned services. When two or more of these services are offered, a person may not receive more than a combined total of forty (40) hours per week of services.
- 1925.13 Individualized day supports are an alternative to facility-based day programs and shall take place during regular Monday to Friday day program hours; except that individualized day supports may occur during non-traditional hours for persons who are employed during the day and would benefit from the service. Additional variances may be approved by the DDS Director, or his or her designee, based upon the person's assessed needs, schedule of other activities, and recommendations of the person's support team.
- 1925.14 Time spent in transportation to and from individualized day supports shall not be included in the total amount of services provided per day. However, individualized day supports may include the time a DSP spends accompanying the person on public transportation (excluding Medicaid funded non-emergency transportation) for the purposes of training the person to travel independently using public transportation. Individualized day supports and Medicaid funded non-emergency transportation may not be billed during the same period of time. Medicaid funded non-emergency transportation may not be used during the provision of individualized day supports. Medicaid funded non-emergency transportation may be used to transport the person to and from individualized day

supports; however, it should not preclude opportunities for the person to learn to use public transportation as part of participation in individualized day supports.

- 1925.15 Personal care/assistance may be a component of individualized day supports as necessary to meet the needs of a person but may not comprise the entirety of the service.
- 1925.16 This service shall not provide reimbursement to Senior Centers funded by the federal Older Americans Act authorized to provide services to older adults.
- 1925.17 The Individualized Day Program does not include activities that are the responsibility of the Supported Living, Residential Supports, Host Home or In-Home Supports provider, such as cooking or laundry activities.
- 1925.18 A person receiving individualized day supports may meet his or her DSP at a facility-based day habilitation or employment readiness setting, but only if this is necessary and appropriate for the person receiving the services. Individualized day services shall not occur in a facility-based setting. On site attendance at the facility-based day habilitation or employment readiness program is not a requirement to receive services that originate from that setting.
- 1925.19 A DSP may be the person's relative, but may not be legally responsible for the person, or the person's legal guardian.
- 1925.20 A DSP shall not perform individualized day support services with a person if he or she also provides the same person with the following ID/DD Waiver services:
- (a) Residential Habilitation;
 - (b) Supported Living;
 - (d) Host Home; or
 - (e) In-Home Supports.
- 1925.21 Each provider of Medicaid reimbursable individualized day supports services shall comply with the requirements under Section 1937 (Home and Community-Based Settings Requirements) of Chapter 19 of Title 29 DCMR.
- 1925.22 Individualized day supports may be authorized as either a one-to-one service for a person, or in in small group settings not to exceed 1:2 based upon the person's assessed needs; and for limited times, as approved by DDS, based on the ability to match the participant with an appropriate peer to participate with for small group IDS.

- 1925.23 Individualized day supports shall be billed at the unit rate established for the staffing ratio noted in the service authorization. The reimbursement rate for 1:1 staffing ratio shall be nine dollars and forty cents (\$9.40) per billable unit or thirty-seven dollars and sixty cents per hour (\$37.60). The reimbursement rate for 1:2 staffing ratio shall be five dollars and thirty-one cents (\$5.31) per billable unit or twenty-one dollars and twenty-four cents (\$21.24) per hour. For persons who live independently or with family and select to receive a meal, the rate is increased by seven dollars and thirty cents (\$7.30) per day that the person receives a meal. This service shall not exceed one thousand, five hundred and sixty (1,560) hours per year or six thousand two hundred and forty (6,240) units annually. A standard unit of service is fifteen (15) minutes and the provider shall provide at least eight (8) continuous minutes of services to bill for one (1) unit of service.
- 1925.24 The individualized day supports rate includes funding for transportation and activities for the person and the DSP. When the person and/or his support team identifies activities with costs that would create a hardship for the individualized day supports provider, and the person has the ability to pay, the provider may submit a written request for approval from the DDS Director, or his or her designee, to have the person contribute to the cost of the individualized day supports activities.
- 1925.25 Persons receiving individualized day supports services may receive two (2) or more types of non-residential habilitation services, (*e.g.*, Supported Employment, Small Group Supported Employment, Employment Readiness, Companion, and/or Day Habilitation); however, more than one (1) service may not be billed during the same period of time (*e.g.*, the same fifteen (15) minute unit).

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

Community participation plan – A plan to achieve specific individualized goals for community integration, including vocational exploration or retirement, and to build skills that support the individualized goals for community integration, through a pre-planned schedule of structured community-based activities and practical community-based opportunities that best meet the person’s interests, goals for community involvement, support needs and learning styles. Community integration plans can be Initial, for the first thirty (30) days of services, or ongoing, thereafter.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF FINAL RULEMAKING

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 6, 7, 8(b) and (d), 11, and 12, 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 §§ 50-305, 50-306, 50-307(b) and (d), 50-310, and 50-311 (2014 Repl. & 2015 Supp.)), hereby gives notice of its intent to adopt amendments to Chapter 1 (District of Columbia Taxicab Commission: Rules of Organization) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

The final rulemaking amends Chapter 1 to update the organizational rules and procedures of the Commission and its panels, including the requirements for voting, types of meetings, and notices.

The proposed rulemaking was adopted by the Commission on May 13, 2015 and published in the *D.C. Register* on September 18, 2015 at 62 DCR 12546. The Commission did not receive any comments during the comment period, which expired on October 18, 2015. No changes were required and none have been made.

The Commission voted to adopt this rulemaking as final on November 18, 2015, and it will become effective upon publication in the *D.C. Register*.

Chapter 1, DISTRICT OF COLUMBIA TAXICAB COMMISSION: RULES OR ORGANIZATION, of Title 31 DCMR, VEHICLES FOR HIRE, is amended as follows:

Section 100, OFFICERS, is amended to read as follows:

100 OFFICERS

100.1 The officers of the Commission shall be the Chairperson and the Secretary.

100.2 The Chairperson shall perform the following duties:

- (a) Preside at regular, special, and emergency meetings of the Commission or designate another Commissioner to serve in that capacity;
- (b) Serve as the spokesperson for the Commission on all matters, or designate another Commissioner to serve in that capacity;
- (c) Issue and sign notices and correspondence in accordance with § 109;
- (d) Appoint committees and panels, and their chairpersons, as needed;

- (e) Serve as the Chief Administrative Officer of the Commission, as the Commission’s personnel authority, and as the Chief of the Office of Taxicabs; and
- (f) Perform other duties of the Commission as the Commission may delegate.

100.3 The Secretary shall perform the following duties:

- (a) Oversee the electronic recording of Commission and panel meetings and the preparation of detailed minutes where electronic recording is not feasible in accordance with § 108.3;
- (b) Call the roll at Commission meetings;
- (c) Announce that a quorum is or is not present;
- (d) Maintain a record of the attendance of Commissioners at Commission and panel meetings; and
- (e) Perform such ministerial and other duties assigned by the Commission.

Section 101, APPOINTMENT OF THE VICE-CHAIRPERSON AND SECRETARY, is amended to read as follows:

101 APPOINTMENT OF THE SECRETARY AND ETHICS COUNSELOR

101.1 The Secretary to the Commission shall be an employee of the Office of Taxicabs designated by his or her position title in an administrative issuance issued by the Chairperson. Contact information for the Secretary shall be posted on the Commission’s website.

101.2 The General Counsel to the Commission shall serve as the Ethics Counselor.

Section 102, MEETINGS, is amended to read as follows:

102.1 The Commission shall hold general meetings on the second Wednesday of January, March, May, July, September and November at 10:00 a.m., at the official offices of the Commission, or at any other place as the Chairperson may designate. The notice of general meetings shall be provided in accordance with §109.

102.2 The Commission shall hold work sessions, as necessary, to engage in briefings and to consider matters before the Commission on the first Tuesday of February, April, June, September, October and December at the official offices of the Commission, or at any other place as the Chairperson may designate. The Commission may hold additional work sessions to carry out its statutory authority.

- 102.3 The Commission, its panels, and committees shall not meet on holidays, during the last two (2) weeks in December, or on snow emergency days as declared by the Mayor.
- 102.4 The Chairperson may call a special meeting of the Commission or a Panel at the direction of the Commission or its Panel. The notice shall be provided in accordance with § 109 and shall state the matters to be considered. No other matter may be considered at the special meeting except with the consent of all members of the Commission or the Panel present.
- 102.5 The Chairperson may call an emergency meeting of the Commission as needed to address an urgent matter. The notice of an emergency meeting shall be provided in accordance with § 109.
- 102.6 By affirmative vote of a majority of Commissioners in office, the Commission may schedule or hold a closed executive session to discuss personnel, litigation, or other matters of a private or confidential nature. No official action may be taken in an executive session, and no records shall be kept of the session other than a record of the vote to schedule or hold the session.

Section 103, CONDUCT OF MEETINGS, is amended as follows:

Subsection 103.6 is amended to read as follows:

- 103.6 Representatives of governmental agencies involved in taxicab administration, including, but not limited to, the Metropolitan Police Department, the Office of Taxicabs, the Washington Metropolitan Area Transit Commission, and the Commissioner of the D.C. Department of Insurance, Securities, and Banking may participate in the meetings of the Commission.

Section 104, QUORUM, is amended to read as follows:

Subsection 104.1 is amended to read as follows:

- 104.1 A majority of the Commissioners in office shall constitute a quorum for taking official action or votes at all meetings of the Commission. A meeting may commence for the consideration of matters not requiring official action or a vote when a majority of Commissioners in office are not present.

Section 105, CONFLICTS OF INTEREST AND APPOINTMENT OF ETHICS COUNSELOR, is amended as to read as follows:

105 CONFLICTS OF INTEREST

- 105.1 Any Commissioner, including the Chairperson, or panel member who, in the discharge of his or her official duties on the Commission, would be required to take an action or make a decision that would affect directly or indirectly his or her financial interest, as defined by § 223 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, (D.C. Law 19-124; D.C. Official Code § 1-1162.23 (2015 Supp.) or the financial interest of a member of his or her household or a business with which he or she is associated, or must take an official action on a matter as to which he or she has a conflict of interest created by a personal, family, or client interest, shall disclose this information in writing to the Chairperson.
- 105.2 The Chairperson shall excuse the Commissioner or panel member from votes, deliberations, and other action on the matter if the Ethics Counselor has determined that a conflict of interest exists or the Commissioner or panel member has requested to be excused due to a conflict of interest.
- 105.3 Any information disclosed under this section shall be included in the written record of the proceedings.

Subsection 105.4 is deleted.

Section 106, VOTES, is amended as follows:

Subsection 106.1 is amended to read as follows:

- 106.1 Action shall be taken by majority vote of the Commissioners voting unless contrary in these rules or other applicable law.

Subsection 106.3 is amended to read as follows:

- 106.3 The Commission may, upon motion of any Commissioner, reconsider a vote taken at the same meeting at which the vote to reconsider is taken or, if otherwise in order, at the next meeting.

Section 107, ORDER OF BUSINESS OF MEETINGS, is amended to as follows:

Subsection 107.1 is amended to read as follows:

- 107.1 The order of business at meetings shall be as follows unless otherwise modified by the Chairperson with prior notice as provided in § 109 or by majority vote of Commissioners voting:
- (a) Call to Order;
 - (b) Moment of silence;

- (c) Determination of a quorum;
- (d) Commission communication;
- (e) Government communication:
 - (1) The Mayor and Executive Branch;
 - (2) Council and the United States Congress; and
 - (3) Other governmental agencies and departments;
- (f) Public communications including petitions;
- (g) Reports from the following:
 - (1) The Chairperson;
 - (2) The General Counsel;
 - (3) The Office of Taxicabs;
 - (4) The Metropolitan Police Department;
 - (5) The Commissioner of the District of Columbia Department of Insurance, Securities and Banking;
 - (6) The Washington Metropolitan Area Transit Commission; and
 - (7) Others;
- (h) Consent Calendar:
 - (1) Hearing and approval of a panel report; and
 - (2) Other Action Items;
- (i) Non-Consent Calendar:
 - (1) Hearing and approval of a panel report; and
 - (2) Other Action Items;
- (j) Scheduling of public hearings;

- (k) Consideration of matters in executive session as authorized by law; and
- (l) Adjournment.

107.2 A consent calendar may be presented by the Chairperson at the beginning of a meeting. Items may be removed from the Consent Calendar at the request of any Commissioner. Items not removed may be adopted by general consent without debate. Removed items may be taken up either immediately after the consent Calendar, placed on the Non-Consent Calendar or placed later on the agenda at the discretion of the Commission.

Section 108, RECORDS OF MEETINGS, is amended as follows:

Subsection 108.1 is amended to read as follows:

108.1 The Secretary shall cause the creation of a formal record of the official proceedings of Commission meetings by electronic recording except as provided by § 108.3. All written documents and materials of the Commission shall be maintained by the Secretary as the official record of the Commission.

A new subsection 108.3 is added to read as follows:

108.3 The Secretary shall prepare detailed minutes of a Commission or panel meeting if electronic recordation is not feasible.

Section 109, NOTICES AND CORRESPONDENCE, is amended to read as follows:

109 NOTICES, CORRESPONDENCES, AND RECORDS

109.1 The Chairperson shall sign or designate a person to sign the following:

- (a) All notices to Commissioners of regular, special, and emergency meetings;
- (b) All notices and correspondence delineating proposed and final actions of the Commission; and
- (c) All appointments of committees and panels where appointments are within the powers of the Chairperson.

109.2 Notices of regular and special Commission meetings shall be posted not fewer than seven (7) days in advance of the meeting.

109.3 Notice of regular and special Commission meetings shall be made by:

- (a) Posting on the DCTC website;
- (b) Posting in the Office; and
- (c) Posting in the *D.C. Register*, as timely as practicable.

109.4 Notice of an emergency Commission meeting shall be provided at the same time as notification of the date and time of the meeting is given to the Commission. Notice under this subsection shall be provided by any or all of the methods in § 109.3.

109.5 The public records of the Commission and the Office may be examined in the offices of the Commission during normal office hours. An individual may make an appointment with the Commission to listen to an electronically recorded meeting of the Commission or its panels by contacting the Secretary of the Commission.

109.6 The Chairperson may have published in any newspaper of general circulation notice of any Commission meeting.

Section 110, OFFICIAL OFFICES OF THE COMMISSION AND OFFICE HOURS, is amended as follows:

Subsection 110.1 is amended to read as follows:

110.1 The official offices of the Commission and the Office shall be 2235 Shannon Place, S.E., Suite 3001, Washington, D.C. 20020.

Subsection 110.3 is deleted.

Section 111, POLICY AND PROGRAMS, is amended as follows:

Subsection 111.1 is amended to read as follows:

111.1 The Commission as a whole, when convened in regular, special or emergency sessions, shall, consistent with law, consider and adopt Commission policy, programs, and objectives.

Section 112, FREEDOM OF INFORMATION ACT REQUESTS, is amended as follows:

Subsection 112.1 is amended to read as follows:

112.1 The Public Information Officer is designated as the Freedom of Information Act Officer for the Office of Taxicabs.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF FINAL RULEMAKING

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8(c)(2), (3), (5), (7), (12), (15), and (19), 14, and 20 of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c)(2) (3), (5), (7), (12), (15), and (19), 50-313, and 50-319 (2012 Repl. & 2015 Supp.)), and D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2012 Repl. & 2015 Supp.), hereby gives notice of its intent to adopt amendments to Chapter 5 (Taxicab Companies, Associations and Fleets) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This final rulemaking amends the Chapter 5 to enhance customer service standards and establish greater parity in operating and licensing rules in the taxicab industry by: (1) establishing requirements for independent taxicabs owners to obtain certificates of operating authority, to be renewed on an annual basis; and (2) implementing new standards for taxicab companies and associations. The proposed rulemaking was adopted by the Commission on July 8, 2015 and published in the *D.C. Register* on September 11, 2015 at 62 DCR 012443. The Commission did not receive any comments during the comment period, which expired on October 11, 2015. Changes were made by the Commission to correct grammar, clarify initial intent, clarify proposed procedures, or lessen the burdens established by the proposed rules, including a change to the title of the chapter and a statement of existing legal requirements for proof of insurance. No substantial changes were required, however, and none were made.

The Commission voted to adopt this rulemaking as final on November 18, 2015, and it will become effective upon publication in the *D.C. Register*.

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

The title of Chapter 5 is amended to read as follows:

CHAPTER 5 TAXICAB COMPANIES, ASSOCIATIONS, FLEETS, AND INDEPENDENT OWNERS

Section 501, INITIAL AND RENEWAL CERTIFICATE AND LICENSES; FILING REQUIREMENTS, is amended as follows:

New Subsections 501.3(n) and (o) are added to read as follows:

501.3

...

- (n) Certification that it is in compliance with the operating requirements of § 510.

- (o) Proof of insurance including workers compensation.

Section 505, INDEPENDENT TAXICABS, is amended as follows:

Section 505 is amended to read as follows:

- 505.1 The Office shall not issue any new independent taxicab numbers. Each taxicab vehicle in operation in the District shall be identified by the PVIN assigned to it pursuant to this title.
- 505.2 Effective December 31, 2015, each independent taxicab owner (“applicant”) shall apply annually for a certificate of operating authority using a form provided by and in a manner established by the Office, for which the Office shall charge a fee of fifty dollars (\$50), which shall include the following information and documentation:
- (a) The applicant’s residence and business addresses;
 - (b) The applicant’s home and mobile telephone numbers and email address;
 - (c) The name of the taxicab company fleet or taxicab association with which the applicant is associated, if any;
 - (d) The make, model, year of manufacture, and vehicle identification number of the applicant’s vehicle;
 - (e) The PVIN of the applicant’s vehicle;
 - (f) The odometer reading of the applicant’s vehicle;
 - (g) Whether the applicant’s vehicle is wheelchair accessible; and
 - (h) The type of fuel used by the applicant’s vehicle.
- 505.3 Each independent taxicab owner shall report to the Office any change in the information required by § 502.5 within three (3) business days.
- 505.4 Each independent taxicab shall be in compliance with the uniform color scheme requirements of §§ 503.1 and 503.3.
- 505.5 An independent taxicab number shall not be displayed on a vehicle that is not painted in the uniform color scheme, except where consistent with § 503.3 (d).

- 505.6 Each independent taxicab shall have displayed on the exterior of each rear door the following markings, in the following order, centered, from top to bottom, which shall comply with § 505.12:
- (a) The name of the taxicab owner, or the owner's trade name or insignia;
 - (b) The word "taxicab" unless the word "cab" or "taxicab" is part of the trade name or insignia;
 - (c) The vehicle's independent taxicab number centered within a rectangular box, so as to be clearly visible from the rear; and
 - (d) A *bona fide* 24-hour customer service telephone number which is either a toll free number or a local number with a "202" area code.
- 505.7 Except as provided otherwise in this title, all information required by § 1010.14 shall be updated within three (3) business days.
- 505.8 All letters and numbers on independently operated taxicabs shall be Gothic in style, three (3) inches high, three-eighths (3/8) of an inch wide, with three-eighths (3/8) of an inch between each digit and the inside edge. The letters and numbers shall be painted as follows on taxicabs not yet required by this title to be painted in the uniform color scheme:
- (a) On taxicabs with the body painted black, the numbers, letters, and boxes required by this section shall be white; and
 - (b) On taxicabs with the body painted white, the numbers, letters, and boxes required by this section shall be black.
- 505.9 No independent taxicab number issued for a taxicab vehicle may be transferred to another taxicab vehicle.
- 505.10 If an independent taxicab number assigned by the Office is surrendered by the owner or revoked by the Commission, the number shall be null and void and may not be reclaimed, reassigned, reissued, renewed, or redistributed by the Office.

A new Section 510 is added to read as follows:

510 TAXICAB COMPANIES AND ASSOCIATIONS – OPERATING REQUIREMENTS

- 510.1 Each taxicab company shall report the sales tax for all taxicab rentals to DCRA, Office of Tax and Revenue or other appropriate agency.

- 510.2 Each taxicab company shall maintain a *bona fide* 24-hour customer service telephone number which is either a toll free number or a local number with a “202” area code.
- 510.3 Each taxicab company and association shall maintain a computerized data system capable of electronically submitting to the Office all information required by this title and other applicable law.
- 510.4 Not later than December 31, 2015, each taxicab company and association shall maintain a data system which allows it to track its owned and associated vehicles in real time whenever such vehicles are providing taxicab service. The system shall not be used to track in real time an independently owned vehicle that is not providing taxicab service.
- 510.5 Each taxicab company and association shall provide one or more safety devices for all its owned and associated vehicles which conforms to the equipment standards of § 603.8(n)(3), as specified in an administrative issuance, including a device which also provides for driver’s safety.
- 510.6 Each taxicab company and association shall maintain a website containing only current and accurate information about the company or association.
- 510.7 Not later than December 31, 2015, each taxicab company and association shall maintain the following current and accurate records, in an electronic format, for each of its owned or associated vehicles:
- (a) Whether the vehicle is owned or associated;
 - (b) The fleet number, if any;
 - (c) The make, model, year of manufacture, and vehicle identification number;
 - (d) The PVIN;
 - (e) The odometer reading;
 - (f) Whether the vehicle is wheelchair accessible; and
 - (h) The type of fuel used by the applicant’s vehicle.
- 510.8 Each taxicab company and association shall require each operator with whom it is associated to comply with § 816 (Standards of Conduct; Unlawful Activities Prohibited) and § 822 (Operation of Public Vehicles for Hire) through a lease or other written agreement.

510.9 No taxicab company or association shall seek to prevent a taxicab owner from terminating the owner's association with the company or association, provided however, that a company or association may, as a condition for termination, require the taxicab owner to:

- (a) Fulfill any outstanding contractual obligations; and
- (b) Satisfy any outstanding debts or liabilities owed to a third party.

510.10 A party to a termination or proposed termination of the association of a taxicab owner and a taxicab company or taxicab association may request mediation by the Office pursuant to an administrative issuance. Mediation offered by the Office shall be voluntary and any mediation decision shall be non-binding.

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

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8(c)(2), (3), (7), (14), (16), (17) and (19), 14, and 20j of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c)(2), (3), (7), (14), (16), (17), and (19), 50-313 and 50-329 (2014 Repl. & 2015 Supp.)), hereby gives notice of its intent to adopt amendments to Chapter 6 (Taxicab Parts and Equipment) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This final rulemaking enhances the Commission’s efforts to modernize the taxicab fleet. These final rules amend Chapter 6 by expediting the phase out (grandfathering) of vehicles under § 609.2, which are not in compliance with the current age limits in § 609.4. As a result of this amendment, all vehicles not in compliance with § 609.4 must be retired not later than January 1, 2017. These final rules also clarify the rules for vehicle extensions under § 609.7.

The proposed rulemaking was adopted by the Commission on August 12, 2015 and published in the *D.C. Register* on October 2, 2015 at 62 DCR 013041. The Commission received no comments to the sections of § 609 amended by this rulemaking during the comment period, which expired on November 1, 2015. No substantial changes were made to the proposed rules. Any changes made were to correct grammar, clarify initial intent, and lessen the burdens established by the proposed rules.

The Commission voted to adopt this rulemaking as final on November 18, 2015, and it will become effective upon publication in the *D.C. Register*.

Chapter 6, TAXICAB PARTS AND EQUIPMENT, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:**Section 609, TAXICAB VEHICLE RETIREMENT, is amended as follows:****Subsections 609.2 and 609.7 are amended to read as follows:****609 TAXICAB VEHICLE RETIREMENT**

609.2 Notwithstanding the provisions of § 609.1, each standard gasoline-powered vehicle which is licensed and in service on the effective date of this section shall be retired as provided in the “Age of Taxicabs” rule in § 609, published in the *D.C. Register* on November 28, 2014 at 61 DCR 12279, for which vehicle mileage is not a factor except as provided in paragraph (d), and which provides as follows:

- (a) Not later than January 1, 2014, or the next regularly scheduled DMV vehicle inspection required by D.C. Official Code § 50-1101(a), whichever is later, all vehicles manufactured in model years 1997 and earlier shall be removed from service.
- (b) Not later than January 1, 2015, or the next regularly scheduled DMV

vehicle inspection required by D.C. Official Code § 50-1101(a), whichever is later, all vehicles manufactured in model years 2004 and earlier shall be removed from service.

- (c) Not later than January 1, 2016, or the next regularly scheduled DMV vehicle inspection required by D.C. Official Code § 50-1101(a), whichever is later, all vehicles manufactured in model years 2007 and earlier shall be removed from service.
- (d) Not later than January 1, 2017, all taxicab vehicles which are not in compliance with §§ 609.3-609.5 shall be removed from service.

609.7

The owner of a vehicle in service which is subject to retirement pursuant to §§ 609.3-609.5 may file an application with the Office requesting a one (1) year extension of the retirement deadline, not to exceed December 31, 2016, or such later date as may be set in an administrative issuance, subject to the following requirements:

- (a) Only one (1) application may be filed concerning a specific vehicle, regardless of whether the application is granted or denied.
- (b) The vehicle shall:
 - (1) Have passed its two (2) most recent required DMV inspections;
 - (2) Be in excellent mechanical condition, as determined by the Office, or by an independent third party inspection service approved by the Office;
 - (3) Be in excellent condition in appearance, including having no body damage on its exterior;
 - (4) Not be a salvaged vehicle; and
 - (5) Not have been driven more than three hundred thousand (300,000) miles at the time the application is filed.
- (c) The vehicle and its owner shall be in compliance with all applicable provisions of this title, including without limitation the insurance requirements of Chapter 9 and the equipment requirements of Chapter 8; and
- (d) The application for extension shall be filed by the owner on a form established by the Office, executed under oath, together with a filing fee of fifty dollars (\$50) and accompanied by information and documentation.
- (e) If the application is granted, the extension shall not extend the applicable service life based on age by more than one (1) year or based on mileage by more than thirty three thousand (33,000) miles.

DEPARTMENT OF PARKS AND RECREATION**NOTICE OF PROPOSED RULEMAKING**

The Director of the Department of Parks and Recreation (the Department), pursuant to the authority set forth in Sections 5 and 7a of the Recreation Act of 1994, effective March 23, 1995 (D.C. Law 10-246; D.C. Official Code §§ 10-304 and 307 (2012 Repl. & 2015 Supp.)) (the Recreation Act), and Sections 6 and 6a of An Act To vest in the Commissioners of the District of Columbia Control of Street Parking in said District, approved July 1, 1898 (30 Stat. 571; D.C. Official Code §§ 10-137 and 10-137.01 (2012 Repl. & 2015 Supp.)), gives notice of the Department's intent to amend Chapter 7 (Department of Parks and Recreation) of Title 19 (Amusements, Parks, and Recreation) of the District of Columbia Municipal Regulations (DCMR).

The rulemaking seeks to amend the following sections: 1) Section 716 (Establishment of Fees); 2) Section 717 (Precedence for Use of Recreation Properties); 3) Section 719 (Establishment of User Fees for the Southeast Tennis and Learning Center and Other Similar Tennis Facilities); 4) Section 720 (Sponsorship of Programs and Activities); 5) Section 729 (Use for Fundraising by Community Prohibited); and 6) Section 799 (Definitions); and to add the following sections: 7) Section 723 (Residency); 8) Section 724 (Recreational Activities). The Department also intends to repeal and reserve in their entirety Sections 721, 722, and 726.

The revised Sections implement the amendments to the Recreation Act made by the Department of Parks and Recreation Fee-based Use Permit Authority Amendment Act of 2012, effective April 23, 2013 (D.C. Law 19-280; 60 DCR 2124 (February 22, 2013)), and found in D.C. Official Code §§ 10-301, 10-302, and 10-307, by updating permit fees and establishing the requirements for fee-based-use permits when private groups charge fees to participants for activities, events, classes, programs, operations, services, or products for the benefit, enjoyment, education, amusement or convenience of the public. The regulations also provide guidance for a more objective "priority of use" for issuing permits for property that is in demand by multiple users.

The revised sections also provide procedures to prioritize registration and reduced costs for District residents for both permits and recreational activities. They also provide for the procedures for the operations of markets or special events on Department property, and are instructive regarding nutrition requirements of any food or beverages sold or offered to the public.

Finally, the proposed regulations establish the standards for which the Department may accept a proposal under the amendments to the Recreation Act made by the Department of Parks and Recreation Revenue Generation Clarification Amendment Act of 2012, effective April 23, 2013, (D.C. Law 19-275; 60 DCR 2058 (February 22, 2013)), found in D.C. Official Code §§ 10-301, 10-302, and 10-303, which authorizes partnerships, sponsorships or donations for Department programs and property.

The Director gives notice of intent to adopt the proposed rules as final rules no earlier than thirty (30) days after the publication of these rules in the *D.C. Register*, and following approval by the D.C. Council.

Chapter 7, DEPARTMENT OF PARKS AND RECREATION, of Title 19 DCMR, AMUSEMENTS, PARKS, AND RECREATION, is amended as follows:

Section 716, ESTABLISHMENT OF FEES, is amended to read as follows:

716 ESTABLISHMENT OF FEES

716.1 Except for the Southeast Tennis and Learning Center, this section establishes fees for use of Department property and equipment and registration in recreational activities offered by the Department.

716.2 The following table sets forth the permit fees for uses of Department ball fields, courts, and aquatic facilities:

TABLE A – PERMITTED USES OF BALL FIELDS, COURTS, GYMS AND AQUATIC LANES

Fee Category	Details	Unit	Resident
Ball Field Lights	Adults	Per Hour	\$10
Ball Field	Grass Field (Adult)	Per Hour	\$40
Ball Field	Turf/Synthetic Field (Adult)	Per Hour	\$50
Ball Field	Grass Field (Youth)	Per Hour	\$5
Ball Field	Turf/Synthetic Field (Youth)	Per Hour	\$7
Indoor Court	Adult	Per Hour	\$40
Indoor Court	Youth	Per Hour	\$5
Outdoor Court	Basketball Adult	Per Hour	\$25
Outdoor Court	Basketball Youth	Per Hour	\$5
One-Time Indoor or Outdoor Court or Field Permit For Full Day Exclusive	Adult	8 Hours	\$400
One-Time Indoor or Outdoor Court or Field Permit For Full Day Exclusive	Youth	8 Hours	\$200
Aquatics - Lane	20 and 25 Yard Swimming Lane (Adult)	Per Lane/hr.	\$15
Aquatics - Lane	20 and 25 Yard Swimming Lane (Youth)	Per Lane/hr.	\$7
Aquatics - Lane	50 Meter Swimming Lane (Adult)	Per Lane/hr.	\$20
Aquatics - Lane	50 Meter Swimming Lane	Per Lane/hr.	\$10

	(Youth)		
Aquatics - Pool	Full Facility Small Pool	Per Hour	\$250
Aquatics-Pool	Full Facility Large Pool	Per Hour	\$350
Pool and Room	Indoor Room fees and additional aquatics employees fees also apply	Flat Fee	\$25 per hour

716.3 The following table sets forth the Department’s permit fees for use of park space, gardens, recreation rooms and transportation:

TABLE B – PERMITTED USE OF PARK SPACE AND FACILITIES

Fee Category	Details	Unit	Resident Applicant
Small Community Room	1-49 people	Per Hour	\$25
Large Community Room	1-49 people	Per Hour	\$35
Outdoor Picnic/Event Space	1-49 people	Per Hour	\$25
Meeting Room or Open Field Space	Up to 25 people	Per Hour	\$10
Indoor/Outdoor Special Event	50-99 person event	Per Hour	\$50
Indoor/Outdoor Special Event	100-199 person event	Per Hour	\$100
Indoor/Outdoor Special Event	200- 400 person event	Per Hour	\$200
Indoor/Outdoor Special Event	401-700 person event	Per Hour	\$300
Indoor/Outdoor Special Event	701-999 person event	Per Hour	\$400
Indoor/Outdoor Special Event	1,000-1,200 person event	Per Hour	\$500
Market	Per Vendor	Per Day	\$10
Outdoor Lights	Special Events	Per Hour	\$10
Special Event Transportation	Bus	Per Trip (6 hour maximum)	\$400
Special Event Transportation	Van	Per Trip (6 hour maximum)	\$200
Garden Space Fee	Small, Medium, or Large	Per Year	SM \$25 M \$50 L \$75

716.4 The following table sets forth the Department’s fee-based use fees for commercial activities:

TABLE C – FEE-BASED-USE PERMIT FEES

Fee Category	Details and Units	Resident Applicant
Indoor Court Youth League	Per Permit in Table A (§ 716.2)	\$100

Indoor Court Adult League	Per permit in Table A (§ 716.2)	\$150
Outdoor Court Youth League	Per Permit in Table A (§ 716.2)	\$50
Outdoor Court Adult League	Per Permit in Table A (§ 716.2)	\$75
Indoor Room Youth League	Per Permit in Table B (§ 716.3)	\$100
Indoor Room Adult League	Per permit in Table B (§ 716.3)	\$150
Field Youth League	Per permit in Table A (§ 716.2)	\$100
Field Adult League	Per Permit in Table A (§ 716.2)	\$150
Instructional/Clinic/Fitness Special Event/Class	Per Permit in Table A (§ 716.2) or B (§ 716.3)	\$25
Special Event Admission	Estimated Admission Fees	5%
Market Operator or Vendor	For SNAP or WIC program participants	Waived
Market/Special Event Operator	Vendors: 1-15 per permit in Table B (§ 716.3)	\$75
Market/Special Event Operator	Vendors: 16-25 per permit in Table B (§ 716.3)	\$100
Market/Special Event Operator	Vendors 26-50 per permit in Table B (§ 716.3)	\$125
Vendor/Café/Table Not Part of Market	Individual/Per Day Small /Per Day Large/Per Day	\$20 \$60 \$80
Revenue Agreements	Revenue Share	Up to 20%
Summer Youth Camp Indoor or Field	Per week per permit in Table A or B	\$200

716.5 The table below sets forth the Department’s permit fees for use of Department equipment:

TABLE D – PERMITTED USE OF EQUIPMENT

Fee Category	Details	Unit	Resident	Deposit
Aquatics - Equip. Rental	Timing System (Adult)	Up to 6 Hours	\$175	N/A
Aquatics - Equip. Rental	Timing System (DCPS/Charter/DCS AA)	Up to 6 Hours	\$75	N/A

Aquatics - Equip. Rental	Timing System (Youth)	Up to 6 Hours	\$150	N/A
Equipment - Showmobile	Large Showmobile	Up to 6 Hours	\$750	\$300
Equipment - Showmobile	Medium Showmobile	Up to 6 Hours	\$400	\$100
Equipment - Showmobile	Small Showmobile	Up to 6 Hours	\$500	\$250
Equipment Rental	Large PA System	Up to 6 Hours	\$150	\$75
Equipment Rental	Small PA System	Up to 6 Hours	\$100	\$50
Equipment Rental	Platform	Up to 6 Hours	\$35	\$25
Equipment Rental	Podium	Up to 6 Hours	\$35	\$25
Equipment	Miscellaneous	Up to 6 Hours	\$25	\$25
Garden Tools	Various	Daily, Weekly, and Monthly	Garden Tool Guide	Garden Tool Guide

716.6 The following table sets forth the Department’s admission fees for Department aquatic and fitness center facilities:

TABLE E – ADMISSION FEES

Fee Category	Details	Unit	Flat Fee For Residents
Aquatics - Pool	Indoor - Adult	Annual	\$300
Aquatics - Pool	Indoor - Youth	Annual	\$150
Aquatics - Pool	Family Indoor (up to four people)	Annual	\$600
Aquatics - Pool	Outdoor - Adult	Seasonal	\$150
Aquatics - Pool	Outdoor - Youth	Seasonal	\$75
Aquatics - Pool	Outdoor Family (up to four people)	Seasonal	\$300
Aquatics - Pool	Indoor - Adult	Per Day	\$5
Aquatics - Pool	Indoor - Youth	Per Day	\$2
Aquatics - Pool	Outdoor - Adult	Per Day	\$5
Aquatics - Pool	Outdoor - Youth	Per Day	\$2
Aquatics - Pool	Indoor - Adult	Per Month	\$40
Aquatics - Pool	Indoor - Youth	Per Month	\$20
Aquatics-Pool	Groups Larger than 10 Admission	Per Person	\$3
Fitness Centers	Family	Per Day	\$10

Fitness Centers	Individual	Per Day	\$5
Fitness Centers	Family	Per Month	\$50
Fitness Centers	Individual	Per Month	\$25
Fitness Centers	Family	Annual Pass	\$200
Fitness Centers	Individual	Annual Pass	\$150

716.7 The following table sets forth the amounts the Department can charge up-to for recreational activities and programs:

TABLE F –RECREATIONAL ACTIVITY FEES

Fee Category	Details	Unit	Maximum Fee for Resident
Indoor Fitness Class	Repeating	1 session (approx. 12 weeks)	\$40
Indoor Fitness Class	Drop In	1 occurrence	\$5
Learn to Swim Class	Repeating	1 session (approx. 12 weeks)	\$25 youth \$50 adult
Swim Fitness Class	Repeating	1 session (approx. 12 weeks)	\$100
Enrichment/Arts Class	Repeating	1 session (approx. 12 weeks)	\$50 plus materials fees
Dance Class	Repeating	1 session (approx. 12 weeks)	\$100
Special Event Class	Drop In	1 occurrence	\$10 plus materials fees
Weekly Camps	Repeating	Weekly	\$200
Day Camps	One Time	Per Day	\$25
Camping Overnight	At least two days	Per night	\$100
Special Event Program or Event Admission	One time	Per Day	\$100 plus materials fees
Field Trip	One time	Per Day	Costs of travel and trip
Leagues	Repeating	Per Season	\$500
Tournament	One time	Per Day	\$50
Early Childhood Cooperative Play	Annual (10 months)	Month	\$250

Out-of-School Time Aftercare	Annual (10 months)	Month	\$150
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- 716.8 Fees for non-residents are one-and-a-half (1½) times the amounts set forth in Tables A, B, C, and D in Subsections 716.2, 716.3, 716.4, and 716.5. Fees for non-residents are an additional twenty-five percent (25%) of the cost of the admission or an activity in Tables E and F in Subsections 716.5 and 716.7.

- 716.9 In accordance with Section 725, applicants required to obtain both a permit and a fee-based-use permit shall pay the relevant fee amounts in Tables A or B and Table C in Subsections 716.2, 716.3, and 716.4.

- 716.10 Individual vendors selling goods who are not part of a market operation shall be required to pay the relevant fees in Table C in Subsection 716.4 only. The Department has discretion to charge the applicant the per diem fee or the revenue share fee based on based on the length and time of permit.

- 716.11 If an applicant requests multiple sites under a permit or fee based use permit then the fees in Tables A, B and C in Subsections 716.2, 716.3 and 716.4 shall be calculated separately for usage at each desired location.

- 716.12 Permit applicants deemed eligible for use of property outside the Department’s hours of operation may be required to pay twenty-five dollars (\$25) per hour per employee to cover the cost of staff in addition to any additional costs of the Department.

- 716.13 A deposit in the amount of forty percent (40%) of the total cost of a permit is required along with the total costs at the time of payment is due. Deposits will be returned upon satisfaction that no repair or additional clean-up in the permitted area is needed.

- 716.14 Payment of fees is due fourteen (14) calendar days after the date the invoice is issued unless otherwise agreed to by the Department.

- 716.15 As provided by Section 4 of the Recreation Act of 1994, effective March 23, 1995 (D.C. Law 10-246; D.C. Official Code § 10-303), all fees collected pursuant to this chapter will be placed into the general fund and a direct appropriation of the amounts collected is authorized into the Department’s enterprise fund. The enterprise fund is created for the collection of fees, concessions and services and payments by developers seeking relief from zoning laws by way of the planned unit development process considered part of the required community benefits package of the proposed planned unit development. Revenue deposited into the enterprise fund shall be expended by the Department for the administration, improvement, and maintenance of property and programs managed by the Department.

- 716.16 An applicant who is a resident of the District may apply for a permit fee discount if the applicant demonstrates that it meets one (1) of the following requirements:
- (a) Fifty percent (50%) discount of the total fees for non-profit corporations in good standing that serve fewer than one hundred (100) total youth participants and that principally serve District residents. The corporation must demonstrate through financial documents that the fees collected by the corporation from participants is not generating income to pay salaries, benefit sponsors, fund other aspects of the corporation's operations, or make charitable donations.
 - (b) Fifty percent (50%) discount for local District agencies or public officials so long as the planned activities meet a government purpose as determined pursuant to standards established by Department policy.
 - (c) One hundred percent (100%) waiver of fees for Department partners with valid written partnership agreements that do not charge fees for participation.
 - (d) One hundred percent (100%) waiver of fees for District of Columbia Public Schools ("DCPS"), District public charter schools, and the District of Columbia State Athletic Association ("DCSAA") for athletic league play only. A fifty percent (50%) waiver may be available for these groups for other activities involving a government purpose as determined pursuant to standards established by Department policy. All required fees shall be paid for these groups pursuant to these regulations for other activities.
 - (e) One hundred percent (100%) waiver of fees for Advisory Neighborhood Commissions, Police Service Area Officers, and the District of Columbia Housing Authority if the planned activities meet a government purpose as determined pursuant to standards established by Department policy.
 - (f) Twenty-five percent (25%) waiver of fees for senior citizens who are District residents may be applied to registration for recreational activities.
 - (g) One hundred percent (100%) waiver of fees for farmers' market operators and vendors if they sell food through a federal food assistance program.
- 716.17 The discounts set forth in § 716.16 apply to permit fees only and do not apply to staff costs or other costs.
- 716.18 Park space under the jurisdiction and control of National Park Service (NPS) is subject to fees and regulations set by the NPS.

- 716.19 The Department may waive the fees in this chapter if an applicant can reasonably demonstrate:
- (a) A financial hardship in paying the fees;
 - (b) A significant public need for the activity;
 - (c) That the activity clearly aligns with the mission of the Department; and
 - (d) That the applicant does not charge its participants.
- 716.20 Fees for services provided by the Department for therapeutic recreation services under Medicaid will be charged pursuant to the amounts allowed under Medicaid.

Section 717, PRECEDENCE FOR USE OF RECREATION PROPERTIES, is amended to read as follows:

717 PRIORITY OF PERMITTED USES

- 717.1 Except for permits for league activities, the first applicant to submit a request for a permitted use shall have priority.
- 717.2 If more than one (1) applicant is seeking a permit for the same permitted use or equipment at the same time, the Department shall establish the following priority:
- (a) Department-sponsored activities;
 - (b) District non-profit partners such as Programmatic Partners, Park Partners, and Collaborative Partners or designated organizations recognized by the Department in a written agreement;
 - (c) Athletic programs organized by DCPS, District public charter schools, or the DCSAA for competitive league play and not for intramurals;
 - (d) Youth non-profit organizations, including schools, principally serving District residents;
 - (e) Adult non-profit organizations principally serving District residents;
 - (f) Other organizations, groups, or individuals for private use that are based in the District; and then
 - (g) Others.

717.3 The following factors may be weighed when more than one (1) applicant is seeking a permit for property or equipment for the same property at the same time:

- (a) Historical use: twenty-five percent (25%);
- (b) The number of youth District residents served: twenty-five percent (25%);
- (c) The use is not offered by other groups: twenty percent (20%);
- (d) The use is the primary use intended for the property: fifteen percent (15%); and
- (e) Other reasonable considerations by the Department: fifteen percent (15%).

717.4 When considering priority, the Department may block out time for general community use.

717.5 The Department may mediate between competing users and propose a schedule of shared use. Failure to accept a proposal for shared use may result in the denial of the permit.

Section, 719 ESTABLISHMENT OF USER FEES FOR THE SOUTHEAST TENNIS AND LEARNING CENTER AND OTHER SIMILAR TENNIS FACILITIES, is amended to read as follows:

719 ESTABLISHMENT OF USER FEES FOR THE SOUTHEAST TENNIS AND LEARNING CENTER AND OTHER SIMILAR TENNIS FACILITIES

719.1 This section establishes the service fees by category type for the Southeast Tennis and Learning Center and any future newly built or renovated Department of Parks and Recreation facility that offers services that are similar to those offered by the Southeast Tennis and Learning Center.

719.2 The fees for indoor court rental shall be as follows:

- (a) There is no fee for District youth not affiliated with an organization or registered in a program.
- (b) Youth/Junior program fees are one hundred dollars (\$100) for Orange Group, one hundred twenty dollars (\$120) for Green Group, one hundred and fifty dollars (\$150) for Junior Excellence Group, and two hundred dollars (\$200) for Excellence Group. Groups meet ten (10) times in a session. Non-resident fees shall be one and a half (1½) times the resident fees.

- (c) Partners with written partnership agreements will be charged seventy-five percent (75%) of the applicable District resident, adult hourly court fee per court.
- (d) The fee for ball machines is fifteen dollars (\$15) per hour.
- (e) Fee rates for adults per hour for a forty (40) week season are as follows:
 - (1) The fee rates per hour for a forty (40)-week season, from September 1 through April 31, are as follows:

Day	Time	D.C. Resident	Non-Resident
Off Peak			
Monday – Saturday	6 am-9 am	\$ 20.00 per hour	\$25.00
Monday –Friday	9am – 3pm	\$30.00 per hour	\$35.00
Saturday	9am – 6pm	\$ 25.00 per hour	
Holidays	2 pm - 7 pm	\$ 25.00	\$ 35.00
Peak			
Monday - Friday	7pm – 9pm	\$ 25.00	\$ 30.00
Saturday	9am – 6pm	\$ 25.00	\$ 30.00
Holidays	7 am - 2 pm	\$ 28.00	\$ 38.00
Holidays	7 pm - 10 pm	\$ 28.00	\$ 38.00

- (2) The fee rates per hour for a twelve (12)-week summer season, from May 1 through August 31, are as follows:

Day	Time	D.C. Resident	Non-Resident
Off Peak			
Early Bird	6 am – 9 pm	\$ 20.00	\$ 25.00
Saturday - Sunday	5 pm - 11 pm	\$ 25.00	\$ 35.00
Monday - Friday	7 am - 9 am	\$ 20.00	\$ 30.00
Monday - Friday	10 pm - 11 pm	\$ 20.00	\$ 30.00
Peak			
Monday - Friday	9 am - 10 pm	\$ 25.00	\$ 38.00
Saturday - Sunday	7 am - 5 pm	\$ 28.00	\$ 38.00
Holidays	7 am - 2 pm	\$ 28.00	\$ 38.00
Holidays	7 pm - 10 pm	\$ 28.00	\$ 38.00

- 719.3 Non-resident fees shall be one and a half (1½) times the resident fees.
- 719.4 Groups meet ten (10) times in a session. There is a twenty dollar (\$20) drop-in fee for each session. Instead of paying hourly fees for court rental above, members of the public may obtain memberships or contract packages.

- 719.5 Senior citizens who are District residents will receive a forty percent (40%) discount on all court and membership fees.

- 719.6 The membership fee for an individual is one hundred and fifty dollars (\$150) per year. Family memberships are available for sixty dollars (\$60) for each additional family member. Proof of family membership is required in order to purchase additional family memberships. The membership fee for a partner who is based in the District is four hundred dollars (\$400) per year. The membership fees for partners from outside the District is six hundred dollars (\$600) per year. All fees must be paid in full at the time of joining the Tennis and Learning Center. Membership fees entitle individual members and the youth sponsored by both District partners and non-District partners to the use of the weight conditioning room, the shower facilities, the computer learning center, and discounts on hourly tennis court fees.

- 719.7 Members may bring guests. A fee of ten dollars (\$10) per guest, per visit, per hour will be charged for the use of indoor courts and a fee of four dollars (\$4) per guest, per visit, per hour will be charged for the use of outdoor courts.

- 719.8 Membership fees are nonrefundable. However, within one hundred eighty (180) days of the purchase of membership, a member may transfer their membership to another individual or organization subject to a fifty dollars (\$50) transfer fee to be assessed at the time of the transfer.

- 719.9 Members may reserve court time up to three (3) days in advance. Cancellations must be made at least twenty-four (24) hours prior to playing time or the amount of court fees will be billed to the member who reserved the court time.

- 719.10 Contract packages for the use of indoor tennis courts are available for purchase during the times that the courts are not reserved for District youth. Contract time is based on one (1) hour per week of use. Contract time is to be paid in full at the signing of the contract and is non-refundable. The fees for contract packages are as follows:

- (a) The fees for contract packages for the forty (40) week season from September 1 through April 30 are as follows:

Day	Time	D.C. Resident Members	Non-Resident Members
Off Peak			
Early Bird	6 am – 9 am		
Monday - Friday	7 am - 4 pm	\$800	\$1,100
Saturday - Sunday	7 pm - 10 pm	\$950	\$1,930
Holidays	2 pm - 7 pm	\$750	\$1,230
Peak			
Monday - Friday	7 pm - 10 pm	\$950	\$325

Saturday - Sunday	7 am - 2 pm	\$1,050	\$1,350
Holidays	7 am - 2 pm	\$1,050	\$1,350
Holidays	7 pm - 10 pm	\$1,050	\$1,350

(b) The fees for contract packages for the twelve (12) week summer season from May 1 through August 31 are as follows:

Day	Time	D.C. Resident Members	Non-Resident Members
Off Peak			
Monday - Friday	6 am - 9 am	\$250	\$325
Monday - Friday	10 pm - 11 pm	\$250	\$325
Saturday - Sunday	7 pm - 11 pm	\$250	\$325
Peak			
Monday - Friday	6 am - 9 am	\$275	\$375
Monday - Friday	7 pm - 10 pm	\$275	\$375
Saturday - Sunday	6 am - 9 am	\$275	\$375
Holidays	7 am - 9 am	\$275	\$375
Holidays	7 pm - 10 pm	\$275	\$375

719.11 The purchase of a contract package by either a District resident or a non-District resident does not entitle the patron to the amenities provided with the purchase of membership fees set forth in Subsection 719.4.

719.12 The hours not covered in the foregoing schedules are reserved for free use by District youth.

719.13 Outdoor tennis courts are as follows:

- (a) Members: six dollars (\$6) per hour
- (b) Non-members: (\$10) per hour

719.14 Members may purchase additional time on both indoor and outdoor courts in hourly increments.

719.15 The fees for private instruction/professional lessons are as follows:

Director of Tennis	\$85 per hour
Semi-Private	\$95 per hour
Assistant Director of Tennis	\$65 per hour
Semi-Private	\$75 per hour
Head Pro	\$75 per hour
Semi-Private	\$85 per hour
Staff Pros	\$65 per hour

Semi-Private	\$75 per hour
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719.16 Members may purchase a package of six (6) individual lessons taught by Staff Pro(s) for one hundred and thirty dollars (\$130).

719.17 Group tennis fees are as follows:

- (a) Cardio Tennis
Price: Twenty five dollars (\$25) per class; must sign up twenty-four (24) hours before scheduled class time
- (b) Beginner Tennis
Price: Three hundred and twenty five dollars (\$325) member/four hundred dollars (\$400) non-member for a ten (10) week session; fifteen dollars (\$15) member/twenty (\$20) non- member for drop-in play
- (c) Advanced Tennis
Price: Three hundred and twenty five dollars (\$325) member/four hundred dollars (\$400) non-members for 10 week sessions; fifteen dollars (\$15) member/twenty dollars (\$20) non- member for drop-in play
- (d) Senior Class
Price: One hundred dollars (\$100) for a ten (10) week session; fifteen dollars (\$15) for District resident member/twenty one dollars (\$21) non District resident non-member for drop-in play
- (e) Early Bird Special
Court Time: Monday through Friday 6:00 AM-9:00 AM and Saturday 6:00 AM- 8:00 AM
Price: Twenty dollars (\$20) per hour for drop-in play

Section 720, SPONSORSHIP OF PROGRAMS AND ACTIVITIES, is amended to read as follows:

720 SUPPORT FOR PARKS, FACILITIES, RECREATIONAL ACTIVITIES, AND EVENTS

720.1 No individual or group shall provide support for Department programs, parks, or facilities without first entering into a written agreement with the Department under one (1) of the following categories:

- (a) Programmatic Partnerships;
- (b) Friends of Partnerships;
- (c) Adopt-A-Park;

- (d) Sponsor-A-Park;
- (e) Sponsorships; or
- (f) Donations.

- 720.2 To enter into an agreement under Subsections 720.1(a) through (e), an interested party shall first submit a written proposal to the Department. To enter into an agreement under Subsection 720.1(f), interested parties shall first complete a donation form.
- 720.3 The following criteria may be considered to review a proposal and determine whether an application will be offered:
- (a) Value of the service or goods: twenty percent (20%);
 - (b) Need for the service or goods: twenty percent (20%);
 - (c) Sponsor organization's nexus to the mission of the Department: twenty percent (20%);
 - (d) Sponsor organization's demonstration of a unique method, approach, or concept: twenty percent (20%); and
 - (e) Other factors the Department deems appropriate and reasonable: twenty percent (20%).
- 720.4 Following the review of a proposal, the Department may offer the interested party an opportunity to apply for a category that the Department deems appropriate. Failure to provide all of the requested information in the application form shall result in the denial of the application.
- 720.5 An offer of a donation shall not require the District to agree to any consideration in exchange for the donation. A donation shall not be accepted if it creates the appearance of a conflict of interest or an actual conflict of interest on the part of the District.
- 720.6 Acceptance of a donation will be determined by the District of Columbia Office of Partnerships and Grant Services.
- 720.7 Unsolicited sponsorship proposals shall become the property of the Department.
- 720.8 All written agreements that involve entrance onto Department properties to make improvements shall also be subject to the requirements of the Department of

General Services for entry, use, or improvement of property under all applicable laws of the District.

- 720.9 Department property may be used for fundraising by Friends' Groups or Designated Organizations.
- 720.10 Before any fundraising activity is permitted, the group shall submit a written proposal including a plan for the use of space, estimated costs, proposed net earnings, a summary of the fundraising event or activities, including any advertising, sponsorships, the property requested, and a description of any proposed food or drink sales. The proposal shall also specify the proposed use of any funds raised. The Department may deny a proposal for a fundraiser if the Department deems the proposal insufficient as to the manner that the funds are collected and safeguarded or if the fundraiser does not align with the written agreement of the group.
- 720.11 All funds raised shall be managed by the group in a dedicated bank account for the benefit of the Department except that any reasonable costs of the fundraiser listed in the fundraising proposal approved by the Department may be deducted from the funds raised.
- 720.12 The group shall provide a written report of all income and expenses from the fundraiser to the Department within a time designated by the Department.
- 720.13 Fundraisers by for-profit groups shall be limited to groups with written sponsorship agreements with the Department and all funds raised shall be for the benefit of the Department.
- 720.14 All maintenance and beautification work authorized by this section shall be performed in a manner that will not adversely affect the public health, safety, or comfort.
- 720.15 An improvement made to a park, playground, recreation center, or other facility by a private person or organization under this section shall become the property of the District government.
- 720.16 The District government reserves the right to remove any improvement made in its sole discretion.

Section 721, SPONSORED ACTIVITIES: FINANCIAL PROCEDURES, is repealed and reserved.

Section 722, SPONSORED ACTIVITIES: ASSISTANCE AVAILABLE, is repealed and reserved.

Section 723, [RESERVED], is amended to read as follows:

723 RECREATIONAL ACTIVITIES

- 723.1 Registration for minors or youth participants shall require parental consent, waivers of liability, and a signed acknowledgement of the code of conduct.
- 723.2 Recreational activities may be restricted by appropriate age, skill, or other reasonable and necessary considerations within the laws of the District.
- 723.3 Participants with disabilities in need of reasonable modifications to participate in recreational activities offered by the Department shall request such modifications at least ten (10) business days before the start of the recreational activity. Late requests may be considered by the Department. Modifications will be considered on a case-by-case basis.
- 723.4 Registration for recreational activities may be reserved for District residents on a first-come-first-served basis.
- 723.5 Non-District residents may be placed on a first-come-first-served waitlist or subject to delayed registration periods.

Section 724, [RESERVED], is amended to read as follows:

724 RESIDENCY

- 724.1 Applicants for permits and registrants for recreational activities must provide proof of identity and residency before any permitted use or participation in recreational activities is allowed.
- 724.2 If an applicant is a league, club, organization, or other group, it must demonstrate that the applicant is a District resident or incorporated in the District and that at least seventy-five percent (75%) of the participants are District residents to be considered a resident.
- 724.3 To demonstrate residency of seventy-five percent (75%) of a league, club, organization, or other group, the Department may seek rosters including school enrollment and address information, and/or sworn statements that a participant is a resident or that at least seventy five percent (75%) of the group are residents.
- 724.4 District residency may be established by one (1) of the following methods:
- (a) Proof of payment of District personal income tax, for the tax period immediately preceding the time for consideration of District residency;
 - (b) A pay stub issued less than forty-five (45) days prior to consideration of residency that shows his or her District residency and evidence of the withholding of District income tax;

- (c) Current documentation of financial assistance received from the District government including, but not limited to Temporary Assistance for Needy Families (TANF), Medicaid, the State Child Health Insurance Program (SCHIP), Supplemental Security Income (SSI), housing assistance, or other government programs;
- (d) Confirmation, based upon completion and submission of a tax information authorization waiver by the District Office of Tax and Revenue of payment of District income taxes;
- (e) Current official military housing orders showing residency in the District;
- (f) A currently valid court order indicating the applicant or person seeking to participate is a ward of the District;
- (g) A current motor vehicle registration evidencing District residency;
- (h) A valid unexpired lease or rental agreement and paid receipts or canceled checks (for a period within two (2) months immediately preceding consideration of residency) for payment of rent on a District residence;
- (i) A valid unexpired District motor vehicle operator's permit or other official non-driver identification; or
- (j) Utility bills (excluding telephone bills) and paid receipts or cancelled checks for payment of utility bills from a period within the two (2) months immediately preceding consideration of residency.

724.5 The Department requires that an applicant for a permitted use or a program registrant, or custodial parent or primary caregiver of a youth, who claims residency in the District, to make a sworn written statement that they are in fact a District resident and meet the residency requirements in this chapter.

724.6 Denial or revocation of a permit or registration in a recreational activity may result for failure to provide the requested information or for providing false information.

Section 725, PERMITS FOR RECREATION FACILITIES, is amended to read as follows:

725 PERMITS

725.1 The Department's mission is to provide activities, programs, and recreational opportunities to enhance the quality of life and wellness for District residents. The purpose of this section is to establish permit rules for the public use of the Department's recreational facilities and equipment.

- 725.2 The Director of the Department, in his or her discretion, may issue permits for public use of all facilities and equipment under the Department's jurisdiction. All permits are subject to space and time availability. In accordance with Section 717, the Department will ensure fair and equitable access to the Department's facilities, equipment and recreational activities with a preference toward activities benefiting District residents.
- 725.3 Any member of the public who is interested in reserving Department property or equipment shall obtain a permit from the Department. A permit is required for any organized activity, program or event on Department property involving more than ten (10) people and for the use of Department equipment. Failure to obtain a permit as required by this section shall result in the denial of the use of the facility or equipment and may result in civil fines, barring, or imprisonment.
- 725.4 If an applicant for a permit is charging fees to participant(s) or spectators for athletic play, classes, camps, lectures, conferences, or programs, or if an applicant is operating a special event or market pursuant to Section 729, then an additional fee-based-use permit is also required for one (1) or more participants.
- 725.5 Individual vendors selling goods are only required to have a fee-based-use permit.
- 725.6 Uses requiring either a permit or fee-based-use permit, or both, are referred to as a "permitted use(s)".
- 725.7 Applications for one (1)-time permitted uses are due thirty (30) calendar days before the date of use.
- 725.8 Applications for seasonal permitted uses of athletic fields or courts are due two (2) times a year. A seasonal permitted use may not be requested for a period longer than sixteen (16) weeks. The deadlines will be set by the Department on an annual basis but no later than January 15 for the spring/summer seasons and July 15 for the fall season. Permit fees will be applied in accordance with Section 716.
- 725.9 Untimely applications may be accepted at the discretion of the Department for good cause. However, if the permitted use has already been designated to another group, then the application for that use will not be accepted unless the parties consent in writing.
- 725.10 Applications for use of property or equipment shall be available online through the Department's website in a form prescribed by the Department. Failure to provide all of the requested information in the application form shall result in the denial of the application.

- 725.11 Permitted uses may be granted if the permitted activity meets the mission of the Department and will not adversely impact the use and enjoyment by the public. The risk of damage or loss of the equipment may be considered when reviewing an application for use of equipment.
- 725.12 All applications shall indicate the total number of hours needed. The time requested must include hours to set up and clean up, rake and spray fields, remove equipment, and disperse participants.
- 725.13 No individual applicant shall apply on behalf of a group or another individual for the purpose of securing a discount or preference for priority of use.
- 725.14 Except for seasonal permits, the Department will notify an applicant in writing of the approval or denial of the permit within seven (7) business days. Applicants for seasonal permits will be notified of whether their permitted use is granted within twenty-one (21) business days after their submission of a completed application. Notwithstanding the time periods above, use of the Department's facilities or equipment is not approved until the applicant receives the permit.
- 725.15 The Department will publish on its website and any relevant printed publications, such as seasonal guides, registration information and/or admission fees and information regarding refunds for recreational activities for District residents and non-District residents.
- 725.16 Permitted users and program participants shall provide written acknowledgement in the application of the following rules and restrictions:
- (a) Permitted users and program participants operate at their own risk and the Department is not responsible for any loss or injury occurring during the permitted use event.
 - (b) Permitted users and program participants are prohibited from using the Department's property or equipment for any unauthorized or illegal purpose and the Department has a right to terminate the permit if the activity exceeds the scope of the permit and to recover costs to the government associated with any misuse of property under the issued permit.
 - (c) Permitted users with over twenty-five (25) participants must agree to remove their own trash and recyclables, and to appropriately dispose of such trash and recyclables, after the permitted use.
 - (d) No equipment shall be taken or used off Department property.
- 725.17 The Department may deny permitted uses or impose conditions limiting an activity or location or requiring insurance and/or advisory neighborhood

commission approval, to ensure participant health, welfare, or safety, or for the preservation of Department property or equipment.

- 725.18 To ensure participant health, welfare, and safety or for the preservation of Department property or equipment permits will be denied for carnivals, concerts, petting zoos, use of metal detectors, flying drones or hobbyist aircraft, use of equipment or vehicles that the Department deems heavy or loud, installing structures, extreme sports, paintball, fires, or firework displays. Geocaching may be allowed upon approval of a written request to the Department.
- 725.19 The Department may limit permitted uses or recreational activities during inclement weather conditions for the protection of an area or facility. The Department will post notice of changes in use or limits due to inclement weather or other emergencies.
- 725.20 If the Department revokes a permit or fee-based-use permit for weather conditions or other emergencies, the Department may attempt to relocate the permitted user or return a pro-rata share or total fees paid minus any actual costs for setting up equipment.
- 725.21 The Department shall not allow permitted uses for health or medical procedures normally provided by licensed professionals unless the applicant provides a letter of support from the District agency that oversees the licensure of such activities.
- 725.22 If the Department determines that a permit applicant or program participant operated in past violation of these regulations then the Department may consider these facts as a basis for denying a permit or registration for six (6) months from the date the Department provided notice of any findings to the applicant or participant.
- 725.23 The Department may deny, revoke, or modify a permitted use or participation in an activity if the applicant provided false information regarding residency or use, or if the applicant or registrant fails to follow the requirements in this chapter.
- 725.24 Refunds for permitted uses will be provided for cancellations, less any actual costs to the Department. Requests for refunds must be made at least thirty (30) days before the start of the use. Cancellations within thirty (30) days will be refunded the deposit only. Refunds will be processed by the Department within five (5) business days of the cancellation.
- 725.25 An applicant may request reconsideration by the Director of a denial, modification, or revocation of a permitted use or refund within five (5) days after the date of the denial, modification, or revocation. The applicant's request for reconsideration shall be in writing.

- 725.26 The Director, or the Director's designee, shall review the request and make a final determination within five (5) business days after receipt of the request. The Director shall determine whether the decision by the Department was made based upon a reasonable determination and consideration of the facts by the Department and whether the decision by the Department was consistent with the rules in this chapter and other applicable law or regulations.
- 725.27 Upon reconsideration, the Director or the Director's designee may offer any reasonable relief in the discretion of the Department. If the Director does not grant the relief requested, he or she shall provide a written explanation of the reasons for the action of the Department.
- 725.28 Reconsideration shall be limited to a review of the record already before the Department.

Section 726, PERMITS FOR PICNIC GROVES AND ATHLETIC ACTIVITIES is repealed and reserved.

Section 729, USE FOR FUNDRAISING BY COMMUNITY PROHIBITED, is amended to read as follows:

- 729 **COMMERCIAL ACTIVITIES FOR THE SALE OF GOODS**
- 729.1 The Department may issue fee-based-use permits for the sale of goods on its property to individual vendors or market operators in accordance with Section 25 of this chapter. The Department will issue fee-based-use permits in its discretion if the applicant's use aligns with the mission of the Department and if the activity will not interfere with the use and enjoyment of the area by other members of the public.
- 729.2 An individual vendor may apply for a fee-based-use permit. The Department may grant more than one (1) permit for the same time and space to individual vendors or prohibit a permit for a particular space or limit a space to one (1) permit. Upon expiration of a fee-based-use permit, the Department may consider a different individual vendor for the same space or create a waitlist of individual vendors.
- 729.3 Market operators may provide for the sale of goods through a market with multiple individual vendors or they may organize a special event for which individual vendors operate as part of the event.
- 729.4 Market operators may apply for a fee-based-use permit by submitting a written proposal including plans for admission fees, signage, and advertising. The proposal shall also include the estimated number of vendors, types of items to be sold, a footprint map of the proposed use of the area, a security plan, or emergency medical plans being provided during the duration of the event, hours of operation, and a description of how the trash will be removed and/or recycled.

729.5 When applying for a market operator fee-based-use permit the Department may require the following conditions to be met before the permit is issued:

- (a) A cleaning and/or security deposit of forth percent (40%) of the total fees;
- (b) Comprehensive commercial general liability insurance with coverage on an “occurrence” basis of at least one million dollars (\$1,000,000);
- (c) A propane permit issued by the Fire and Emergency Medical Services Department; and
- (d) A letter of support from the appropriate Advisory Neighborhood Commission.

729.6 A market operator shall ensure that all participating vendors selling food shall provide proof to the Department of applicable licenses and/or permits from the District Department of Health and Department of Consumer and Regulatory Affairs or other applicable agencies.

729.7 Market operators shall provide a written report of all food and beverage and other sales to the Department within thirty (30) days after the event. The report shall summarize gross income of the participating vendor(s).

729.8 Any sale of food and beverages by individual vendors or market operators shall comply with applicable licensing requirements and the nutritional requirements set forth in section 3b of the Recreation Act of 1994, effective April 23, 2013 (D.C. Law 10-246; D.C. Official Code § 10-302.02).

Section 799, DEFINITIONS are amended to read as follows:

799 DEFINITIONS

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

Adopt - to enter into a binding commitment to a program, site, or operation for not less than one (1) year in duration.

Adopt-a-Park Partners - individuals, corporate entities or community-based organizations interested in providing regularly scheduled general cleanup, beautification, and maintenance assistance for a park.

Adult - a person between the ages of eighteen (18) and fifty-four (54) years.

Aggressive Dog - a dog whose behavior is characterized by unprovoked snarling, growling, or attack posture.

Applicant - a person, group, or organization seeking a permitted use of property of the Department.

Ball Field or Athletic Field - an outdoor space designated for athletic activities with grass or synthetic grounds that is not designated as open park space. These may include, premier, non-premier, with or without lights, turf, natural, multi or single purpose, common areas, shared control or use with schools, or seasonal spaces. Markings or fencing may or may not be present.

Club - a group of people organized for a particular purpose or activity.

Commercial Department Activities - may include, but are not limited to, use of Department property or equipment for participants that are charged fees for participation, registration, or both, or farmers' markets, vendors, or food vendors.

Community Gardens or Gardens - land under the control of the Department that is designated to be gardened cooperatively by a group through a garden agreement.

Dangerous Dog - as defined in Section 2(1) of the Dangerous Dog Amendment Act of 1988, effective October 18, 1988 (D.C. Law 7-176; D.C. Official Code 8-1901(1)), a dog that has bitten or attacked a person or domestic animal without provocation; or, in a menacing manner, approaches without provocation any person or domestic animal as if to attack, or has demonstrated a propensity to attack without provocation or otherwise to endanger the safety of human beings or domestic animals.

DCSAA - the District of Columbia State Athletic Association

Department - the Department of Parks and Recreation.

Department Activity - an activity, event, class, program, operation, service, or product for the benefit, enjoyment, education, amusement, or convenience of the public.

Designated Area - a specific and distinct area of property that will be allowed for use under a permit or fee-based-use permit.

Designated Organizations - entities designated by the Director pursuant to Section 3 of the Recreation Act of 1994, effective March 23, 1995 (D.C. Law 10-246; D.C. Official Code § 10-302).

Director - the Director of the Department of Parks and Recreation.

District - the District of Columbia.

District Sponsoring Organization - an entity located within the District, with a principal office or place of business within the District, that sponsors District youth in any legal activity, including but not limited to athletic, civic, religious, or social activities.

Dog Park - also known as a dog exercise area; area within District-owned property designated for dog exercise where dogs are allowed off-leash without being considered at-large.

Dog Park Group – a non-profit or community group, such as an official dog group, Park Partner, or Friends of Group, that applies to sponsor a dog park and shares responsibilities with the Department in park operations and management.

Dog Park Registration Tag - positive District government issued identification that must be worn at all times by each dog using a dog park.

Enforcement - activities required to ensure that the provisions this Chapter, relevant laws, and the Department's standards and policies are adhered to.

Enterprise Fund - the fund created by Section 4 of the Recreation Act of 1994, effective March 23, 1995 (D.C. Law 10-246; D.C. Official Code § 10-303). for the collection of from fees, concessions, and services and payments by developers seeking relief from zoning laws by way of the planned unit development process considered part of the required community benefits package of the proposed planned unit development.

Equipment - timing systems, horn start systems, microphones, printers, water and polo nets, show mobiles, podiums, platforms, picnic ball bags, fun wagon, skate mobile, public address systems, and gardening tools.

Events/Special Events - parties, promotions, announcements, festivals, programs, competitions, or other one-time or intermittent activities that do not routinely take place as the regular activities of an individual or business or the Department.

Farmers' Market – Department property designated in indoor or outdoor space where at least seventy five percent (75%) of the vendors are selling agricultural produce.

Fee-Based-Use - a permitted use of Department property for which the permit holder charges persons a fee to participate in the use.

Fee-Based-Use Permit - a permit issued by the Department to an applicant for a fee-based Department activity.

Family Member – with respect to an individual: (a) another individual who is related to the individual by blood, legal custody, or marriage; (b) another individual who lives with the individual and for whom the individual permanently assumes and discharges parental responsibility; and (c) another individual with whom the individual has shared, at a minimum of one (1) year from the date of the application, a mutual residence and with whom the individual maintains a committed relationship.

Friends Of Group - an organization, qualified under Section 501(c)(3) of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 501(c)(3)), and registered under the park partner program, whose mission includes supporting an adopted park or recreation facility by advocating, fundraising, maintaining, and assisting in the planning process for the park or recreation facility adopted and has a valid Park Partner Agreement explaining the duties, rights, and obligations of the Friends Of Group.

Goods - a product, including food, sold for the convenience and enjoyment of the public.

Handler - a person in control of a dog who is personally and legally responsible for the dog at all times while using a dog park.

Income Eligible - able to show evidence of the entitlement to public assistance or free or reduced-price school lunch.

Indoor Courts - indoor space designated for tennis, basketball, racquetball, or other activities commonly played on a court.

Maintenance – with respect to a dog park, activities required to ensure that the dog park is in a state of repair and efficiency at all times as more clearly defined in the Department’s Dog Park Standards.

Market - a designated property for which an operator applies for a permitted use and where the sale of goods by vendors occurs.

Marketing advertising - includes hanging or adhering banners and signs for the sponsorship of teams, programs, and events on scoreboards, vending machines, and concession stands, or through other forms of promotion, marketing, and advertising.

Member/Membership - a person or organization that has paid the annual membership fee to the Department for a designated time period.

Park - space open to the public that is not designated as an athletic field.

Partner/Programmatic Partner/Park Partner/Collaborative Partner - includes a designated organization, friends group, or other group or agent that is recognized by the Department by a written partnership agreement.

Permit - permission designated for use of Department property for which the users do not pay for the activity organized under the permit.

Permitted Use - either a use requiring a permit or requiring a fee-based-use permit or both.

Person - for purposes of this chapter may be a group or individual or applicant, generally.

Potentially Dangerous Dog - a dog that poses a threat to public safety by causing an injury to a person or domestic animal without provocation that is less severe than a serious injury, engaging in encouraged dog fighting, or running at large three (3) or more times within any twelve (12) month period.

Primary Use Intended For the Property - particular activity for which the use of a property is designated and is given priority for that activity.

Principally Serving the District of Columbia, Organization - an organization that has at least seventy-five percent (75%) of its participants live or work in the District.

Property - athletic fields, picnic shelters, community rooms, outdoor courts, parks, community gardens, and indoor recreation facilities including courts and swimming pools under the jurisdiction control or use of the Department.

Programs - activities that may include one (1)-time or intermittent use of a facility for fitness, aquatics, art, cultural, academic, or enrichment activities or uses that are part of a planned curriculum or certification, or from personal goals.

PTA and PTSO - Parent/Teacher Association or Parent/Teacher/Student Organization.

Recreational Activity - a Department activity not including permitted uses.

Resident - a person domiciled in the District as his or her primary residence.

Registrant - any person registering for a recreational activity.

Revenue Share Fees - fee-based-use permit fees that are typically applied when a vendor selling goods seeks to sell goods for multiple days over the maximum allowable permit time.

Season or Seasonal Use - incremental time periods up to sixteen (16) weeks designated for permits or fee-based-use permits that involve use over a period of time and not one (1)-time or incremental times designated for admission to facilities.

Senior Citizen - any person age fifty-five (55) years or over.

Sensitive Habitat Area - an area highly prone to erosion or the natural habitat of locally important, rare, threatened or endangered species of plant or wildlife as determined by the District Department of Energy and Environment (DOEE).

Small Business - an individually owned, operated and controlled business incorporated in the District.

Special Events - broad-based uses including but is not limited to festivals, private parties, holiday markets, social events, workshops, seminars, or other programs. Large special events include corporate activities like filming video for television, radio, or the like.

Special Event Operator - an applicant who applies for a permit to operate a special event. If the sale of goods is included in the event through vendors then the special event operator is a market operator.

Summer Youth Camp - activities planned by an applicant for youths for more than fifteen (15) hours per week during the period from June 15 through August 31 that may include instruction, classes, courses, athletics, art and cultural activities occurring Monday through Friday.

Southeast Tennis and Learning Center - the facility operated by the Department of Parks and Recreation located at 701 Mississippi Avenue, S.E., Washington, D.C., consisting of four (4) year-round indoor tennis courts, six (6) outdoor tennis courts, a weight/conditioning room, and a computer learning center primarily for youths participating in its tennis programs.

Sponsor - to pledge or promise support to a program, site, or operation on an intermittent, short-term, or one (1)-time basis. Unsolicited sponsorships are goods or services to support a Department program, site or operation given or supplied by sponsors seeking to assist the Department. Solicited sponsorships are goods or services sought by the Department to support a program, site, or operation.

Team - individuals grouped together to compete against another group within or outside of its league. If male teams compete separately from female teams then each group is considered a separate team for purposes of fees for fee-based-use permits.

Vendor - a seller of goods. A vendor may be deemed by the Department as an individual, small business, or large corporation.

Youth - a person age seventeen (17) years or younger who resides within the District of Columbia.

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*. Comments should be submitted by email to amy.caspari@dc.gov or by postal mail or hand delivery to the Department, C/O Amy Caspari, General Counsel, 1250 U St. NW, Washington, D.C. 20009. Additional copies of this rule are available from the above address and on the Department of Parks and Recreation website at www.DPR.dc.gov.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Board of Directors (Board) of the District of Columbia Water and Sewer Authority (DC Water), pursuant to the authority set forth in Sections 203(3) and (11) and 216 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111, §§ 203(3), (11) and 216; D.C. Official Code §§ 34-2202.03(3) and (11) and § 34-2202.16 (2012 Repl. & 2015 Supp.)); Section 6(a) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(a) (2012 Repl.)); and in accordance with Chapter 40 (Retail Ratemaking) of Title 21 (Water and Sanitation) of the District of Columbia Municipal Regulations (DCMR), hereby gives notice that at its regularly scheduled meeting on December 3, 2015, adopted Board Resolution #15-108 to propose the amendment of Section 112 (Fees) of Chapter 1 (Water Supply), and Sections 4100 (Rates for Water Service) and 4101 (Rates for Sewer Service) of Chapter 41 (Retail Water and Sewer Rates), of Title 21 (Water and Sanitation) of the DCMR.

The purpose of the amendments is to amend the Right-of-Way (ROW) Fee, Payment-in-Lieu of Taxes (PILOT) Fee, the Clean Rivers Impervious Surface Area Charge, and rates for Water and Sewer Services effective for Fiscal Year 2017 and 2018.

The Board will also receive comments on this proposed rulemaking at a public hearing at a later date. The public hearing notice will be published in a subsequent edition of the *D.C. Register*. Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. This proposed rulemaking, if finalized, will be effective October 1, 2016.

Chapter 1, WATER SUPPLY, of Title 21 DCMR, WATER AND SANITATION, is amended as follows:

Section 112, FEES, Subsection 112.8, is amended to read as follows:

112.8 The District of Columbia Right-of-Way Occupancy Fee Pass Through Charge and the Payment-in-Lieu of Taxes (PILOT) Fee shall be as follows:

- (a) District of Columbia Right-of-Way Fee, assessed to recover the cost of fees charged by the District of Columbia to D.C. Water and Sewer Authority for use of District of Columbia public space and rights of way, for each one hundred cubic feet (1 Ccf) of water use shall be:

	Effective October 1, 2016		Effective October 1, 2017	
	Per Ccf of water use	Per 1,000 Gals. of water use	Per Ccf of water use	Per 1,000 Gals. of water use
Residential	\$0.17	\$0.23	\$0.18	\$0.24

Multi-Family	\$0.17	\$0.23	\$0.18	\$0.24
Non-Residential	\$0.17	\$0.23	\$0.18	\$0.24

(b) Payment-in-Lieu of Taxes (PILOT) Fee to the Office of the Chief Financial Officer (OCFO) of the District of Columbia, assessed to cover the amount which D.C. Water and Sewer Authority pays each fiscal year to the District of Columbia, consistent with D.C. Water and Sewer Authority's enabling statute for public goods and services received from the District of Columbia, for each one hundred cubic feet (1 Ccf) of water use shall be:

Customer	Effective October 1, 2016		Effective October 1, 2017	
	Per Ccf of water use	Per 1,000 Gals. of water use	Per Ccf of water use	Per 1,000 Gals. of water use
Residential	\$0.48	\$0.64	\$0.49	\$0.65
Multi-Family	\$0.48	\$0.64	\$0.49	\$0.65
Non-Residential	\$0.48	\$0.64	\$0.49	\$0.65

Chapter 41, RETAIL WATER AND SEWER RATES, is amended as follows:

Section 4100, RATES FOR WATER SERVICE, Subsection 4100.3, is amended to read as follows:

4100.3 The retail rates for metered water service for each one hundred cubic feet (1 Ccf) of water use shall be:

Customer	Effective October 1, 2016		Effective October 1, 2017	
	Per Ccf of water use	Per 1,000 Gals. of water use	Per Ccf of water use	Per 1,000 Gals. of water use
Residential - 0 to 4 Ccf	\$3.23	\$4.32	\$3.39	\$4.53
Residential - Greater than 4 Ccf	\$4.06	\$5.43	\$4.26	\$5.70
Multi-Family	\$3.62	\$4.84	\$3.80	\$5.08
Non-Residential	\$4.19	\$5.60	\$4.40	\$5.88

Section 4101, RATES FOR SEWER SERVICE, is amended as follows:

Subsection 4101.1 is amended to read as follows:

4101 RATES FOR SEWER SERVICE

4101.1 (a) The retail rates for sanitary sewer service for each one hundred cubic feet (1 Ccf) of water use shall be:

Customer	Effective October 1, 2016		Effective October 1, 2017	
	Per Ccf of water use	Per 1,000 Gals. of water use	Per Ccf of water use	Per 1,000 Gals. of water use
Residential	\$5.71	\$7.63	\$6.00	\$8.02
Multi-Family	\$5.71	\$7.63	\$6.00	\$8.02
Non-Residential	\$5.71	\$7.63	\$6.00	\$8.02

Subsection 4101.3 is amended to read as follows:

4101.3 The annual Clean Rivers Impervious Surface Area Charge (CRIAC) per Equivalent Residential Unit (ERU) shall be:

Customer	Effective October 1, 2016		Effective October 1, 2017	
	Annual CRIAC per ERU	Monthly CRIAC per ERU	Annual CRIAC per ERU	Monthly CRIAC per ERU
Residential	\$266.88	\$22.24	\$302.16	\$25.18
Multi-Family	\$266.88	\$22.24	\$302.16	\$25.18
Non-Residential	\$266.88	\$22.24	\$302.16	\$25.18

Comments on these proposed rules should be submitted in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register* to Linda R. Manley, Secretary to the Board, District of Columbia Water and Sewer Authority, 5000 Overlook Ave., S.W., Washington, D.C. 20032, by email to Lmanley@dcwater.com, or by FAX at (202) 787-2795. Copies of these proposed rules may be obtained from the DC Water at the same address or by contacting Ms. Manley at (202) 787-2332.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF SECOND EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (2014 Repl. & 2015 Supp.)), and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of amendments to Section 1928, entitled “Physical Therapy Services,” of Chapter 19 (Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

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

The ID/DD Waiver was approved by the Council of the District of Columbia (Council) and renewed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), for a five-year period beginning November 20, 2012. The corresponding amendment to the ID/DD Waiver was approved by the Council through the Medicaid Assistance Program Emergency Amendment Act of 2014, signed July 14, 2014 (D.C. Act 20-377; 61 DCR 007598 (August 1, 2014)). CMS approved the amendment to the ID/DD Waiver effective September 24, 2015.

Physical therapy services treat physical dysfunctions or reduce the degree of pain associated with movement to prevent disability, promote mobility, maintain health and maximize independence. The most recent Notice of Final Rulemaking for 29 DCMR § 1928 (Physical Therapy Services) was published in the *D.C. Register* on February 7, 2014, at 61 DCR 000989. A Notice of Emergency and Proposed Rulemaking, published in the *D.C. Register* on August 14, 2015 at 62 DCR 011308, was adopted on August 4, 2015, became effective when CMS approved the ID/DD Waiver amendment on September 24, 2015, and remained in effect until December 2, 2015. These first emergency and proposed rules amended the previously published final rules by (1) including in the description of physical therapy services that they prevent regression of a person’s functional abilities; (2) describing the requirements for measureable and functional outcomes; (3) requiring and describing the role of the provider at the person’s ISP and other support team meetings; (4) clarifying that documentation for adaptive equipment must be completed within the timeframes required by the person’s insurance for this to be a reimbursable activity; (5) describing requirements for progress notes; (6) clarifying requirements for routine assessment of adaptive equipment; (7) requiring that the provider must be selected by the person, and/ or his or substitute decision maker; (8) modifying rates to reflect increased costs of providing service; and (9) adding physical therapy assistants who work under the direct supervision of a licensed physical therapist to the list of providers for physical therapy services.

DHCF received one comment and these second emergency and proposed rules have been further amended to include physician's assistants and nurse practitioners as authorized medical providers to make referrals to physical therapists. In addition, the last six provisions have been renumbered to correct a numbering error.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of waiver participants who are in need of physical therapy services. The new service authorization requirements for providers of physical therapy services will promote more efficient service delivery management practices, enhance the quality of services, and attract new providers to meet the demand. Therefore, in order to ensure that the person's health, safety, and welfare are not threatened by the lapse in access to physical therapy services provided pursuant to the updated service authorization and delivery guidelines, it is necessary that these rules be published on an emergency basis.

The emergency rulemaking was adopted on December 17, 2015, and became effective immediately. The emergency rules shall remain in effect for not longer than one hundred and twenty (120) days from the adoption date or until April 15, 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 proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

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

Section 1928, PHYSICAL THERAPY SERVICES, is deleted in its entirety and amended to read as follows:

1928 PHYSICAL THERAPY SERVICES

- 1928.1 This section establishes the conditions for Medicaid providers enumerated in § 1928.10 ("Medicaid Providers") and physical therapy services professionals enumerated in § 1928.8 ("professionals") to provide physical therapy services to persons enrolled in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver).
- 1928.2 Physical therapy services are services that are designed to treat physical dysfunctions or reduce the degree of pain associated with movement, prevent disability and regression of functional abilities, promote mobility, maintain health and maximize independence. These services are delivered in the person's home or day service setting.
- 1928.3 In order to be eligible for reimbursement, each Medicaid provider must obtain prior authorization from the Department on Disability Services (DDS) before

providing, or allowing any professional to provide physical therapy services. In its request for prior authorization, the Medicaid provider shall document the following:

- (a) The ID/DD Waiver participant's need for physical therapy services as demonstrated by a physician's, physician's assistant's, or nurse practitioner's order; and
- (b) The name of the professional who will provide the physical therapy services.

1928.4 In order to be eligible for Medicaid reimbursement, each physical therapy professional shall conduct an assessment of physical therapy needs within the first four (4) hours of service delivery, and develop a therapy plan to provide services.

1928.5 In order to be eligible for Medicaid reimbursement, the therapy plan shall include therapeutic techniques, training goals for the person's caregiver, and a schedule for ongoing services. The therapy plan shall include the anticipated and measurable, functional outcomes, based upon what is important to and for the person as reflected in his or her Person-Centered Thinking tools and the goals in his or her ISP and a schedule of approved physical therapy services to be provided, and shall be submitted by the Medicaid provider to DDS before services are delivered.

1928.6 In order to be eligible for Medicaid reimbursement, each Medicaid provider shall document the following in the person's Individual Support Plan (ISP) and Plan of Care:

- (a) The date, amount, and duration of physical therapy services provided;
- (b) The scope of the physical therapy services provided; and
- (c) The name of the professional who provided the physical therapy services.

1928.7 Medicaid reimbursable physical therapy services shall consist of the following activities:

- (a) Consulting with the person, their family, caregivers and support team to develop the therapy plan;
- (b) Implementing therapies described under the therapy plan;
- (c) Recording progress notes on each visit and submitting quarterly reports. Progress notes shall contain the following:
 - (1) Progress in meeting each goal in the ISP;

- (2) Any unusual health or behavioral events or change in status;
 - (3) The start and end time of any services received by the person; and
 - (4) Any matter requiring follow-up on the part of the service provider or DDS.
- (d) Routinely assess (at least annually and more frequently as needed) the appropriateness and quality of adaptive equipment to ensure it addresses the person's needs;
- (e) Completing documentation required to obtain or repair adaptive equipment in accordance with insurance guidelines and Medicare and Medicaid guidelines, including required timelines for submission; and
- (f) Conducting periodic examinations and modified treatments for the person, as needed.
- 1928.8 Medicaid reimbursable physical therapy services shall be provided by a licensed physical therapist or a Physical Therapy Assistant working under the direct supervision of a licensed physical therapist.
- 1928.9 Physical therapy service providers, without regard to their employer of record, shall be selected by and be acceptable to the person receiving services, their guardian, or legal representative.
- 1928.10 In order to be eligible for Medicaid reimbursement, a physical therapist shall be employed by the following providers:
- (a) An ID/DD Waiver Provider enrolled by DDS; and
 - (b) A Home Health Agency as defined in Section 1999 of Title 29 DCMR.
- 1928.11 Each Medicaid provider shall comply with Section 1904 (Provider Qualifications) and Section 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 DCMR.
- 1928.12 Each Medicaid provider shall maintain the following documents for monitoring and audit reviews:
- (a) The physician's, physician's assistant's, or nurse practitioner's order;
 - (b) A copy of the physical therapy assessment and therapy plan in accordance with the requirements of Subsections 1928.4 and 1928.5; and

- (c) Any documents required to be maintained under Section 1909 (Records and Confidentiality of Information) of Chapter 19 of Title 29 DCMR.
- 1928.13 Each Medicaid provider shall comply with the requirements described under Section 1908 (Reporting Requirements) and Section 1911 (Individual Rights) of Chapter 19 of Title 29 DCMR.
- 1928.14 In order to be eligible for Medicaid reimbursement, each individual providing physical therapy services shall participate in ISP and Support Team meetings to provide consultative services and recommendations specific to the expert content with a focus on how the person is doing in achieving the functional goals that are important to him or her;
- 1928.15 If the person enrolled in the waiver is between the ages of eighteen (18) and twenty-one (21) years, the DDS Service Coordinator shall ensure that Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefits under the Medicaid State Plan are fully utilized and the Waiver service is neither replacing nor duplicating EPSDT services.
- 1928.16 Medicaid reimbursable physical therapy services shall be limited to four (4) hours per day and one hundred (100) hours per year. Requests for additional hours may be approved when accompanied by a physician's order documenting the need for additional physical therapy services and approved by a DDS staff member designated to provide clinical oversight.
- 1928.17 The Medicaid reimbursement rate for physical therapy services shall be one hundred dollars (\$100.00) per hour. The billable unit of service shall be fifteen (15) minutes.

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2015-260
December 22, 2015

SUBJECT: District of Columbia Urban Forestry Advisory Committee

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) and (11) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(6) and (11) (2014 Repl.), it is hereby **ORDERED** that:

I. ESTABLISHMENT

There is established in the executive branch of the government of the District of Columbia, a District of Columbia Urban Forestry Advisory Committee (“**Advisory Committee**”).

II. PURPOSE

The Advisory Committee is established to facilitate coordination and communication and to present research and best practices to assist the District in meeting its goal to cover forty percent (40%) of the District with a healthy tree canopy by 2032 and to help meet its other environmental goals through the growth and maintenance of the tree canopy. The Advisory Committee shall coordinate and promote advocacy and education efforts to engage residents, businesses, and governmental entities across the District.

III. FUNCTIONS

The Advisory Committee shall:

- A. Serve as a forum for coordination of tree-related activities between non-profit and private sector entities and District agencies. This work will include identifying opportunities, challenges, obstacles and innovative solutions for improving coordination across the District, sharing best practices and data.
- B. Educate District residents on the benefits of trees beyond tree canopy, to include the impact on reducing stormwater runoff, environmental justice,

public health and safety, climate change, urban heat island mitigation, and habitat restoration.

- C. Develop strategies to improve and ensure consistent messaging around tree planting and canopy coverage goals in the District.
- D. Strengthen tree-related programs in the District by:
 - 1. Researching potential local and regional policies; and
 - 2. Identifying sources of funding, training opportunities, and technical resources.
- E. Facilitate dialogue and collaboration among stakeholders.
- F. Research and promote best practices and innovative strategies that can assist the District in:
 - 1. Meeting its goal to cover forty percent (40%) of the District with healthy tree canopy by 2032; and
 - 2. Meeting other environmental goals through the growth and maintenance of the tree canopy, including: reducing stormwater runoff; improving air quality; mitigating urban heat island effect; enhancing the habitat; cleaning the Anacostia River and watershed; securing environmental justice and equity for underserved communities; and creating a more diverse ecosystem where wildlife can thrive.
- G. Prepare and submit an annual report to the Mayor containing an overview of the Advisory Committee's deliberations and any findings and recommendations so the District can remain on track to meet its goal to cover forty percent (40%) of the District with a healthy tree canopy by 2032.

IV. COMPOSITION

The Advisory Committee shall be composed of the following twelve (12) members:

- A. The following five (5) District government members:

1. The Director of the District Department of Transportation (“DDOT”), or the Director’s designee;
 2. The Director of the Department of Energy and Environment (“DOEE”), or the Director’s designee;
 3. The Director of the District Department of Parks and Recreation, or the Director’s designee;
 4. The Director of the Department of General Services, or the Director’s designee; and
 5. The General Manager of DC Water, or the General Manager’s designee.
- B. The following one (1) Utility member:
1. One (1) representative of the Potomac Electric Power Company (“Pepco”).
- C. The following two (2) federal government members, provided that they consent to serve:
1. One (1) representative of the National Park Service (“NPS”); and
 2. One (1) representative of the General Services Administration (“GSA”).
- D. The following two (2) technical members:
1. Two (2) persons affiliated with District-based non-profits that focus on trees, urban forestry, environmental policy, watershed protection, or sustainability.
- E. The following two (2) community members:
1. Two (2) District residents knowledgeable in the fields of business, urban forestry, public policy, environmental protection, health, public administration; or environmental justice and equity.

V. TERMS

- A. The District government, technical, and community members of the Advisory Committee shall be appointed by the Mayor. The utility member of the Advisory Committee representing Pepco shall be appointed by the Mayor upon the recommendation of the Region President of Pepco. The federal government member representing NPS shall be appointed by the Mayor upon the consent and recommendation of the National Capital Region Director of NPS, and the federal government member representing GSA shall be appointed by the Mayor upon the consent and recommendation of the Regional Administration of the National Capital Region of GSA.
- B. District government members of the Advisory Committee shall serve during their incumbency in the position from which they were appointed and at the pleasure of the Mayor.
- C. Technical and community members of the Advisory Committee shall be appointed to three (3) year terms. No technical or community member of the Advisory Committee shall be appointed to the Advisory Committee for more than two (2) consecutive terms.
- D. The Utility member of the Advisory Committee shall be appointed to a three (3) year term.
- E. The Federal government members of the Advisory Committee shall be appointed to three (3) year terms.
- F. Vacancies shall be filled in the same manner and by the same entity as the original appointment to the position that became vacant. The term of a community member or a technical member appointed to fill a vacancy shall be for the remainder of the unexpired portion of the term.

VI. ORGANIZATION

- A. The Advisory Committee shall be co-chaired by the Director of DDOT and the Director of DOEE, or the Directors' designees.
- B. The Co-Chairs shall convene the first meeting of the Advisory Committee within sixty (60) days of the effective date of this Mayor's Order.

- C. The Advisory Committee may establish subcommittees as necessary. The subcommittees may include one (1) or more voting members who are not members of the Advisory Committee, provided that the majority of the members of each subcommittee are members of the Advisory Committee and each subcommittee is chaired by an Advisory Committee member.
- D. The Advisory Committee shall make its decisions according to Roberts Rules of Order.
- E. A majority of the Advisory Committee members shall constitute a quorum of the Advisory Committee.

VII. ADMINISTRATION


- A. The Advisory Committee shall communicate its activities to the public, using the technologies available to DDOT and DOEE.
- B. DDOT and DOEE shall provide staff support to the Advisory Committee by coordinating and scheduling all activities necessary for the Advisory Committee to function effectively.

VIII. MEETINGS

- A. The Advisory Committee shall meet at least once quarterly.
- B. Public notice of each meeting of the Advisory Committee shall be provided at least ten (10) days before each meeting.
- C. Notwithstanding subsection B. of this section, the Co-Chairs of the Advisory Committee may call an emergency meeting without ten (10) day advance notice to address an urgent matter, provided notice is made available to the public when the members of the Advisory Committee are notified of the meeting.

IX. EFFECTIVE DATE This Order shall become effective immediately.


MURIEL BOWSER
MAYOR

ATTEST: 
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-261
December 22, 2015

SUBJECT: Appointments and Reappointments — District of Columbia Interagency Coordinating Council

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(11) (2014 Repl.), and in accordance with the Individuals with Disabilities Education Act, Pub. L. 94-142, as amended, applicable federal regulations, and Mayor's Order 2012-49, dated April 5, 2012, as amended by Mayor's Order 2013-053, dated March 4, 2013, it is hereby **ORDERED** that:

1. The following persons are appointed as members of the District of Columbia Interagency Coordinating Council ("**Council**") to serve at the pleasure of the Mayor:
 - a. **DENISE BALLARD** as a representative of the Child and Family Services Agency, replacing Cheryl Durden.
 - b. **ELIZABETH GROGINSKY** as the State Education Agency representative from the Office of the State Superintendent of Education ("**OSSE**"), replacing Raeshawn L. Crosson.
 - c. **NICOLE LEE MWANDHA** as a representative of OSSE for homeless children and youth, replacing Ja'sent Brown.
2. The following persons are reappointed as members of the Council for terms to end May 3, 2018:
 - a. **JERI BERMAN** as a private provider of early intervention services.
 - b. **CHARLES COWARD** as a private provider of early intervention services.
3. **AMY CULLEN** is appointed as a member of the Council as a private provider of early intervention services, replacing Pamela Beuthe, and shall serve for an unexpired term to end May 3, 2017.

4. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCES SYSTEM

Mayor's Order 2015-262
December 22, 2015

SUBJECT: Amendment – Advisory Committee to the Office of Lesbian, Gay, Bisexual, Transgender, and Questioning Affairs

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), and pursuant to section 3(b) of the Office of Gay, Lesbian, Bisexual, and Transgender Affairs Act of 2006, effective April 4, 2006, D.C. Law 16-89, D.C. Official Code § 2-1382 (2007 Repl.) and the Office of Lesbian, Gay, Bisexual, Transgender, and Questioning Affairs Name Change Amendment Act of 2015, effective October 22, 2015, D.C. Law 21-36, it is hereby **ORDERED** that:

1. The subject of Mayor's Order 2006-52, dated May 3, 2006, is amended to read as follows: "Establishment – Advisory Committee to the Office of Lesbian, Gay, Bisexual, Transgender, and Questioning Affairs."
2. Each reference to "Gay, Lesbian, Bisexual and Transgender" in Mayor's Order 2006-52, dated May 3, 2006, is struck and replaced with "Lesbian, Gay, Bisexual, Transgender, and Questioning".
3. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, JANUARY 6, 2016
2000 14TH STREET, N.W., SUITE 400S
WASHINGTON, D.C. 20009

Donovan W. Anderson, Chairperson
Members:

Nick Alberti, Mike Silverstein, Ruthanne Miller, James Short

Protest Hearing (Status)* Case # 15-PRO-00106; MMA by TMI, LLC, t/a To Be Determined, 2066 Rhode Island Ave NE, License #100283, Retailer CT, ANC 5C Application for a New License	9:30 AM
Protest Hearing (Status) Case # 15-PRO-00107; Tasty Burger DC1, LLC, t/a Tasty Burger, 2108 8th Street NW, License #100284, Retailer CR, ANC 1B Application for a New License	9:30 AM
Protest Hearing (Status) Case # 15-PRO-00108; DC Live, LLC, t/a XO, 15 K Street NE, License #100316, Retailer CT, ANC 6C Application for a New License	9:30 AM
Show Cause Hearing (Status) Case # 15-251-00003; 1215 CT, LLC, t/a Rosebar Lounge, 1215 Connecticut Ave NW, License #77883, Retailer CT, ANC 2B Interfered with an Investigation, Substantial Change without Boards Approval (Increase in Occupancy), Failed to Follow Security Plan	9:30 AM
Show Cause Hearing (Status) Case # 15-AUD-00061; MST Enterprises, Inc., t/a Churreria Madrid Restaurant 2505 Chaplain Street NW, License #60806, Retailer CR, ANC 1C Failed to File Quarterly Statements (4th Quarter 2014)	9:30 AM

Board's Calendar

January 6, 2016

Show Cause Hearing (Status) 9:30 AM

Case # 15-251-00160; Lemma Holdings, LLC, t/a Bliss, 2122 24th Place NE

License #95711, Retailer CT, ANC 5C

Failed to Preserve a Crime Scene

Show Cause Hearing (Status) 9:30 AM

Case # 15-CC-00079; The New Brookland Café, LLC, t/a B Café/Brookland Café, 3740 12th Street NE, License #83121, Retailer CR, ANC 5B

No ABC Manager on Duty, Sale to Minor Violation, Failed to Take Steps

Necessary to Ascertain Legal Drinking Age

Show Cause Hearing (Status) 9:30 AM

Case # 15-CMP-00494; Po Boy Jim, LLC, t/a Po Boy Jim, 709 H Street NE

License #87903, Retailer CR, ANC 6C

No ABC Manager on Duty, Failed to Follow Security Plan

Show Cause Hearing (Status) 9:30 AM

Case # 15-CMP-00463; Po Boy Jim, LLC, t/a Po Boy Jim, 709 H Street NE

License #87903, Retailer CR, ANC 6C

Failed to Take Steps Necessary to Ensure Property is Free of Litter,

Violation of Settlement Agreement

Show Cause Hearing (Status) 9:30 AM

Case # 15-AUD-00051; Pure Hospitality, LLC, t/a Bandolero, 3241 M Street

NW, License #75631, Retailer CR, ANC 2E

Failed to File Quarterly Statements (4th Quarter 2014)

Show Cause Hearing (Status) 9:30 AM

Case # 15-251-00224; Debebe Addis, t/a Mesobe Restaurant and Deli Market

1853 7th Street NW, License #81030, Retailer CR, ANC 1B

Chief of Police Closure December 14, 2015

Show Cause Hearing 10:00 AM

Case # 15-CC-00007; H&Y Chun Corporation, t/a Michigan Liquors, 3934 12th Street NE, License #23640, Retailer A, ANC 5B

Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal

Drinking Age, No ABC Manager on Duty

Fact Finding Hearing* 11:00 AM

727 Concepts, LLC, t/a L8; 727 15th Street NW, License #99695, Retailer CN

ANC 2C

Request for a Change of Hours

Board's Calendar

January 6, 2016

Fact Finding Hearing

11:30 AM

Lin's Enterprises, LLC, t/a Columbia Wine & Liquors, 1151 Bladensburg Road
NE, License #60113, Retailer A, ANC 5D

Status of License in Safekeeping

**BOARD RECESS AT 12:00 PM
ADMINISTRATIVE AGENDA AT 1:00 PM**

Protest Hearing

1:30 PM

Case # 15-PRO-00096; HRH Services, LLC, t/a The Alibi, 237 2nd Street NW
License #97969, Retailer CR, ANC 6C

Application for a New License

Protest Hearing

4:30 PM

Case # 15-PRO-00094; Neighborhood Restaurant Group XXIV, LLC, t/a Hazel
808 V Street NW, License #99839, Retailer CR, ANC 1B

Application for a New License

Protest Hearing

4:30 PM

Case # 15-PRO-00101; Omar, LLC, t/a Castello Restaurant and Lounge, 931
Hamilton Street NW, License #100259, Retailer CT, ANC 4D

Application for a New License

***The Board will hold a closed meeting for purposes of deliberating these
hearings pursuant to D.C. Official Code §2-574(b)(13).**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
CANCELLATION AGENDA

WEDNESDAY, JANUARY 6, 2016
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

The Board will be cancelling the following licenses for the reasons outlined below:

ABRA-097178 – **Via Umbra** – Retailer – A – Liquor Store – 1525 WISCONSIN AVENUE NW
[The Licensee has requested cancellation.]

ABRA-092903 – **Nurish Food & Drink** – C – Restaurant – 1231 GOOD HOPE ROAD SE
[The Licensee has requested cancellation.]

ABRA-003812 – **Las Placitas** – C – Restaurant – 517 8th STREET SE
[The Licensee has requested cancellation.]

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
INVESTIGATIVE AGENDA

WEDNESDAY, JANUARY 6, 2016
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

On January 6, 2016 at 4:00 pm, the Alcoholic Beverage Control Board will hold a closed meeting regarding the matters identified below. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed “to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations.”

1. Case#15-CC-00113 Rocket Bar, 714 7TH ST NW Retailer C Tavern, License#: ABRA-074970

2. Case#15-CMP-00764 James Hoban's, 1 DUPONT CIR NW Retailer C Restaurant, License#: ABRA-077039

3. Case#15-251-00201 Midtown, 1219 CONNECTICUT AVE NW Retailer C Nightclub, License#: ABRA-072087

4. Case#15-CMP-00762 The Front Page Restaurant & Grille, 1333 NEW HAMPSHIRE AVE NW Retailer C Restaurant, License#: ABRA-001910

5. Case#15-251-00194 The Fireplace, 2161 P ST NW Retailer C Tavern, License#: ABRA-014419

6. Case#15-251-00202 Barcode, 1101 17TH ST NW Retailer C Tavern, License#: ABRA-082039

7. Case#15-CMP-00829 Bar 7, 1015 1/2 7TH ST NW Retailer C Tavern, License#: ABRA-082350

8. Case#15-CC-00122 Pica Taco, 1406 FLORIDA AVE NW Retailer D Restaurant, License#: ABRA-085707

9. Case#15-CMP-00828 Zenebech Restaurant, 608 T ST NW Retailer C Restaurant, License#: ABRA-085946

10. Case#15-CMP-00763 Ping Pong, 1 Dupont Circle CIR NW Retailer C Restaurant, License#: ABRA-086270

11. Case#15-251-00203 Mari Vanna Restaurant, 1141 CONNECTICUT AVE NW Retailer C Restaurant, License#:ABRA-087559

12. Case#15-251-00217 DC Shenanigans, 2450 18th ST NW Retailer C Tavern, License#: ABRA-088119

13. Case#15-CMP-00732 The Graham/A.G.B., 1075 THOMAS JEFFERSON ST NW Retailer C Hotel, License#:ABRA-089867

14. Case#15-CMP-00629 CHAPLIN, 1501 9TH ST NW Retailer C Restaurant, License#: ABRA-095700

15. Case#15-CC-00106 Garrison, 524 8TH ST SE Retailer C Restaurant, License#: ABRA-098736

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LEGAL AGENDA

WEDNESDAY, JANUARY 6, 2016 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review of Amendment to Settlement Agreement, between NPB Group llc t/a Georgetown Piano Bar and The Citizens Association of Georgetown, dated December 11, 2015. *Georgetown Piano Bar*, 3287 M Street, N.W., Retailer CT, License No.: 95632.

2. Review of Settlement Agreement between Desta Hagos-Araya LLC t/a Desta Ethiopian Restaurant and The Rittenhouse Condominium Association, dated December 9, 2015. *Desta Ethiopian Restaurant*, 6128 Georgia Ave, N.W., Retailer CR, License No.: 98818.

3. Review of Settlement Agreement between Colorado & Cohen, LLC t/a Bullfrog Bagels and ANC 6B, dated December 10, 2015. *Bullfrog Bagels*, 317 P Street, S.E., Retailer CR, License No.: 100249.

4. Review of Settlement Agreement, filed by 1327 Connecticut, LLC t/a The Manor and ANC 2B, dated December 5, 2015. *The Manor*, 1327 Connecticut Avenue NW, Retailer CR, License No.: 99536.

5. Review of Settlement Agreement, filed by Trader Joe's East, Inc. t/a Trader Joe's Store 622 and ANC 6B. *Trader Joe's*, 750 Pennsylvania Ave SE, Retailer B, License No.: 100872.

6. Review of Resolution regarding the Renewal of the Glover Park Liquor License Moratorium, dated December 4, 2015, and submitted by the Advisory Neighborhood Commission 3B and Glover Park Citizens' Association.

7. Review of Petition to Extend and Amend the Glover Park Liquor License Moratorium for a period of five years with the elimination of the restriction on Retailer Class CR licenses.

8. Review of Letter from the Golden Triangle BID regarding the December 19, 2015 Board-approved pub crawl and the request that the Board not authorize any more pub crawls until there is mechanism in place to address trash removal and public safety.

9. Review of Request for Reinstatement of the Substantial Change Application (Summer Garden), dated December 14, 2015. *Green Island Heaven and Hell, Inc. t/a The Green Island Café/Heaven & Hell*, 2327 18th Street NW, Retailer Class CT, License No. 74503.

10. Review of Notice of Withdrawn Protest, dated December 16, 2016, filed by ANC 6A. *Chicken Tortilla, Inc. t/a Ocopa*, 1324 H Street NE, Retailer Class CR, License No. 88102.

11. Review of Request from Ivy City Tavern for permission to store invoices and other records offsite at 1900 Fenwick St NE. *Ivy City Tavern, Inc. t/a Ivy City Tavern*, 1356 Okie Street NE, Retailer Class CT, License No. 93795.

12. Review of Motion for Reconsideration submitted by Awash, dated December 17, 2015. *Makambo Corporation t/a Awash*, 2218 18th Street NW, License No. 20102, Case No. 15-251-00053.

13. Review of Letter, dated December 19, 2015, from ANC 6D to CM Vincent Orange regarding B21-196, the “Nightlife Regulation Amendment Act Of 2015”.

14. Review of Technical Amendment Proposed Rulemaking.

15. Review of Chapter 16 Final Rulemaking.

16. Review of MPD RDO Final Rulemaking.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, JANUARY 6, 2016 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for Safekeeping of License – Original Request. ANC 5C. SMD 5C02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *The Scene*, 2221 Adams Place NE, Retailer CX Multipurpose Facility, License No. 078642.

2. Review Application for Safekeeping of License – Original Request. ANC 2B. SMD 2B06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Aroma Indian Restaurant*, 1919 I Street NW, Retailer CR, License No. 001847.

3. Review Application for Safekeeping of License – Original Request. ANC 2F. SMD 2F03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Hotel Helix*, 1430 Rhode Island Avenue NW, Retailer CH, License No. 079243.

4. Review Application for Class Change from Retailer B Grocery to Retailer A. ANC 5E. SMD 5E09. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Capitol Market*, 2501 North Capitol Street NE, Retailer B Grocery, License No. 091021.

5. Review Application for Class Change from Retailer B Grocery to Retailer A. ANC 5C. SMD 5C07. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Bodega*, 2409 Franklin Street NE, Retailer B Grocery, License No. 100950.

6. Review Request for Change of Hours. ***Current Hours of Operation and Alcoholic Beverage Sales and Consumption:*** Monday-Saturday 7am to 7pm. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption:*** Sunday 9am to 10pm, Monday-Saturday 7am to 10pm. ANC 5C. SMD 5C07. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Bodega***, 2409 Franklin Street NE, Retailer B Grocery, License No. 100950.
-
7. Review Application for Class Change from Retailer B to Retailer A. ANC 1A. SMD 1A04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Park Market***, 3400 13th Street NW, Retailer B, License No. 094178.
-
8. Review Request for Change of Hours. ***Current Hours of Operation:*** Sunday-Saturday 8am to 10pm. ***Current Hours Alcoholic Beverage Sales and Consumption:*** Sunday-Saturday 9am to 10pm. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption:*** Sunday-Saturday 9am to 12am. ANC 1A. SMD 1A04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Park Market***, 3400 13th Street NW, Retailer B, License No. 094178.
-
9. Review Application for Class Change from Retailer CR to Retailer CT. ANC 1B. SMD 1B12. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Sudhouse***, 1340 U Street NW, Retailer CT, License No. 075284.
-
10. Review Request for Change of Hours. ***Current Hours of Operation and Alcoholic Beverage Sales and Consumption:*** Monday-Saturday 6am to 4pm. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption:*** Monday-Saturday 6am to 6pm. ANC 5C. SMD 5C04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***DC Grocery Cash and Carry***, 2410-2914 V Street NE, Wholesaler B, License No. 100199.
-
11. Review Request for Change of Hours. ***Approved Hours of Operation and Alcoholic Beverage Sales and Consumption:*** Sunday-Thursday 11am to 2am, Friday-Saturday 11am to 3am. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption:*** Sunday-Thursday 9am to 2am, Friday-Saturday 9am to 3am. ANC 1C. SMD 1C07. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with

Settlement Agreement. *Ventnor Sports Cafe*, 2411 18th Street NW, Retailer CR, License No. 072529.

12. Review Request for Change of Hours. *Current Hours of Operation and Alcoholic Beverage Sales*: Friday-Sunday 9am to 10pm, Monday-Thursday 9am to 9pm. *Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption*: Sunday-Saturday 9am to 11:59pm. ANC 7D. SMD 7D06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Big D Liquors*, 4173 Minnesota Avenue NE, Retailer A Liquor Store, License No. 098255.
-

13. Review Request for Change of Hours of Entertainment. *Approved Hours of Operation and Alcoholic Beverage Sales and Consumption*: Sunday-Thursday 10am to 2am, Friday-Saturday 10am to 3am. *Approved Hours of Live Entertainment*: Sunday-Saturday 6pm to 9pm. *Proposed Hours of Live Entertainment*: Sunday-Saturday 6pm to 11pm. ANC 1B. SMD 1B12. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *BIN-1301*, 1301 U Street NW, Retailer CT, License No. 091682.
-

14. Review Application for Entertainment Endorsement. Entertainment to include DJ and Acoustic Guitar. ANC 2A. SMD 2A03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *The 51st State Tavern*, 2512 L Street NW, Retailer CT, License No. 071333.
-

15. Review Application to add dancing to existing Entertainment Endorsement. Entertainment to include dancing and a DJ. ANC 2B. SMD 2B09. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Policy*, 1904 14th Street NW, Retailer CR, License No. 076804.
-

16. Review Application for Summer Garden with 20 seats. ANC 6C. SMD 6C02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Bistro Italiano*, 320 D Street NE, Retailer CR, License No. 023539.
-

17. Review Request to Expand Premises into Adjacent building space located at 517 8th Street SE. ANC 6B. SMD 6B03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Matchbox*, 521 8th Street SE, Retailer CR, License No. 079276.
-

18. Review Request to Renew Storage Facility Permit originally issued March 13, 2012, for a facility located at 4221 Connecticut Avenue NW, Suite E. ANC 3F. SMD 3F02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Direct du Domaine*, 4221 Connecticut Avenue NW, Wholesaler B, License No. 089590.
-

***In accordance with D.C. Official Code §2-574(b) of the Open Meetings Amendment Act, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend.**

**OFFICE OF THE DEPUTY MAYOR FOR EDUCATION
COMMON LOTTERY BOARD**

2016 REGULARLY SCHEDULED MEETINGS

The Common Lottery Board meets quarterly. The dates for Calendar Year 2016 are:

January 25, 2016 at 1:30pm

April 25, 2016 at 1:30pm

July 26, 2016 at 1:30pm

Meeting length is typically two hours. This schedule is subject to change. The locations for meetings will be:

1350 Pennsylvania Avenue NW
Washington, DC 20004

To confirm attendance and room location, please contact: Catherine Peretti at Catherine.peretti@dc.gov or 202-727-6054.

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FUNDING AVAILABILITY**Lead Poisoning Prevention Outreach Project**

The Department of Energy and Environment (“DOEE”) is seeking eligible entities to reach 400 families at high risk of lead exposure, educate them on lead poisoning prevention basics, ensure that lead screening is provided to children under the age of six years old and refer to DOEE those families that may benefit from further follow-up agency services. Two awards will be granted for this project. Total available funds for this project is approximately \$52,400: with the first award up to \$34,200 and the second award no less than \$20,000. These amounts are subject to continuing availability of funding and approval by the appropriate agencies.

Beginning 1/4/2016, the full text of the Request for Applications (RFA) will be available online at DOEE’s website. A person may obtain a copy of this RFA by any of the following means:

Download from DOEE’s website, www.doe.dc.gov. Select the *Resources* tab. Cursor over the pull-down list and select *Grants and Funding*. On the new page, cursor down to the announcement for this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.

Email a request to 2016LeadOutreachRFA.grants@dc.gov with “Request copy of RFA 2016-1601-LHHD” in the subject line.

Pick up a copy in person from the DOEE reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. To make an appointment, call Brittaney Simon at (202) 481-3842 and mention this RFA by name.

Write DOEE at 1200 First Street NE, 5th Floor, Washington, DC 20002, “Attn: Brittaney Simon RE: 2016-1601-LHHD” on the outside of the envelope.

The deadline for application submissions is 2/5/2016 at 4:30 p.m. Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to 2016LeadOutreachRFA.grants@dc.gov.

Eligibility: All the checked institutions below may apply for these grants:

-Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;

-Faith-based organizations;

For additional information regarding this RFA, write to: 2016LeadOutreachRFA.grants@dc.gov.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**

Office of Government Ethics

2016 SCHEDULE OF ETHICS BOARD MEETINGS

In accordance with D.C. Official Code § 1-1162.04, the Office on Government Ethics provides notice of its 2016 Schedule of Ethics Board Meetings. All Meetings are scheduled on Thursdays at 11:00 a.m. and will be held at The Board of Ethics and Government Accountability, 441 4th Street, N.W., Suite 540S, Washington, DC 20001. The Board may exercise its discretion and reschedule a regular meeting or call special meetings when necessary with reasonable notice to the public.

- January 7, 2016
- February 4, 2016
- March 3, 2016
- April 7, 2016
- May 5, 2016
- June 2, 2016
- July 7, 2016
- August 4, 2016
- September 1, 2016
- October 6, 2016
- November 3, 2016
- December 1, 2016

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**

Office of Government Ethics

BEGA – Advisory Opinion – Outside Activities: The Meaning of the Phrase “Devoted Substantially” in DPM § 1807.4

NOTICE OF DRAFT ADVISORY OPINION

The Director of Government Ethics, pursuant to the authority set forth in section 219(a-1)(2) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective February 22, 2014 (D.C. Law 20-75; D.C. Official Code § 1-1162.19(a-1)(2)) (2015 Supp.), hereby gives notice that he intends to issue, on his own initiative, an advisory opinion on the meaning of the phrase “devoted substantially” as it is used in section 1807.4 of the District Personnel Manual. The phrase relates to certain outside activities for which District government employees may be compensated, a topic which he considers to be a general question of law of sufficient public importance concerning a provision of the Code of Conduct over which the Ethics Board has primary jurisdiction.

All persons interested in commenting on this draft Advisory Opinion may do so not later than thirty (30) days after publication of this notice in the *D.C. Register* by sending comments electronically to bega@dc.gov or by filing comments in writing with Brian K. Flowers, General Counsel, Board of Ethics and Government Accountability, 441 4th Street, N.W., 830 South, Washington, D.C. 20001.

DRAFT ADVISORY OPINION***Outside Activities: The Meaning of the Phrase “Devoted Substantially” in DPM § 1807.4*****Purpose of this Advisory Opinion**

With some restrictions, District government employees may pursue employment and other activities outside their jobs and be paid for doing so. This opinion is intended to provide interpretive guidance on the phrase “devoted substantially” as it is used in section 1807.4 of the District Personnel Manual (“DPM”).¹ The phrase is central to the restrictions that apply when, in particular, employees engage in outside teaching, writing for publication, consulting, or speaking engagements for compensation or anything of monetary value. Because many of the same considerations apply when employees testify as expert witnesses in litigation in which the District is neither a party nor has a substantial interest, this opinion is intended to encompass that activity as well.

Background

Several restrictions apply when a District government employee receives compensation for outside teaching, writing for publication, consulting, or speaking engagements. One such restriction is that the subject matter of the activities cannot be “devoted substantially to the responsibilities, programs, or operations of [the employee’s] agency, to his or her official duties or responsibilities, or to information obtained from his or her government employment.”²

The “devoted substantially” restriction was first reflected in 1986, in regulations intended, as a whole, to revise “nearly every section” of the DPM.³ However, neither the preamble to the proposed rulemaking, nor the preamble to the Notice of Final Rulemaking,⁴ contained any discussion of the source or meaning of the restriction. Furthermore, the DPM itself, which was substantially revised again in 2014,⁵ has remained equally silent.

¹ The DPM comprises Title 6B of the District of Columbia Municipal Regulations. However, section 3(e) of the Comprehensive Code of Conduct of the District of Columbia Establishment and BEGA Amendment Act of 2015, as introduced on June 12, 2015 (D.C. Bill 21-250), would repeal chapter 18 (employee conduct) of Title 6B. Therefore, readers should note that, if Bill 21-250 becomes law, many of the provisions of chapter 18 would be incorporated into the new Comprehensive Code of Conduct. Consequently, while the citations to the DPM in this opinion would change, the substance of the advice would not.

² DPM § 1807.4. For other restrictions on these outside activities, *see* DPM § 1807.2 (activities cannot be prohibited by law, regulation, or agency standards and must be undertaken outside regular working hours, or while employees are on annual leave, compensatory leave, exempt time off, or leave without pay) and DPM § 1807.3 (information used in activities cannot “draw on official data or ideas which have not become part of the body of public information, except nonpublic information that has been made available on request for use in such capacity, or unless the agency head gives written authorization for use on the basis that its use is in the public interest”).

³ *See* Notice of Proposed Rulemaking, 33 DCR 3874 (June 27, 1986).

⁴ *See* 33 DCR 6794 (Oct. 31, 1986).

⁵ *See* Notice of Final Rulemaking, 61 DCR 3799 (Apr. 11, 2014).

What is clear is that the restriction in DPM § 1807.4 applies only when District employees are compensated for outside teaching, writing for publication, consulting, or speaking engagements. While other restrictions may apply, depending on the circumstances, when employees undertake those activities *without* compensation – for example, the prohibitions on using government time or resources for other than official business (DPM § 1807.1(b)) or divulging any official government information to any unauthorized person (DPM § 1807.1(f))⁶ – the “devoted substantially” restriction in DPM § 1807.4 does not. Moreover, there is nothing in the DPM that addresses providing expert testimony in litigation in which the District is neither a party nor has a substantial interest, whether for compensation or not.

All this said, it becomes all the more important to understand the meaning of the phrase “devoted substantially” in the context of compensated outside teaching, writing for publication, consulting, speaking engagements, and testifying as an expert.

Discussion

I. Early Federal Ethics Regulations

Because certain federal ethics laws have applied to District government employees over the years,⁷ the search for the source of the 1986 predecessor to DPM § 1807.4 began with the federal regulations implementing those laws at the time. Focusing on the Civil Service Commission regulations, the most direct reference to the outside activities relevant for purposes of this opinion was found in 5 C.F.R. § 735.203(c), which applied only to a narrow class of Presidential appointees, such as agency heads and full-time members of boards and commissions, but prohibited them from “receiv[ing] compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which [was] devoted substantially to the responsibilities, programs, or operations of [their] agency, or which [drew] substantially on official data or ideas which [had] not become part of the body of public information.” However, as noted in 2 Op. Off. Legal Counsel 361, 362 (1977), “several [federal] departments, in their own regulations, [had] extended this prohibition to cover all agency employees.”

It is reasonable to conclude that this federal regulatory experience was not lost on District rulemakers in 1986 and that, today, DPM § 1807.4 can be traced back, directly or indirectly, to 5 C.F.R. § 735.203(c). In any event, the more important question is the meaning of the phrase “devoted substantially.” Fortunately, guidance is clear in that regard.

II. Federal OGE Guidance

⁶ See also federal Office of Government Ethics (“OGE”) Informal Advice Letter 10 x 1 (Mar. 19, 2010) (discussing uncompensated teaching, writing, and speaking).

⁷ See, e.g., 18 U.S.C. § 208 (financial conflicts of interest); 18 U.S.C. § 209 (compensation for performance of official duties).

The federal OGE had several opportunities to discuss 5 C.F.R. § 735.203(c) and, in Advice Memorandum 85 x 18 (Oct. 28, 1985) (“Memorandum”),⁸ directly addressed the phrase “devoted substantially.”⁹ The Memorandum was issued to provide guidance on participation in privately sponsored seminars or conferences for compensation and was divided so as to address two groups of individuals – the high-level Presidential appointees to whom 5 C.F.R. § 735.203(c) applied and other lower-level employees.

As for the first group, the Memorandum relied on an opinion in which the Department of Justice (“DOJ”) Office of Legal Counsel interpreted the phrase “devoted substantially to the responsibilities, programs, or operations of his agency” contained in a DOJ supplemental regulation and noted that the phrase had been given a broad meaning as it applied to a top-level employee, encompassing “the general subject matter or sector of the economy or society with which the individual’s agency is concerned, even though the writing does not specifically relate to the functions of the agency.”¹⁰ Accordingly, the Memorandum concluded this part of the guidance by stating that a high-level employee “may not receive compensation or anything of monetary value for teaching or lecturing at seminars, conferences, or private briefings *where the subject matter relates to the area in which [his or her agency works.]*”¹¹

On the other hand, the Memorandum drew a distinction with respect to a lower-level employee, concluding as follows:

[He or she] may lecture on a subject within the employee’s inherent expertise based on his or her educational background or experience, *even though the subject matter is related to the activities of the employing agency.* The employee will be prohibited from receiving compensation only when the activity focuses specifically on the agency’s responsibilities, policies, and programs, when the employee may be perceived as conveying the agency’s policies, or when the activity interferes with his or her official duties.¹²

⁸ The federal OGE was established in 1978 to oversee the ethics program in the executive branch of the federal government. *See* 5 U.S.C. app. § 401 *et seq.* The responsibilities of its Director include “interpreting rules and regulations ... governing conflict of interest and ethical problems and the filing of financial statements.” 5 U.S.C. § 402(6).

⁹ *See also* OGE Informal Advice Letter 89 x 17 at 1-2 (Sept. 26, 1989) (discussing provisions prohibiting presidential appointee from writing book in personal capacity).

¹⁰ Memorandum at 4 (citing 2 Op. Off. Legal Counsel at 363). The Memorandum also pointed out that the Office of Legal Counsel had “rejected a narrower of the phrase with respect to these [high-level] employees, which would have barred the receipt of compensation only where the article or book related to existing statutory responsibilities and programs of the agency.” *Id.*

¹¹ *Id.* at 4 (emphasis added).

¹² *Id.* at 6 (emphasis added).

The Memorandum drew the distinction “to permit [lower-level] employees who wish to engage in [outside seminars, conferences, or briefings] to do so in those instances in which the likelihood that official information or position will be used is minimal.”¹³ The reasoning underlying the distinction was again borrowed from DOJ:

[A] more liberal policy for lower-level personnel is warranted because they are not usually sought in order to ascertain [DOJ’s] official position on key policy issues. Furthermore, they are not authorized to state that position, so they are not likely to be attractive to an audience because of their affiliation with the Department.¹⁴

III. New Federal Ethics Regulations

Several years after the Memorandum, in 1989, the federal OGE was given authority to issue uniform regulations applicable to all agencies within the executive branch, as part of a comprehensive review of the ethics laws then applicable to the three branches of the federal government.¹⁵ In the preamble to the proposed regulations, it was stated that because the “devoted substantially” standard of 5 C.F.R. § 735.203(c) was “appropriate to ensure that public office [was] not used by any employee for private gain, proposed [5 C.F.R.] § 2635.807 would apply to all employees a *similar standard* that prohibit[ed] the receipt of compensation for teaching, speaking or writing where the subject matter *focus[ed] specifically* on the employee’s official duties or on the responsibilities, programs, or operations of the employee’s agency.”¹⁶

Accordingly, proposed § 2635.807(a)(1)(i)(E) limited in varying degrees the ability of three groups of employees – noncareer employees, special Government employees, and all other employees – to accept compensation for teaching, speaking, and writing based on the subject matter involved. In pertinent part, the proposed regulation provided as follows:

A subject matter focuses specifically on agency responsibilities, programs, or operations if:

(1) In the case of a noncareer employee . . . , it deals in significant part with the general subject matter area, industry, or economic sector primarily affected by the programs and

¹³ *Id.*

¹⁴ *Id.* (citing 2 Op. Off. Legal Counsel at 363 n.3). *See also* 2 Op. Off. Legal Counsel 231 (1978) (finding course taught for compensation by general counsel of Law Enforcement Assistance Administration permissible) (“[B]ecause your course will not concentrate on LEAA-related matters, we do not think it should be deemed to be ‘devoted substantially to the responsibilities, programs, or operations of the Department’ in the specific sense that the regulation was intended to impart.”).

¹⁵ *See* Standards of Ethical Conduct for Employees of the Executive Branch, 56 Fed. Reg. 33,778 (proposed July 23, 1991) (to be codified at 5 C.F.R. pt. 2635).

¹⁶ *Id.* at 33,790 (emphasis added).

operations of his agency;

(2) In the case of a special Government employee, it deals in significant part with particular matters to which he is or has been assigned as a special Government employee; or

(3) In the case of any other employee, it deals in significant part with particular matters to which he is or has been assigned as an employee of the agency, or with any planned or announced policy of the agency, or with any program or operation of the agency.

The preamble stated that the regulation, as proposed, was “consistent in concept” with the standards that had been applied to outside speaking and writing in informal federal OGE advisory opinions, including the Memorandum.¹⁷

Numerous agencies, organizations, and individuals commented on proposed § 2635.807, and all of them expressed dissatisfaction with the limitations on receiving compensation for outside teaching, speaking, or writing, as those activities related to an employee’s official duties.¹⁸ In response, the federal OGE stated that it was “sensitive to the concerns expressed” and that, in the final regulation, it had “crafted the restrictions on receipt of compensation bearing in mind the competing considerations of, on the one hand, prohibiting the use of public office for private gain and outside activities that conflict with official duties and, on the other hand, avoiding unnecessary restrictions that would impair the recruitment and retention of valued employees.”¹⁹

This approach was reflected in the final version of § 2635.807(a)(2)(i)(E).²⁰ In particular, the federal OGE added a Note and a number of examples following § 2635.807(a)(2)(i)(E) to clarify that an employee, other than a noncareer employee, may accept compensation for teaching, speaking, or writing about a matter within his or her general expertise and which relates

¹⁷ *Id.* The federal OGE reinforced this point in the preamble to the final rulemaking, stating that because “most agencies” had been applying the guidance in the Memorandum, OGE’s purpose “[i]n translating that guidance in § 2635.807,” was to ensure that “application [be] consistent throughout the executive branch.” *See* 57 Fed. Reg. 35,006, 35,036 (Aug. 7, 1992).

¹⁸ *See* preamble to final rulemaking, 57 Fed. Reg. at 35,035.

¹⁹ *Id.*; *see also id.* at 35,036 (“OGE believes [§ 2635.807] will withstand scrutiny on [First Amendment free speech] grounds. It does not prohibit any form of expression and, to the extent it may incidentally burden an employee’s ability to teach, speak or write, it serves a legitimate governmental purpose in ensuring that public office is not used for private gain.”). The Tenth Circuit later proved the federal OGE to be prescient, upholding § 2635.807(a) against a First Amendment challenge by an administrative law judge. *See Wolfe v. Barnhart*, 446 F.3d 1096, 1103-09 (10th Cir. 2006).

²⁰ *See* 57 Fed. Reg. at 35,063. The final regulations became effective on February 3, 1993, and § 2635.807 has been amended several times since.

generally to an agency's activities, as long as it does not deal in significant part with the specific matters to which the employee is or, within the past year, has been assigned, or to any ongoing or announced policy, program, or operation of the agency.²¹

IV. The Meaning of "Devoted Substantially" in DPM § 1807.4

Although, as noted above, a number of federal ethics laws apply to District government employees, the regulations implementing those laws do not.²² Nevertheless, this Office has looked for guidance to the federal regulations and to the federal OGE's interpretation of them when questions about the DPM have arisen. There appears no reason to depart from that practice for purposes of this opinion, especially given the rulemaking history outlined above.

Therefore, in cases involving DPM § 1807.4, the phrase "devoted substantially" means that the subject of the outside teaching, writing for publication, consulting, or speaking *deals in significant part* with (1) any ongoing or announced responsibility, program, or operation of an employee's agency, (2) any of his or her official duties or responsibilities, including any matter to which he or she had been assigned during the previous one-year period, or (3) any information obtained from his or her government employment. Furthermore, this interpretation is intended to apply (and, in the future, will be applied)²³ in a manner consistent with the clarifying Note following 5 C.F.R. § 2635.807(a)(2)(i)(E). In other words, because DPM §§ 1807.2, 1807.3, and 1807.4 do not, when read together, distinguish between groups of employees, the interpretation announced here is intended to apply to all District government employees for purposes of DPM § 1807.4.

V. Related Considerations

A number of related considerations should be noted. First, while the DPM contains no such requirement, some agencies may require approval of any compensated outside teaching, writing for publication, consulting, speaking engagements, or expert testimony. For example, the Metropolitan Police Department regulation that "[t]he Chief of Police, or his or her duly authorized designees, shall grant written approval for each outside employment situation"²⁴ has the force of law, having been implemented as part of regulations adopted by section 2 of the

²¹ See *Wolfe v. Barnhart*, 446 F.3d at 1102 ("[T]he explanatory Note does not set forth an exception to the regulatory language in § 2635.807(a)(2)(i)(E). Rather, the Note clarifies that a career agency employee may receive compensation where the content of his work falls within his agency's general area of responsibility if neither of the specific prohibitions in § 2635.807(a)(2)(i)(E)(1) or (2) apply.").

²² See, e.g., 5 C.F.R. § 2635.102(a) (defining "agency" to exclude "the Government of the District of Columbia" for purposes of regulations applicable to standards of ethical conduct for employees of federal executive branch).

²³ While several of my prior Advisory Opinions have discussed DPM § 1807.4 or its predecessor provision (former DPM § 1804.5), none of them defined the phrase "devoted substantially." Furthermore, going forward, any substantive inconsistency between those Opinions and this opinion should be resolved in favor of this opinion.

²⁴ 6A DCMR § 300.9.

Police Officers Outside Employment Act of 1982.²⁵ Also, by Office Order, “[a]n attorney employed by [the Office of the Attorney General] shall obtain written approval from the Attorney General ... before engaging in any outside employment, whether or not compensated.”²⁶

Second, outside teaching, writing for publication, consulting, or speaking activities that involve the use of public office for private gain or that otherwise violate the DPM are improper, even though they may not be prohibited by DPM § 1807.4.²⁷

Third, while teaching, writing for publication, and speaking engagements are activities that are fairly readily understood, consulting can mean different things to different people, and the DPM does not define the phrase “consultative activities” as it is used in DPM § 1807.4. Therefore, to lend some meaning for purposes of this opinion, consulting is deemed to involve the provision of services by an employee, including, but not limited to, giving advice and procuring other services. Consulting also involves the use of knowledge or skills generally acquired through specialized or advanced instruction and/or by years of experience in the area or field in which the consulting services are rendered.²⁸

Fourth, the term “compensation” also is not defined in the DPM. However, as evidenced by its use in the phrase “compensation or anything of monetary value” in DPM § 1807.4, the term was clearly intended to have a broad meaning. Further guidance is provided by 5 C.F.R. § 2635.807(a)(2)(iii), which defines “compensation” for purposes of the analogous federal regulation on outside teaching, speaking, and writing. While equally broad so as to include “any form of consideration, remuneration or income, including royalties,” the federal definition does contain several exceptions (*e.g.*, “[c]opies of books or of publications containing articles, reprints of articles, tapes of speeches, and similar items that provide a record of the teaching, speaking or writing activity”). On the subject of what it means to receive compensation, *see* 5 C.F.R. § 2635.807(a)(2)(iv) (defining “receive”).

Fifth, as noted above, the DPM does not contain any provisions related to employees testifying as expert witnesses in litigation in which the District is neither a party nor has a substantial

²⁵ Effective July 24, 1982 (D.C. Law 4-132; 29 DCR 2450). *See also* GO-PER-201.17 (Apr. 16, 2004) (Outside Employment).

²⁶ Section II.A. of Office Order No. 2006-27 (Aug. 23, 2006).

²⁷ *See* DPM § 1807.2 (providing, in pertinent part, that “[a] District government employee may receive compensation for engaging in teaching activities, writing for publication, consultative activities, and speaking engagements *that are not prohibited by law, regulation, or agency standards*” (emphasis added)); *see also, e.g.*, federal OGE Advice Memorandum DO-08-006, Part I, at 19-20 (Mar. 6, 2008) (discussing application of misuse of position limitations “even when an employee may otherwise receive compensation for writing a book unrelated to his official duties”).

²⁸ *Cf.* 5 C.F.R. § 9001.105(c)(3) (supplemental standards of ethical conduct for Federal Housing Finance Agency) (defining “consultative services” to mean, for outside employment purposes, “the provision of personal services by an employee, including the rendering of advice or consultation, which requires advanced knowledge in a field of science or learning customarily acquired by a course of specialized instruction and study in an institution of higher education, hospital, or similar facility”).

interest. However, because many of the same considerations applicable to outside teaching, writing for publication, consulting, and speaking apply to such testimony,²⁹ this opinion applies to it as well.

Sixth, depending on the circumstances, there may be exceptions that apply for teaching certain courses requiring multiple presentations.³⁰

Seventh, notwithstanding the general probation against engaging in any outside activity or interest which permits a District employee, or others, to capitalize on his or her official title or position,³¹ there are limits within which an employee's title or position may be used to identify him or her in connection with compensated outside activities.³²

VI. Illustrative Examples

The following examples are offered to illustrate the guidance in this opinion:

Example 1

An employee of the Department of Energy & Environment (“DOEE”) assisted in drafting DOEE’s lead-based paint regulations in 2011. He is assigned to help draft proposed amendments to those regulations following an unrelated project that he expects to complete within two months. The employee has been offered a consulting contract to provide advice to a development company in restructuring its lead-based paint abatement operations.

Answer: The employee should not enter into the consulting contract, even though he is not currently working on DOEE regulations affecting the development company and the consulting contract can be expected to be completed before he begins drafting the proposed lead-based paint regulations. While the consulting contract would not violate DPM § 1807.4, it would create an appearance that the employee had used his official position to obtain the contract and it would create the

²⁹ See 5 C.F.R. § 2635.805(c)(2) (authorizing employee to testify as expert witness where “[t]he designated agency ethics official determines that the subject matter of the testimony does not relate to the employee’s official duties within the meaning of [5 C.F.R.] § 2635.807(a)(2)(i)”). This provision reflects the federal OGE’s response to a comment that the proposed regulation was “overly broad” and that it should be revised “to provide for authorization to serve as an expert witness if the employee’s credentials as an expert are unrelated to his or her Government employment.” See preamble to final rulemaking, 57 Fed. Reg. at 35,035; see also federal OGE Advice Memorandum DO-07-019 (July 12, 2007) (outlining cases and issues regarding expert witnesses and relevant ethical restrictions).

³⁰ See 5 C.F.R. § 2635.807(a)(3) (authorizing exceptions for teaching certain courses); see also DPM § 1147.4 (authorizing certain exceptions to rule that employee cannot receive basic pay from more than one position in District government for more than aggregate of forty hours of work in one calendar week, with respect to teaching on part-time or intermittent basis in certain District agencies).

³¹ See DPM § 1807.1(e).

³² See 5 C.F.R. § 2635.807(b); see also, e.g., federal OGE Advice Memorandum DO-08-006, Part I, at 29.

further appearance of using his position for the private gain of the development company.

Example 2

The DOEE employee in Example 1 is writing a book for publication about the history of lead-based paint abatement in the United States. The book contains brief references to the establishment and responsibilities of DOEE.

Answer: The employee may receive compensation for writing the book because it deals with the general subject matter area affected by DOEE programs and operations. However, the employee could not receive compensation for writing a book that deals in significant part with specific DOEE lead-based paint abatement programs or operations.

Example 3

A Section Chief in the Civil Litigation Division of the Office of the Attorney General has a keen interest in stamp collecting and has spent years developing his own collection as well as studying the field generally. He is asked by an international society of philatelists to speak at a society convention on how to assess the value of American stamps and wishes to know if he can be paid for his appearance at the event.

Answer: Because the subject does not relate to his official duties, the Section Chief may accept compensation for the speaking engagement. Obviously, government time should not be used.

Example 4

The Section Chief in Example 3 wants to know if he may accept a waiver of the fee for attending the society convention, in addition to receiving a speaker's fee.

Answer: The Section Chief may accept the attendance fee waiver, as well as other incidents of attendance, such as meals or course materials furnished as part of the convention.³³

Example 5

A professor at the University of the District of Columbia ("UDC") who conducts research into the molecular basis of the development of cancer is asked by a textbook company to contribute a chapter on her work in the field.

³³ See 5 C.F.R. § 2635.807(a)(2)(iii)(B).

Answer: The professor may not be compensated for writing about the research she conducts at UDC because it would deal in significant part with her official duties. However, the professor could receive compensation for writing a chapter on the molecular basis of cancer development, provided that the chapter conveys scientific knowledge gleaned from the scientific community as a whole. The chapter could contain brief discussions of recent developments in the field, even though some of those developments are derived from UDC research, as long as the information is available to the public.

Example 6

The professor in Example 5 wants to know if she can talk about her work on Career Night sponsored by her daughter's youth group. She would not receive any compensation for the talk.

Answer: The professor may give the talk, even though it would deal in significant part with her official duties, because she would not be receiving any compensation. However, during the talk, she may not disclose any non-public information.

Example 7

An attorney with the Office of Labor Relations and Collective Bargaining ("OLRCB") is an acknowledged expert in the field of employee labor relations and participates in collective bargaining negotiations with employee unions and impasse proceedings. The attorney wants to know if he may receive compensation from a private training institute for a series of lectures on the decisions of the Public Employee Relations Board ("PERB") on unfair labor practices.

Answer: The attorney may be compensated for the lectures, provided that they do not contain any significant discussion of either specific labor relations cases handled by the OLRCB or information that is unavailable to the public. PERB decisions on unfair labor practices are not a specific OLRCB program or operation and, therefore, do not relate to the attorney's official duties. However, a PERB employee could not give the same lectures for compensation.

Example 8

An attorney employed by the Office of Human Rights ("OHR") is asked by UDC to teach a course on discrimination in public accommodations. The attorney wants to know if she may be compensated for teaching the course without violating the dual government income prohibition.

Answer: The attorney may accept compensation for teaching the course because of a specific exception for teaching at UDC found in the DPM. However, she could not accept compensation for teaching an abbreviated version of the course as part of a continuing education program sponsored by the D.C. Bar because the subject matter deals in significant part with the operations or programs of OHR.³⁴

Example 9

A toxicologist in the Forensic Toxicology Department, Office of the Chief Medical Examiner, is asked to return to New Jersey to testify as an expert witness in a case she worked on while a State employee there. The toxicologist would receive a witness fee and be reimbursed for her reasonable expenses.

Answer: The toxicologist may accept the witness fee and reimbursement because the New Jersey case does not relate to her official duties or to information she obtained from her District employment.

Example 10

Among his other duties, an employee of the Office of Unified Communications (“OUC”) oversees a new management program for District building facilities supporting public safety voice radio technology. He is asked by a party to a Virginia civil action to testify as an expert on public safety voice radio technology.

Answer: The employee cannot serve as an expert witness for at least two principal reasons. First, the employee’s testimony would deal in significant part with one of OUC’s core operations – the management of building facilities supporting public safety voice radio technology. Second, because the management program he oversees is new, it is reasonably likely that information used as part of his testimony would be derived in significant part from his experience with the OUC program itself. A consideration related to the second reason is that the employee’s testimony would create the appearance of his using non-public information for private gain.

Example 11

The Director of the District Department of Transportation is asked by a local private university to teach a graduate course on current issues in urban transportation. The Director wants to know how his title may be used in the course materials.

³⁴ Cf. DPM § 1147.4(i) (authorizing pay for part-time or intermittent employment as instructor, teacher, or professor at UDC).

Answer: The university may include the Director's title, together with other information about his education and previous employment, in course materials setting forth biographical data on all teachers involved in the graduate program. However, the Director's title or position may not be used by the university to promote the course, for example, by featuring his name and title in bold or some other distinctive type in the course materials.

These examples are meant to be illustrative only and certainly are not exhaustive. Moreover, the analysis for determining permissible outside activities is entirely fact-driven, and small details can make a big difference. Accordingly, notwithstanding the guidance provided herein, employees should continue to seek formal safe-harbor advice from this Office when considering engaging in any outside activity that may overlap with or relate to their District government duties.

_____/s/_____
DARRIN P. SOBIN
Director of Government Ethics
Board of Ethics and Government Accountability

DEPARTMENT OF FORENSIC SCIENCES**NOTICE OF PUBLIC MEETING**

On January 15, 2016 the Department of Forensic Sciences will be hosting the Science Advisory Board Meeting at the Consolidated Forensic Laboratory, 401 E Street SW, Washington, DC 20024. The meeting will commence at 9:00 a.m. Any questions should be directed to Herb Thomas, 202.727.8267. Mr. Thomas can also be reached at Herbert.Thomas@dc.gov.

DEPARTMENT OF HEALTH CARE FINANCE

PUBLIC NOTICE

MEDICAID HOSPICE ROUTINE HOME CARE PAYMENT RATES

The Department of Health Care Finance (DHCF), pursuant to the requirements set forth in Section 988 of Chapter 9 Title 29 of the District of Columbia Municipal Regulations (DCMR), published on October 2, 2015 (62 DCR 13060), announces changes to the Medicaid reimbursement rates governing the Routine Home Care Hospice Service billed by hospice providers who submit claims for reimbursement to DC Medicaid on a UB-04 claim form. The changes set forth below will become effective on February 1, 2016.

Under the District of Columbia’s State Plan for Medical Assistance (State Plan) the Medicaid Hospice Routine Home Care service reimbursement rates are based on the final Medicare hospice rule published on August 6, 2015 (CMS-1629-F) and adjusted to reflect the District of Columbia Wage Index. As a result, DHCF is updating the rates to reflect two (2) new per diem rates and a Service Intensity Add-On (SIA) payment under the Medicaid Hospice Routine Home Care service.

Effective February 1, 2016, the single Routine Home Care per diem rate will be replaced by two (2) new rates that result in a higher base payment for the first sixty (60) days of Routine Home Care and a reduced base payment rate for days thereafter. A new SIA payment will also be available effective February 1, 2016 for up to four (4) hours per day of services provided by a registered nurse (RN) or social worker to a beneficiary receiving Routine Home Care during the last seven (7) days of the beneficiary’s life. The procedure codes and rates are as follows:

Procedure Code	Description	Rates
00651	Routine Home Care 1-60	\$192.41 daily
00651	Routine Home Care 61+	\$151.12 daily
00653	Routine Home Care /Intensity Add-On	\$40.50 hourly

The Medicaid Fee Schedule is located on the DHCF website at <https://www.dc-medicaid.com/dcwebportal/nonsecure/feeScheduleDownload>. For further information or questions regarding this fee schedule update, please contact Andrea Clark, Reimbursement Analyst, Department of Health Care Finance, at andrea.clark@dc.gov or via telephone at (202) 724-4096.

OFFICE OF POLICE COMPLAINTS

NOTICE OF PUBLIC MEETING

POLICE COMPLAINTS BOARD MEETING

January 21, 2016

6:00 p.m.

1400 I Street, N.W., Suite 700, Washington, DC, 20005

For additional information, contact Michael G. Tobin at 202-727-3838

AGENDA OF MEETING

- I. Call to Order
- II. Public Comment Period
- III. Approval of PCB Minutes
 - a. November 12, 2015
- IV. Agency Report
- V. Executive Session (if necessary)

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

PUBLIC NOTICE

GT97-3, IN THE MATTER OF THE APPLICATION OF WASHINGTON GAS LIGHT COMPANY FOR AUTHORITY TO AMEND ITS RATE SCHEDULE NO. 6,

GT06-1, IN THE MATTER OF THE APPLICATION OF WASHINGTON GAS LIGHT COMPANY FOR AUTHORITY TO AMEND GENERAL SERVICE PROVISION NO. 23, and

FORMAL CASE NO. 1027, IN THE MATTER OF THE EMERGENCY PETITION OF THE OFFICE OF THE PEOPLE’S COUNSEL FOR AN EXPEDITED INVESTIGATION OF THE DISTRIBUTION SYSTEM OF WASHINGTON GAS LIGHT COMPANY

1. The Public Service Commission of the District of Columbia (“Commission”) hereby gives notice that, on December 15, 2015, the Washington Gas Light Company (“WGL”) filed its 2015 Annual Report on Replacement and Encapsulation Program (“Program”).¹ The Program was approved in Order No. 15627.² Pursuant to Order No. 16065, WGL is required to file its 2015 annual report on December 15, 2015.³ WGL also filed a Report on Gas Composition – Update (“Updated Gas Composition Report”)⁴ on December 15, 2015, as required by Order No. 17617.⁵

2. In the 2015 Annual Report, WGL provides several tables providing details of the individual projects to be completed under the Program. The first table provides a cumulative total by project.⁶ The next six tables break down the projects by calendar year, with calendar year 2010 being the first year of the Program, and calendar year 2015 being the sixth year of the Program.⁷ Next, WGL identifies the locations of the projects for completion in the seventh year

¹ *Formal Case No. 1027, In the Matter of the Emergency Petition of the Office of the People’s Counsel for an Expedited Investigation of the Distribution System of Washington Gas Light Company, GT97-3, GT06-1 (“Formal Case No. 1027, GT97-3, GT06-1”), Annual Report on Replacement and Remediation Program (“2015 Annual Report”), filed December 15, 2015.*

² *Formal Case No. 1027, GT97-3, GT06-1, Order No. 15627, rel. December 16, 2009; see also Order No. 17203, rel. July 31, 2013.*

³ *Formal Case No. 1027, GT97-3, GT06-1, Order No. 16065, ¶ 7.*

⁴ *Formal Case No. 1027, GT97-3, GT06-1, Washington Gas Light Company’s Report on Gas Composition – Update (“Updated Gas Composition Report”), filed December 15, 2015.*

⁵ *Formal Case No. 1027, GT97-3, GT06-1, Order No. 17617, rel. September 4, 2014.*

⁶ 2015 Annual Report, Attachment 1 at 1-6. The 2015 Annual Report contains two attachments that are not labeled as such.

⁷ 2015 Annual Report, Attachment 1 at 7-24.

of the Program.⁸ For the last year of the Program, WGL provides a table identifying the project locations by quadrant.⁹

3. In Order No. 17617, the Commission directed WGL to provide an annual update to its report on the gas composition in WGL's distribution system. WGL's Updated Gas Composition Report discusses the composition of the natural gas at WGL's gate stations. WGL also provides several graphs showing the C5+ and BTU averages for the five gate stations.¹⁰

4. All persons interested in commenting on the 2015 Annual Report on Replacement and Encapsulation Program and the Updated Gas Composition Report may submit written comments and reply comments no later than 30 and 45 days, respectively, after publication of this Notice in the *DC Register*. Comments are to be addressed to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005. Copies of the 2015 Annual Report on Replacement and Encapsulation Program and the Updated Gas Composition Report may be obtained by visiting the Commission's website at www.dcpsc.org. Once at the website, open the "eDocket" tab, click on "Search database" and input "FC 1027" as the case number and "453" and "454" as the item numbers. Copies may also be purchased at cost by contacting the Commission Secretary at (202) 626-5150 or PSC-CommissionSecretary@dc.gov.

⁸ 2015 Annual Report, Attachment 1 at 25.

⁹ 2015 Annual Report, Attachment 1 at 26.

¹⁰ Updated Gas Composition Report, Attachment.

DISTRICT OF COLUMBIA RETIREMENT BOARD**ANNUAL OPEN PUBLIC MEETING SCHEDULE**

The District of Columbia Retirement Board (DCRB) holds Open Board of Trustee meetings on the third Thursday of each month at 1:00 p.m., unless specified differently. The meetings will be held in the DCRB Board Room (2nd floor) at 900 7th Street, N.W., Washington, D.C 20001. The meeting place and time are subject to change without prior notice.

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 at (202) 343-3200 or Deborah.Reaves@dc.gov.

2016 Annual Open Board Meeting Schedule

January 21, 2016

February 18, 2016

March 17, 2016

April 21, 2016

May 19, 2016

June 16, 2016

July 21, 2016

August – No Meeting

September 15, 2016

October 20, 2016

November 17, 2016

December 15, 2016

DISTRICT DEPARTMENT OF TRANSPORTATION**PUBLIC SPACE COMMITTEE MEETING DATES**

Notice of Regularly Scheduled Public Meetings
Calendar Year 2016

HEARING DATES	DEADLINE FOR FILING APPLICATIONS
January 28, 2016	November 20, 2015
February 25, 2016	December 18, 2015
March 24, 2016	January 14, 2016
April 28, 2016	February 18, 2016
May 26, 2016	March 17, 2016
June 23, 2016	April 14, 2016
July 28, 2016	May 19, 2016
August 25, 2016	June 16, 2016
September 22, 2016	July 14, 2016
October 27, 2016	August 18, 2016
November 17, 2016	September 8, 2016
December 15, 2016	October 6, 2016

MEETING LOCATION

1100 4th Street, SW
2nd Floor – Hearing Room
9:00 am

The location or time may vary. To confirm attendance and location please contact:

Catrina Felder
Public Space Committee Coordinator
Government of the District of Columbia
Department of Transportation
Public Space Regulation Administration
1100 4th Street, SW – 3rd Floor
Washington, DC 20024
Phone: (202) 442-4960 or Fax: (202) 535-2221
PublicSpace.Committee@dc.gov

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) will be holding a meeting on Thursday, January 7, 2016 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dcwater.com.

DRAFT AGENDA

- | | | |
|----|---|-----------------------|
| 1. | Call to Order | Board Chairman |
| 2. | Roll Call | Board Secretary |
| 3. | Approval of December 3, 2015 Meeting Minutes | Board Chairman |
| 4. | Committee Reports | Committee Chairperson |
| 5. | General Manager's Report | General Manager |
| 6. | Action Items
Joint-Use
Non Joint-Use | Board Chairman |
| 7. | Other Business | Board Chairman |
| 8. | Adjournment | Board Chairman |

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17772-A of Bishop George F. Haskins, Jr. and Dianne Haskins, pursuant to 11 DCMR § 3104.1, for a special exception to continue and expand the operation of a child development center by increasing the number of children served from 15 to 39 and the number of staff from three to eight under § 205, in the R-2 District at premises 4605 Kane Place, N.E. (Square 5154, Lot 901).¹

HEARING DATE: December 15, 2015

DECISION DATE: December 15, 2015

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated August 12, 2015, from the Zoning Administrator certifying the relief required. (Exhibit 3.)

The Board of Zoning Adjustment ("Board" or "BZA") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 7C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 7C, which is automatically a party to this application. The ANC did not submit a report or participate in the hearing. At the hearing, the Applicant testified that they were not able to present before the full ANC because of a miscommunication about the ANC's meeting schedule, but that they communicated with the SMD Commissioner, who was supportive of the proposal.

The Office of Planning ("OP") submitted a timely report dated December 8, 2015, recommending approval of the application with five conditions (Exhibit 26) and testified in support of the application at the hearing. The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application. (Exhibit 27.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to 11 DCMR § 3104.1 for a special exception to continue and expand the operation of a child

¹ This application is to continue a previously approved child development center use that was granted in BZA Order No. 17772, but which expired on June 18, 2015. The application also is requesting an increase in the number of children to be served from 15 to 39 and the number of staff from three to eight. The caption has been amended to more clearly reflect the nature of the increase in the number of children and staff.

BZA APPLICATION NO. 17772-A
PAGE NO. 2

development center by increasing the number of children served from 15 to 39 and the number of staff from three to eight under § 205, in the R-2 District. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be averse to any party.

Based upon the record before the Board, and having given great weight to the OP report filed in this case, the Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1 and 205, 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 the application is hereby **GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. Approval shall be for a period of **SEVEN (7) YEARS**.
2. The hours of operation shall be Monday through Friday from 6:00 am to 6:00 pm.
3. The student enrollment shall not exceed 39, ranging in age from one year to 14 years. The final maximum number of students licensed for the center will be determined by the Office of the State Superintendent of Education (OSSE).
4. The center shall be operated by no more than eight staff members.
5. Drop-off of students shall take place at the front of the center between 6:00 am to 9:00 am, and pick-up shall take place between 3:00 pm and 6:00 pm.

VOTE: **4-0-1** (Marnique Y. Heath, Frederick L. Hill, Jeffrey L. Hinkle, and Peter G. May to APPROVE; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: December 22, 2015

BZA APPLICATION NO. 17772-A
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PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19079 of 2002 11th Street LLC/Industrial Bank, as amended¹, pursuant to 11 DCMR § 3103.2, for variances from the public space at ground level requirements under § 633, the rear yard requirements under § 636.3, and the off-street parking requirements under § 2101.1, to allow the construction of a new mixed-use building with 33 residential units and ground floor retail in the CR/ARTS District at premises 2000-2002 11th Street N.W. (Square 304, Lots 27, 30, and 31).

HEARING DATES: October 6, 2015² and November 10, 2015
DECISION DATES: November 10, 2015 and December 15, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 3, 34, and 44.) The application was amended at least twice by the Applicant. In its first request for amended relief, the Applicant requested special exception relief from §§ 639.1, 411, and 770.6. (Exhibits 34 and 44.) Subsequently, in its post-hearing statement, the Applicant withdrew its request for special exception relief from §§ 639, 411, and 770.6. (Exhibit 54.)

The Board of Zoning Adjustment ("Board" or "BZA") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 1B and to owners of property located 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 submitted a report of support for the application. The ANC report is dated September 10, 2015 and indicates that at a duly noticed and regularly scheduled public meeting on September 3, 2015, at which a quorum was in attendance, the ANC voted 11-0-0 in support of the application for public space at ground level, rear yard requirements, off-street parking, and special exception from 1-to-1 roof structure setback. (Exhibits 37 and 46I.)

¹ This case was heard on November 10, 2015, at which time the Board voted to approve the three areas of requested variance relief and to defer its decision on the roof structure special exception relief until after the new penthouse regulations were published. In advance of the December 15, 2015 decision date, the Applicant submitted revised plans (Exhibit 54A) that eliminate the need for the special exception relief previously requested and amended the application by withdrawing its prior request for special exception relief from the roof structure setback requirements under §§ 411 and 770.6 and the penthouse requirements under § 639. (Exhibit 54.) The caption has been revised accordingly.

² The hearing was postponed from October 6, 2015 at the Applicant's request. (Exhibit 22.)

BZA APPLICATION NO. 19079

PAGE NO. 2

The Office of Planning (“OP”) submitted a timely report dated November 3, 2015, recommending approval of the application with two conditions³ (Exhibit 49) and testified in support of the application at the hearing. The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the application and recommended four conditions.⁴ (Exhibit 50.)

A letter of support was submitted to the record from the adjacent condominium owners’ association. (Exhibit 47.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2 for an area variance from the public space at ground level requirements under § 633, the rear yard requirements under § 636.3, and the off-street parking requirements under § 2101.1, to allow the construction of a new mixed-use building with 33 residential units and ground floor retail in the CR/ARTS District. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking a variance from 11 DCMR §§ 633, 636.3, and 2101.1, the Applicant has met the burden of proof under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

This case was heard on November 10, 2015, at which time the Board voted to approve the three areas of requested variance relief and deferred its decision on the requests for special exception relief then requested. In advance of the December 15, 2015 decision date, the Applicant submitted revised plans (Exhibit 54A) that eliminated the need for the special exception relief previously requested and withdrew its request for special exception relief from the roof structure setback requirements under §§ 411 and 770.6 and the penthouse requirements under § 639. (Exhibit 54.) At its decision meeting on

³ The Board noted that OP’s proposed conditions were encompassed by the plans and by DDOT’s proposed conditions; thus, they did not need to be adopted as part of the order.

⁴ The Board adopted DDOT’s conditions as part of the order.

BZA APPLICATION NO. 19079
PAGE NO. 3

December 15, 2015, the Board rescinded its November 10, 2015 vote and approved the amended application with four conditions.

It is therefore **ORDERED** that the Board rescinds its vote to approve on November 10, 2015 and that the application, as amended, is hereby **GRANTED SUBJECT TO THE FINAL REVISED APPROVED PLANS AT EXHIBIT 54A, AND WITH THE FOLLOWING CONDITIONS:**

1. The Applicant shall install at least four short-term bicycle racks.
2. The Applicant shall provide an on-site bicycle maintenance/repair facility.
3. The Applicant shall provide a TransitScreen or similar device displaying real-time transportation schedules.
4. The Applicant shall offer annual Capital Bikeshare and carsharing memberships to each residential unit for five years.

VOTE: **3-0-2** (Marnique Y. Heath, Frederick L. Hill, and Peter G. May to APPROVE; Jeffrey L. Hinkle, not participating or 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 22, 2015

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

BZA APPLICATION NO. 19079

PAGE NO. 4

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19098-A of Kevin Murphy, as amended¹, pursuant to 11 DCMR § 3104.1 for a special exception under § 223, not meeting the non-conforming structure requirements under § 2001.3 and the lot occupancy requirements under § 403.2, to construct a two-story addition in the R-5-B District at premises 2125 10th Street N.W. (Square 358, Lot 55).

HEARING DATE: Applicant waived right to a public hearing

DECISION DATE: November 10, 2015 (Expedited Review Calendar).

CORRECTED SUMMARY ORDER²

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 recommended by OP 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 or self-certification to reflect the amended relief. (Exhibit 40.) The caption has been amended accordingly.

² The caption was corrected to reflect the correct address.

BZA APPLICATION NO. 19098-A**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 averse 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 22, 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

BZA APPLICATION NO. 19098-A**PAGE NO. 3**

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. 19108 of Jennifer and Lyle Vold, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot occupancy requirements under § 403, to construct a garage with a rooftop deck in the R-4 District at premises 134 11th Street N.E. (Square 965, Lot 35).

HEARING DATES: November 24 and December 15, 2015¹
DECISION DATE: December 15, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 9 and 35.)

The Board of Zoning Adjustment (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”) 6A, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A, which is automatically a party to this application. The ANC submitted a report dated November 13, 2015, indicating that at a regularly scheduled and properly noticed meeting on November 12, 2015, at which a quorum was in attendance, ANC 6A voted 3-2-1 to support the application. (Exhibit 32.) The ANC indicated that the proposed garage rooftop deck would not unduly affect neighboring properties with regard to light, air, and privacy, provided that the height of the garage’s parapet wall be raised to 15 feet and that a green roof be included atop the garage that sets the roof deck back seven feet from the alley and is impassable.

The Applicant submitted revised plans that include the seven-foot green roof, as discussed in the ANC report. (Exhibit 36.) Based on the ANC’s recommendation to raise the height of the structure to 15 feet, the Applicant indicated that it presented both a 13-foot option and a 15-foot option before the Historic Preservation Review Board (“HPRB”), and that HPRB’s preference was for the 13-foot option. The Applicant included drawings of both the 15-foot and 13-foot options for the Board’s review. (Exhibit 36.) The Board determined that reducing the height of the structure by two feet would not have an impact on the privacy of surrounding neighbors.

¹ The public hearing for this application was scheduled for November 24, 2015 and continued to December 15, 2015 to allow the Applicant to meet the notice requirements of 11 DCMR § 3113.14.

BZA APPLICATION NO. 19108**PAGE NO. 2**

Based on this determination and based on HPRB's preference, the Board approved the proposed plans for the 13-foot garage and roof deck structure.

The Office of Planning ("OP") submitted a timely report and testified at the hearing in support of the application. (Exhibit 33.) OP noted that it would support either the 13-foot or the 15-foot option. The District's Department of Transportation ("DDOT") submitted a timely report indicating it had no objection to the approval of the application. (Exhibit 31.)

The Board received four letters in support of the application from nearby residents, including the adjacent neighbor to the north of the property. (Exhibits 27 - 30.) Capitol Hill Restoration Society Zoning Committee submitted a letter indicated that it voted on November 12, 2015 to oppose the roof deck element of the proposed project. The committee noted that it has no objection to the construction of the garage.

At the Board's public hearing on December 15, 2015, John E. Fletcher Jr. testified in opposition to the roof deck portion of the project, raising concerns about impacts on privacy and the historic character of the alley. Mr. Fletcher also submitted two letters in opposition to the record. (Exhibits 34 and 41.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under §§ 223 and 403. Although a neighbor testified in opposition to this application, the Board received no requests for party status in opposition. Accordingly, no parties appeared at the public hearing in opposition to this application. Thus, 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, 223, and 403, 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 the 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. It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 36, WITH THE PARAPET WALL AT A HEIGHT OF 13 FEET.**

VOTE: 4-0-1 (Marnique Y. Heath, Peter G. May, Frederick L. Hill, and Jeffrey L. Hinkle to APPROVE; one Board seat vacant.)

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BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: December 21, 2015

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

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. 19128 of The Department of General Services of DC, pursuant to 11 DCMR § 3104.1, for a special exception from the rooftop mechanical equipment requirements under § 411.11 (as per § 411.6), to allow the installation of new rooftop mechanical equipment to an existing school building in the C-3-A/R-5-A District at premises 2701 Naylor Road, S.E. (PAR 214, Lot 198).

HEARING DATE: December 15, 2015

DECISION DATE: December 15, 2015

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

This application was accompanied by a memorandum, dated August 24, 2015, from the Zoning Administrator certifying the required relief. (Exhibit 21.)

The Board of Zoning Adjustment (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") 8B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8B, which is automatically a party to this application. ANC 8B did not submit a report or attend the hearing. However, the Applicant testified that he met with the Single Member District Commissioner (ANC 8B02) who was supportive of the application.

The Office of Planning ("OP") submitted a timely report recommending approval of the application (Exhibit 22), and testified in support of the application at the hearing. The District Department of Transportation submitted a timely report, indicating that it had no objection to the approval of the application. (Exhibit 17.)

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 § 411.11 (as per § 411.6). 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 averse 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 under 11 DCMR §§ 3104.1 and 411.11 (as per § 411.6), that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The

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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 EXHIBITS 7 AND 25.**

VOTE: 4-0-1 (Marnique Y. Heath, Frederick L. Hill, Jeffrey L. Hinkle, and Peter G. May to APPROVE; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: December 22, 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

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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. 19129 of The Department of General Services of DC, pursuant to 11 DCMR § 3104.1, for a special exception from the new rooftop mechanical equipment requirements under § 411.11 (as per § 411.6), to allow the installation of new rooftop mechanical equipment to an existing school building in the R-1-B District at premises 1900 Evarts Street, N.E. (Square 4212, Lot 803).

HEARING DATE: December 15, 2015

DECISION DATE: December 15, 2015

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief. (Exhibit 18.)

The Board of Zoning Adjustment ("Board" or "BZA") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 5C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5C, which is automatically a party to this application. ANC 5C did not submit a report or attend the hearing to testify about this application. The Applicant's representative indicated that efforts were made to contact the ANC, but ultimately, the Applicant did not make an official presentation before the ANC.

The Office of Planning ("OP") submitted a timely report on December 7, 2015, in support of the application, and OP testified in support at the hearing. (Exhibit 19.) The D.C. Department of Transportation submitted a timely report indicating that it has no objection to the application. (Exhibit 17.)

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 §§ 411.11 and 411.6. The only parties to the application were the Applicant and the ANC, the latter of which did not participate in 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 averse 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, 411.11, and 411.6, that the requested relief can be granted, being in harmony with the general

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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. It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBITS 6 AND 21.**

VOTE: **4-0-1** (Marnique Y. Heath, Frederick L. Hill, Peter G. May, and Jeffrey L. Hinkle to Approve; one Board seat vacant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: December 22, 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.

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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. 19137 of Rishi Chakrabarty and Livia Kent, pursuant to 11 DCMR § 3103.2, for variances from the lot occupancy requirements under § 403.2, the rear yard requirements under § 404.1, and the non-conforming structure requirements under § 2001.3, to allow the construction of a back deck to an existing one-family dwelling in the R-4 District at premises 1357 Taylor Street, N.W. (Square 2822, Lot 28).

HEARING DATE: December 15, 2015

DECISION DATE: December 15, 2015

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief. (Exhibit 7.)

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”) 4C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4C, which is automatically a party to this application. The ANC submitted a report in support of the application, dated September 10, 2015. The ANC’s report indicated that at a properly noticed community meeting on September 9, 2015, at which a quorum was in attendance, the ANC voted to support the application. (Exhibits 12 and 22 (duplicate).) Given that the ANC report did not provide the number that constituted a quorum, or the actual vote count, as required by 11 DCMR § 3115.1(d) and (g), the Board was not required to give the ANC report “great weight.” No one from ANC 4C was in attendance at the hearing to testify about the application.

The Office of Planning (“OP”) submitted a report in support of this application. (Exhibit 26.) The District Department of Transportation filed a report expressing no objection to the application. (Exhibit 23.) The Applicant sent a letter to neighbors explaining the request for variance relief, and received signatures from six neighbors in support of the application. (Exhibit 9.)

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 §§ 403.2, 404.1, and 2001.3. No parties appeared at the public hearing in opposition to this

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application. Accordingly, a decision by the Board to grant this application would not be averse to any party.

Based upon the record before the Board and having given great weight to the OP report filed in this case, the Board concludes that in seeking variances from §§ 403.2, 404.1, and 2001.3, the Applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, 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 5 - ARCHITECTURAL PLANS AND ELEVATIONS.**

VOTE: **4-0-1** (Marnique Y. Heath, Jeffrey L. Hinkle, Frederick L Hill
and Peter G. May to Approve; one Board seat vacant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: December 22, 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.

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PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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 JANUARY 2016

In accordance with § 405(c) of the Open Meetings Act, D.C. Official Code § 2-575 (c), on December 22, 2015, the Board of Zoning Adjustment voted 3-0-2 to hold *closed meetings telephonically on Mondays, January 11th and January 25th, and on Friday, January 15st*, 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 January 12st, January 19th, and January 26th, 2016.

Finally, the *morning of Tuesday, January 19, 2016*, from 9:00 am to 12:30 pm, will be a closed meeting for the purpose of conducting internal training, as permitted by Section 405(b)(12) of the Act.

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 CORRECTED¹ ORDER NO. 06-40C(1)
Z.C. Case No. 06-40
Gateway Market Center, Inc.
(Modification of a Consolidated PUD & Related Map Amendment
@ 340 Florida Avenue N.E.)
January 27, 2014**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on December 5, 2013, to consider applications from Gateway Market Center, Inc. (“Applicant”) for consolidated review and approval of a modification to a planned unit development (“PUD”) for Lot 8 in Square 3587 (“Property”)², and a related map amendment to rezone the PUD Site from C-M-1 to C-3-C approved by Z.C. Order No. 06-40 and extended by Z.C. Order No. 06-40A (collectively, the “Order”). The modification application proposes a mixed-use development incorporating retail and residential uses, and the removal of the office component of the project. The Commission considered the application pursuant to Chapters 24 and 30 and § 102 of the D.C. Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). The public hearings were conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application with conditions.

FINDINGS OF FACT

Procedural History

1. By Z.C. Order No. 06-40 dated April 24, 2009 and effective April 28, 2009, the Commission approved a PUD and related map amendment for the Property. Z.C. Order No. 06-40 approved a mixed-use, residential, retail, and office development containing a maximum of 307,384 gross square feet (7.7 FAR) and constructed to a height of 119 feet. Z.C. Order No. 06-40 also approved a related map amendment to rezone the Property from C-M-1 to C-3-C. Pursuant to Condition No. 17 of Z.C. Order No. 06-40, the PUD approval would expire if a building permit application as specified in 11 DCMR § 2409.1 was not filed on or before April 28, 2011. (Z.C. Order No. 06-40A, Finding of Fact No. 1.)
2. By Z.C. Order No. 06-40A dated May 23, 2011 and effective July 22, 2011, the Commission approved a two-year extension to Z.C. Order No. 06-40. Pursuant to Z.C. Order No. 06-40A, the PUD approval would expire if a building permit application as

¹ This is a corrected version of Zoning Commission Order No. 06-40C (the “Order”) published in the March 14, 2014 edition of the *D.C. Register*. This corrected version clarifies discrepancies in the Order relating to whether the project is to include a twenty (20) foot loading space. The references to the twenty (20) foot loading space have been deleted as such loading space was not intended to be included in the project described herein.

² The original application and Order dealt with Lots 5, 800, 802, and 809 and Parcels 129/9 and 129/32 in Square 3587. Those lots have been combined through subdivision into Lot 8.

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specified in 11 DCMR § 2409.1 was not filed on or before April 28, 2013. (Z.C. Order No. 06-40A.)

3. On April 18, 2013, the Applicant submitted an application to the Commission for an extension to the Order for good cause shown.
4. On April 18, 2013, the Applicant submitted an application to the Commission for a modification to the PUD approved by the Order. The Applicant requested a modification to the project approved by the Order to allow for the removal of the office component and the enlargement of the residential component, among other changes. As a result of this proposed change, the Applicant would need less development flexibility from loading requirements of § 2201.1 than was granted under the original PUD, but requires development flexibility from the roof structure requirements of § 411.3.
5. At the Commission's June 10, 2013 public meeting, the Commission deferred the Order extension request (Z.C. Case No. 06-40B) until December 9, 2013, or if the Commission set down the Applicant's modification request for a public hearing, the date of final action of the modification.
6. At a public meeting on July 29, 2013, the Commission voted to set the case down for a public hearing and requested the Applicant to provide additional information and drawings to address Commission concerns regarding:
 - (a) More information about the original case that was approved by the Order (such as additional drawings);
 - (b) Further refinements to the project drawings;
 - (c) Sections showing how building materials were proposed to work together;
 - (d) Further design of the western façade of the project;
 - (e) A sample materials board;
 - (f) Additional information relating to the sustainability, maintenance, durability, and quality for the composite paneling originally proposed for portions of the façade by the modification;
 - (g) A more detailed roof plan; and
 - (h) The proposed amenities package, in concert with the Advisory Neighborhood Commission ("ANC").
7. On August 13, 2013, the Applicant filed a Pre-Hearing Statement responding to the Commission's requests. (Exhibit ["Ex.,"] 13.) The Applicant removed its request relating

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to the size and number of residential units to respond to the Commission's comments. The Applicant also removed the initially requested hotel option (Option C) in response to the Commission's comments.

8. The Applicant filed its Final Pre-Hearing Submission in response to Commission and OP requests and containing its Transportation Impact Study on November 15, 2013. (Ex. 19, 24D.)
9. After proper notice was provided, the Commission held a hearing on the application on December 5, 2013. Parties to the case included the Applicant, ANC 5D³, the ANC within which the Property is located, and ANC 6C, the ANC for the area directly across Florida Avenue, N.E. from the Property.
10. The witness appearing on behalf of the Applicant at the hearing was Jeff Kaufman; the expert witnesses appearing on behalf of the Applicant at the hearing were Dennis Connors of SK&I Architects and Jami Milanovich of Wells & Associates, Inc. The Applicant presented a sample materials board during the December 5, 2013 hearing, as requested by the Commission during the setdown meeting.
11. The Office of Planning ("OP") filed a report recommending approval of the modification request on November 25, 2013. (Ex. 21.) At the hearing, OP reiterated that they "strongly support the project" and requested that the Applicant consider a "cool roof" and further articulate the western façade of the project.
12. The District Department of Transportation ("DDOT") submitted a report into the record on November 27, 2013 noting that the Applicant largely mitigated its concerns and setting forth other issues. (Ex. 23.) DDOT noted that it agreed in principle to allowing the curb cut access on Florida Avenue, among other items. DDOT stated that it was working with the Applicant to address its concerns and would continue to do so. DDOT appeared at the hearing on December 5, 2013 and reiterated the contents of its report.
13. At the conclusion of the hearing, the Commission requested that the Applicant file a post hearing submission containing information regarding the following: further information regarding the project's sustainability (specifically its LEED point generation), further details on and articulation of the project's western party wall façade, alteration of the project's roof structures to a darker color, further details regarding the project's interior courtyard, further details regarding the venting on the façade, further information regarding the design and operation of the community room, and further information regarding Applicant's Transportation Demand Management Plan. The Applicant submitted these materials to the Commission in its post-hearing submission dated January 6, 2014. (Ex. 34.)

³ At the time of the issuance of Z.C. Order No. 06-40 and 06-40A, the Property was located within the boundaries of ANC 5B. Since that time, the Property was relocated within the boundaries of ANC 5D.

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14. The proposed action of the Commission was referred to the National Capital Planning Commission (“NCPC”) as required by the District of Columbia Home Rule Act on December 6, 2013. (Ex. 32.) NCPC, by delegated action dated January 2, 2014, found that the proposed PUD would not adversely affect the federal establishment or other identified federal interests in the National Capital and would not be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.
15. On December 5, 2013, the Commission voted to take proposed action to approve the application.
16. On December 27, 2013, the Applicant submitted its list of final proffered public benefits of the PUD, and draft conditions, pursuant to 11 DCMR § 2403.16 - 2403.18. (Ex. 33.)
17. On January 27, 2014, the Commission voted to take final action to approve the application subject to the conditions enumerated in this Order. At that same time the Commission approved the Applicant’s request for a time extension of Z.C. Order 06-40B as modified by this Order. The Commission order granting that request is being issued simultaneously with this Order.

Description of Property and Surrounding Areas

18. The Property consists of approximately 38,452 square feet of land area and is currently vacant. The Property is located within the boundaries of ANC 5D (formerly ANC 5B) and abuts the boundaries of ANC 6C across Florida Avenue.
19. The Property is located in the Northeast quadrant of the District of Columbia between Morse Street, 4th Street, and Florida Avenue, N.E. in the southwest portion of the Florida Avenue Market. It is less than 350 yards from the entrance to the NoMA-Gallaudet University Metrorail station. It is in the Ivy City neighborhood, with Trinidad to the east and Eckington to the west. The burgeoning “NoMA” neighborhood is located to the south, across Florida Avenue, N.E.. The site is currently vacant. Previously, the site was occupied by the vacant and boarded-up Washington Beef warehouses, a vacated Bank of America branch and a small “Ironworks” welding shop, all of which were demolished by the Applicant.
20. The project is within the Florida Avenue Market, a warehouse district whose history has been to accommodate the city’s food wholesalers. The Market has evolved significantly over the years and had many names over such time. Most recently, the heart of the area has been relaunched as the Union Market by affiliates of Edens. In fact, the project marks an opportunity to capitalize upon the renovation and revitalization of the DC Farmers’ Market into Union Market. Today, the Market is a conglomeration of wholesalers and retailers of foodstuffs, dry goods, jewelry, tourist souvenir items, hair care products, and general merchandise. The Gallaudet University campus is north and east of the Market.

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Underlying and Previously Approved Zoning

21. The Property's underlying zoning is C-M-1 which permits "low bulk commercial and light manufacturing uses" with a maximum density of 3.0 floor area ratio ("FAR"), maximum height of 40 feet, a maximum of three stories, and no lot occupancy limit. New residential uses are not permitted in such underlying Zone District. (11 DCMR §§ 800.1, 800.4, 840.1, and 841.1.)
22. The entire Florida Avenue Market area is zoned C-M-1. Northwest of the Market, across New York Avenue, property from the railroad right of way north to Rhode Island Avenue and east to Brentwood Road is zoned in the M Zone District. Directly to the east of the Market, the Gallaudet campus and nearby residential properties are in the R-4 one District. South of the Market, properties south of Florida Avenue to H Street, from the railroad tracks on the west to about 3rd Street on the east, are zoned in a mixture of C-M-1, C-M-3, C-2-B, C-3-A, and C-3-B Zone Districts. From 3rd Street moving east, most properties are zoned in the R-4 and R-5 Zone Districts. The property at 501 New York Avenue, NE, was rezoned from the C-M-1 Zone District to the C-3-C Zone District by Z.C. Order No. 11-25.
23. The Applicant requests the modification of a PUD-related map amendment approval rezoning the Property to C-3-C. The C-3-C Zone District permits residential use in addition to retail uses. Pursuant to 11 DCMR § 2405.1, 2405.2, and 2405.6, the Applicant also requests application of the PUD standards for C-3-C which allow a maximum height of 130 feet, rather than the C-3-C matter-of-right maximum of 90 feet, and a maximum density of 8.0 FAR, rather than the C-3-C matter-of-right maximum density of 6.5 FAR, and flexibility from the loading requirements set forth at 11 DCMR § 2201.

Previously Approved Project

24. The previously proposed project was approved by the Commission in 2008 pursuant to Z.C. Order No. 06-40. The previously approved project included a retail/office/residential structure, named the "Gateway Market and Residences". The design of the building consisted of three distinct elements: a two-story retail market hall-inspired masonry base; a glass curtain wall office middle and a glass and metal panel residential and office tower above; and vertical embellishments at the corner of New York and Florida Avenues and at the ends of each residential wing. The project had a building area of 307,384 gross square feet, for an effective density of 7.7 FAR. The building included 134,237 square feet of residential use, 69,704 square feet of office use, 26,026 square feet of retail use, and 71,381 gross square feet for common, support, and circulation areas. The lot coverage was 93% and the maximum height of the building was 119'-4" (10 stories on the Florida Avenue side, stepping down to 40 feet and four stories on the Morse Street side).

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Modified Project Overview

25. The Applicant is requesting the modification of the approved PUD in order to create an exciting mixed-use retail and residential project that will provide a catalyst for future development of the 44-acre Florida Avenue Market area consistent with the goals of the Florida Avenue Market Study – Small Area Plan and the DC Comprehensive Plan. In total, approximately 170 to 216 residential units (containing approximately 153,310 square feet of residential space), with a significant affordable housing component, and approximately 27,410 square feet of retail, will be created as a result of the modified project. The total square footage of the project is approximately 189,036 square feet. The project will contain approximately 5.0 FAR and have a height of approximately 80 feet. (Ex. 2, 19, 24D, 29, and Applicant’s presentation at the December 5, 2013 hearing (“Applicant’s Presentation”).)
26. The modified PUD eliminates the office component, increases the residential use, proposes a redesign of the retail and below-grade space, and shifts the construction type from concrete to wood frame over a concrete podium in order to respond to current and shifting market fundamentals. The design is intended to present the structure as a cohesive whole, with a residential component rising above a retail platform engaging pedestrians on all street frontages. (Ex. 2, 19, 29, and Applicant’s Presentation.)
27. The proposed PUD modification utilizes and augments the previously approved amenities package as its base despite the reduction in the previously approved building square footage. Further, with the set-aside of 20% affordable units and the increase in size of the residential component of the project, the amount of affordable residential space will increase from 26,847 gross square feet to approximately 30,662 gross square feet. The project also will produce a greater amount of transportation benefits, as further described herein. (Ex. 2, 19, 24D, 29, and Applicant’s Presentation.)
28. The residential component is arranged with a U-shaped configuration with façades on all three street frontages. This arrangement provides an appropriate urban edge to the Project and allows the entrance to the Florida Avenue Market to be strongly enunciated, while providing the greatest number of units with spectacular views to the south and east. These facades surround an inviting, landscaped courtyard for the use of the residents. The three wings of the tower frame the outdoor courtyard over the retail space below. The residential component is comprised of five stories. Amenity space for the residential use is located on the second floor. The residential lobby is completely separated from the retail functions. (Ex. 2 and Applicant’s Presentation.)
29. The project’s retail component has been redesigned to provide a much more robust consumer street retail experience. The retail spaces are entered through the unique tenant storefronts that will ring the exterior of the building on the Florida Avenue, 4th Street, and Morse Street sides. The development team aimed to provide the maximum amount of street-life activating retail space on the ground floor of the Project. The building’s retail

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- base is primarily comprised of glass and metal, while underscoring the industrial/commercial feel of the Market. (Ex. 2, 19, 29, and Applicant's Presentation.)
30. The slope of 4th Street provides an opportunity for the anchor tenant to have significant 27 foot floor to ceiling heights. The retail located along 4th and Morse Streets is envisioned as an interactive zone that will be filled with smaller shops and restaurants, and include the energy created through sidewalk patios and seating. The ceiling clearance in such areas will be 16 feet. (Ex. 2, 19, 29, and Applicant's Presentation.)
 31. A 2,422 square foot community room will be provided on the first floor of the project. The primary user of the space, and the organization that will control and manage the space, will be ANC 5D (or the ANC within which the property sits in the event of a redistricting). The space will be primarily accessed from Morse Street, N.E. The community room will be finished and furnished by the Applicant. In addition, at the Applicant's cost, address information identifying the location of the community space will be placed on the exterior of the building at the request of the ANC, giving the ANC a permanent meeting place. (Ex. 34, 34F, 34G.)
 32. The residential courtyard provides the "extended outdoor living" concept that the development team proposes to introduce into the site. The proposed courtyard is envisioned as a series of open rooms designed for different aspects of outdoor living, with particular attention to the enjoyment of food, given the project's adjacency to Union Market. In addition to these specific issues, each space is also designed for maximum flexibility for varied programming and multiple uses throughout the year. (Ex. 2 and Applicant's Presentation.)
 33. The modified design of the building alludes to the industrial cast iron façades from the turn of the 19th century that can be found in mixed-use warehouse districts such as New York and Chicago. The Northeast Gateway of Washington contains many similar existing industrial warehouses of brick and steel; however, there is no presence of that architecture to create an identity for the entry point of the Florida Avenue Market area. Since this particular site is the visible entry to the Market from the Metro, the design team deemed it a highly desirable location for such an architectural expression. The revised design keeps the massing concept of a solid background with three separate forms – one for each street with frontage. (Ex. 19.)
 34. The Applicant incorporated the selected materials to strengthen the "loft-like" design motifs of the project. The white outer frame is a metal industrial frame made of piers, channels, metal panels, and with expansive glass similar to period cast iron buildings, while the solid frame behind is a dark brick façade with single punched windows similar to the warehouses found in the surrounding area. In addition to drawing heavily from brick and steel, the Project utilizes a large degree of glass to accentuate the warehouse feel. The light metals and dark brick contrast creates a sense of visual interest and depth that accentuates the different characteristics of each type of materials. (Ex. 19.)

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35. Parking for approximately 215 cars is provided on two underground levels, with approximately 108 spaces reserved for residential use and the remainder reserved for retail use. The modification increased the 188 parking spaces approved under the Order. Parking on site is accessed from Florida Avenue, as far removed from the intersection with Fourth Street as practicable. Multiple retailers who have expressed interest in the retail space have indicated their requirement that the Florida Avenue frontage be utilized for the curb cut so that customers can more easily find their business. In addition, since the site has a significant slope, such entrance takes advantage of a lower topographical point and greatly reduces the amount of ramping necessary while improving efficiency and functionality. (Ex. 2, 19, 29, and Applicant's Presentation.)
36. The loading dock is located off Morse Street, at the first floor level, so truck maneuvering will not adversely impact Florida Avenue or Fourth Street. Space for trucks, delivery vans, and loading docks are provided similar to that provided in the project by the Order. This location was chosen due to its greater relative safety profile and as the result of its location away from the heaviest anticipated degree of pedestrian activity on Florida Avenue, N.E. and away from the Project's ingress/egress point for passenger vehicles. (Ex. 2.)
37. The Transportation Impact Study, included in Tab C of the Applicant's November 15, 2013 Prehearing Statement, concluded that the proposed project would have only a marginal impact on traffic operations. It also confirms that the modified project's access plan, with its primary use of Florida Avenue, N.E., for passenger vehicles, and Morse Street for loading, will be suitable. The Study made suggestions for minor public space and traffic pattern modifications to mitigate traffic impacts in the area. The number of proposed curb cuts would be reduced from seven to two at the Property. (Ex. 19C.)
38. The Applicant will design the project to achieve 40 LEED (Leadership in Energy and Environmental Design) points for New Construction v 2.2 Project Checklist. (Ex. 34A.) Such point total is significantly higher than the 20 LEED points previously approved under the Order. Such 40 point total is the same as the number of points required to achieve a LEED certified project; however, LEED certification is at Applicant's discretion. Further, the project incorporates a "cool roof" (i.e., a white roof), at the request of OP. (Ex. 33, 34.)
39. The Commission finds that the project's energy and environmental design features are superior to what would be provided in a matter-of-right development at the PUD Site.

Development Incentives and Flexibility

40. Z.C. Order No. 06-40 allowed a combined loading area for the retail and residential uses, rather than separate, compliant loading facilities for each use. In addition, the Order allowed the Applicant to provide two less 30-foot loading berths and three fewer 20-foot

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loading spaces than what would have been required for the proposed uses. Thus condition number 2 of Z.C. Order No. 06-40 required one 30-foot loading berth, one 55-foot loading berth, and one 20-foot delivery vehicle space. The Applicant proposes to provide one 30-foot loading berth and one 55-foot loading berth as part of this modified PUD.

41. In addition, the Applicant now seeks zoning flexibility from 11 DCMR § 411.3 to allow the construction of two roof structures where one connected roof structure would be required.

Public Benefits and Project Amenities

42. In addition to the sustainability features discussed in Paragraph 38 above, the following benefits and amenities will be created as a result of the PUD project:
 - (a) *Affordable Housing (§ 2403.9(f))* – The Applicant will set aside 20% (approximately 30,662 gross square feet) of the residential units as affordable housing in perpetuity. These units will be made affordable to households earning no more than 80% of the Area Median Income for the Washington, DC Metropolitan Statistical Area (adjusted for household size). Such amount of affordable housing exceeds the amount of affordable residential space that would be required under Inclusionary Zoning. The affordable units will be equitably dispersed among the market-rate units in the project on all floor of the project, and will be of a size and type comparable to the market-rate units. The Commission finds that the provision of affordable housing is a valuable community benefit of the PUD that should be recognized;
 - (b) *ANC Office, Community Meeting Facilities, MPD Work Station (§ 2403.9(i))* – The Applicant will provide a community meeting room and related amenities, an ANC office for ANC 5D, and a Metropolitan Police Department work station comprising a total of approximately 2,422 square feet of gross floor area (100 seat capacity), and the furnishings for such uses. This space will be provided to the community without charge for the life of the project. The Applicant will coordinate with ANC 5D on the final design of the community room. The ANC office will be assigned to ANC 5D, or any successor ANC which may be designated to represent the PUD Site by redistricting legislation enacted by the Council of the District of Columbia and signed by the Mayor. If the Metropolitan Police chooses not to use the work station, the Applicant may use the space for building security purposes;
 - (c) *Urban design, architecture and landscaping (§ 2403.9(a))* - The project exhibits the characteristics of exemplary urban design, architecture, and landscaping. The project provides a superior urban design response that fully responds to the site

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location and topography, efficiently integrating a variety of uses of direct interest to the community. The design creates a sense of scale and visual interest, incorporating elements from the Market's industrial past, while tying it to an exciting and reenergized future. The building as a whole employs traditional, time-tested materials in new and modern ways in a design that is aesthetically enduring and which adds to the fine urban texture of the District. The design is also fully responsive to the environment of the Florida Avenue Market, providing a defining urban edge to both Florida Avenue and Fourth Street to help define the primary Market entrance. The project will also improve the public space surrounding the Property as it upgrades the streetscapes, both the hardscaping and landscaping, adjacent to the Property as shown on the plans submitted into the record, in coordination with DDOT;

- (d) *Benches in public space (§ 2403.9(i))* – The Applicant will provide two to four benches in public space adjacent to the project, subject to the public space permitting process. The final number and location of such improvements in public space shall be implemented in coordination with DDOT;
- (e) *Site planning, and efficient and economical land utilization (§ 2403.9(b))* - The project reflects creative design and engineering, and careful use of height and density, to accommodate residential and retail uses on a relatively small plot of land with significant grade changes. Overcoming the challenges of a difficult slope, the Applicant's development team succeeded in providing both underground parking as well as retail space that will be experienced as one continuous platform to pedestrians. Further, the design leverages the slope of the site to allow for the ground floor retail facing Florida Avenue to achieve a dramatic ceiling height of 27 feet. The Applicant team was also able to design pedestrian and vehicular entrances that keep residential and commercial traffic safely separate from each other. Specifically, the project's loading will be located on Morse Street, the street with the lowest amount of vehicular and pedestrian traffic, and the Applicant will implement the Loading Management Plan described as on Page 18 of Exhibit 19C of the record along with requiring residential and retail tenants to schedule loading activities with the loading coordinator and including loading requirements and obligations as exhibits or rules incorporated into retail and residential leases. Perhaps most importantly, the project will introduce a significant amount of community-anchoring retail space to an area that is currently underserved;
- (f) *Effective and safe vehicular and pedestrian access, transportation management measures, connections to public transit service, and other measures to mitigate adverse traffic impacts (§ 2403.9(c))* – The Applicant shall implement measures to promote the use of public transit and bicycle transportation, and discourage the use of motor vehicles, as set forth in the Applicant's Transportation Demand

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Management Plan described on Page 19 of Exhibit 19C of the record (the Applicant's Transportation Impact Study) and the supplemental and additional elements described by Applicant in Exhibit 32. In addition, the Applicant will introduce traffic infrastructure upgrades adjacent to the Property described in the Applicant's Transportation Demand Management Plan;

- (g) *Bike racks (§ 2403.9(i))* – The Applicant will provide bike racks in public space adjacent to the project for at least 16 short-term bicycle parking spaces, subject to the public space permitting process. The final number and location of such improvements in public space shall be implemented in coordination with DDOT;
 - (h) *Car-sharing service space (§ 2403.9(i))* – The Applicant shall reserve at least one parking space for a car-sharing service in the underground parking garage. If the reserved space is not desired by any car-sharing service, then it shall revert to the Applicant's general use;
 - (i) *Infrastructure for car charging stations (§ 2403.9(i))* – The Applicant shall provide the electrical wiring and disconnects to allow for the subsequent outfitting, at the request of retail tenants or as market demand otherwise dictates, of two parking spaces with 208/240-volt electric car charging stations in the parking garage accessible to residents and visitors;
 - (j) *First-Source Employment Agreement (§ 2403.9(e))* – The Applicant entered into a First-Source Employment Agreement with the Department of Employment Services (“DOES”) on May 29, 2008 to achieve the goal of utilizing District of Columbia residents for at least 51% of the new jobs created by the PUD project. (Ex. 55 in the record for Z.C. Case No. 06-40.); and
 - (k) *CBE Contracting Commitment (§ 2403.9(e))* – As approved under the Order, the Applicant entered into a Certified Business Enterprise (“CBE”) Agreement with the D.C. Department of Small and Local Business Development (“DSLBD”) dated September 9, 2004 in order to achieve the goal of 35% participation by D.C.-certified local, small, and disadvantaged businesses in the project development and construction contracts. (Ex. 17 in the record for Z.C. Case No. 06-40.)
43. The Commission finds that the Applicant's public benefits and project amenities provide value to the District and the community surrounding the Property and are sufficient to justify the relief requested.

Compliance with the Comprehensive Plan

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44. The Commission finds that the proposed modification to the approved PUD is not inconsistent with the Comprehensive Plan (10 DCMR) and promotes the policies of its Land Use, Transportation, Housing, and Urban Design Citywide Elements and its Upper Northeast Area Element.
45. The project as modified carries out Land Use Element policies that designate the area around the New York Avenue-Florida Avenue-Gallaudet University Metrorail station for future growth and encourage infill development and development near Metrorail stations. The PUD and map amendment as modified bring growth and revitalization to a long-vacant and underutilized industrial site.
46. The modified project carries out Transportation Element policies that promote transit-oriented development and urban design improvements to major thoroughfares such as Florida Avenue. The modified PUD brings new housing and retail uses within walking distance of the Metrorail station and, through its Transportation Management Plan, provides effective incentives to discourage motor vehicle use.
47. The modified project carries out Housing Element policies that encourage expansion of the city's supply of high-quality market-rate and affordable housing. The modified PUD brings 170 to 216 new residential units to an underserved neighborhood, with a 20% of the total, or approximately 30,662 gross square feet, set aside as affordable units in perpetuity.
48. The modified project carries out Urban Design Element policies that call for enhancing the aesthetic appeal and visual character of areas around major thoroughfares. The PUD significantly improves the appearance of a once-blighted site bordering Florida Avenue.
49. The project carries out Upper Northeast Area Element policies stating that the Capital City Market area should be a regional destination that could include housing and retail uses.

Government Reports

50. OP noted in its November 25, 2013 report ("OP Report") that it recommended approval of the proposed modification. OP noted that the modification to the project "conforms to the Comprehensive Plan's objectives for the area and to the Generalized Land Use and Policy Maps, and would contribute to the redevelopment of the Florida Avenue Market area." The OP Report noted that there "have also been extensive discussions and meetings with the community and OP, which have led to improvements in the proposal since its original submission, including the incorporation of façade elements alluding to an "industrial warehouse" character. OP noted that it desired greater articulation along the western wall of the project. The OP Report noted that "[g]enerally, the Comprehensive Plan provisions applicable in the earlier approval for this site also apply to this proposal. The proposal would particularly further the following Guiding Principles

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of the Comprehensive Plan.” The OP Report also stated that “The development proposal would particularly further the Land Use, Housing, Economic Development, Transportation, Historic Preservation, and Urban Design Citywide Elements, as well as the Upper Northeast Area Elements and policies.” Further, OP noted that the “Project is in accordance with the Small Area Plan, adopted by Council on October 6, 2009.” The OP Report stated that the project is in compliance with Chapter 24 of the Zoning Regulations. (Ex. 21.) At the December 5, 2013 Commission hearing, OP voiced “strong support” for the modification to the Project.

51. DDOT submitted a report into the record on November 27, 2013 noting that the Applicant is largely mitigating its concerns and setting forth other issues. (Ex. 23.) DDOT noted that it agreed in principle to allowing the curb cut access on Florida Avenue, among other items. DDOT stated that it is working with the Applicant to address its concerns. DDOT appeared at the hearing on December 5, 2013 and reiterated the contents of its report.
52. DDOT submitted a supplemental report into the record on January 13, 2014. (Ex. 36.) The report stated that DDOT had reviewed the Applicant’s proposed traffic demand management measures (“TDM”), and that with one exception, DDOT agreed with all of the proposed TDM measures. The one exception was the Applicant’s proposal to provide \$40 to each new resident at the time of initial sale or lease for a period of three years for use towards membership in a carshare or bikeshare program. DDOT stated that it believed the subsidy was insufficient, and that the amount should be raised to \$75. DDOT’s report also clarified DDOT’s position with respect to the Applicant’s expected responsibilities for upgrading the intersection of 4th and Morse Streets, N.E.
53. The Commission finds that the Applicant’s proposed TDM measures are adequate to mitigate any potential adverse effects on the surrounding area from the development that relate to traffic, and that these measures have been incorporated into the conditions of this Order. With respect to DDOT’s comment regarding the carshare or bikeshare subsidy, the Commission does not believe it is necessary to increase the subsidy amount in order to sufficiently mitigate any potential adverse effect on the surrounding area from the development.

Advisory Neighborhood Commission Reports

54. ANC 5D submitted a letter in support of the requested modification to the project noting that, “On November 12, 2013, at the duly-noticed, regularly scheduled monthly meeting of Advisory Neighborhood Commission 5D, with a quorum of 6 commissioners and the public present”, ANC 5D voted “unanimously to support this application.” (Ex. 25.) At the hearing, the Commission noted that the ANC letter had been received and would be given great weight.

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55. ANC 6C submitted a letter in support of the requested modification to the project noting that, “On November 13, 2013, at the duly-noticed, regularly scheduled monthly meeting of ANC 6C, with a quorum of 6 out of 6 commissioners and the public present”, ANC 6C voted “unanimously to support this application” with conditions. The conditions included exterior bike racks, public benches, and additional efforts to provide safer and cleaner sidewalks and public spaces. (Ex. 20.) At the hearing, the Commission noted that the ANC letter had been received and would be given great weight.

Parties in Support or Opposition

56. No other parties appeared at the hearing to support or oppose the Project.

Persons in Support or Opposition

57. The Trinidad Neighborhood Association submitted a letter in support dated October 1, 2013 noting that it supports the application for a modification of the Order. The letter noted that the Applicant presented the project to the Trinidad Neighborhood Association at its June 2013 meeting and the project was well received by residents. (Ex. 8 in the record for Z.C. Case No. 06-40B and Ex. 18.)
58. Two Rivers Public Charter School, located directly across Florida Avenue from the Property, submitted a letter in support dated December 3, 2013 noting that it supports the application for a modification of the Order. (Ex. 26.)

CONCLUSIONS OF LAW

1. Pursuant to Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, welfare, and convenience.” (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider these applications as a consolidated PUD. The Commission may impose development guidelines, conditions, and standards that may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, loading, yards, or courts.
3. The Property still meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
4. The PUD, as approved by the Commission, still complies with the applicable height, bulk, and density standards of the Zoning Regulations and will not cause a significant

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- adverse effect on any nearby properties. The residential and retail uses for this modified project are appropriate for the Property. The impact of the modified project on the surrounding area is acceptable given the quality of the public benefits of the project, and the modification application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
5. The Applicant's request for flexibility from the Zoning Regulations, as modified, is consistent with the Comprehensive Plan. Moreover, the modified project's public benefits and amenities strike a reasonable balance with the requested development flexibility.
 6. Approval of the modification to this PUD and related map amendment is appropriate because the proposed development is consistent with the present and future character of the area, and is not inconsistent with the Comprehensive Plan. In addition, the modified project will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.
 7. The PUD-related rezoning of the PUD Site to C-3-C is still consistent with the purposes and objectives of zoning as set forth in the Zoning Act of 1938, approved June 20, 1938.
 8. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to the recommendations of OP in all zoning cases. The Commission carefully considered the OP report and found OP's reasoning persuasive in recommending approval of the modification application.
 9. 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. The Commission carefully considered the ANC 5D position supporting approval of the modification application and concurred in its recommendation of approval. The Commission also gave careful consideration to the ANC 6C position supporting approval of the modified project concept with recommendations for project improvements. The Commission concluded that the Applicant satisfactorily addressed the ANC 6C recommendations.
 10. The Commission provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to the ANC, OP, and to owners of property within 200 feet of the site in accordance with the Zoning Regulations and applicable case law.
 11. Based upon the record before the Commission, having given great weight to the views of the ANC and having considered the reports and testimony of OP and DDOT provided in this case, the Commission concludes that the Applicant has met the burden of satisfying

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the applicable standards under Chapter 24. The Commission finds that the Project as modified fully satisfies the goals and objectives of the PUD Regulations of Chapter 24 to encourage the development of well-planned developments which will offer a project with more attractive and efficient overall planning and design, not achievable under matter-of-right development. The Commission finds that the Property is subject to exceptional conditions as outlined in the Applicant's application. The Commission agrees that the Applicant faces practical difficulties satisfying the strict application of the Zoning Regulations with regard to the loading requirements of § 2201.1 and the roof structure requirements of § 411.3. The Commission agrees with the Applicant's written statements and testimony at the public hearing that it would be unnecessarily burdensome for the Applicant to satisfy these requirements.

12. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for a modification to the approval of a consolidated review of a Planned Unit Development and a related Zoning Map amendment from C-M-1 to C-3-C for the Property.

The following conditions replace conditions 1 through 6 and 8 through 11 of Z.C. Order No. 06-40:

1. The PUD shall be developed in accordance with the plans prepared by SK&I Architects, Bohler Engineering, and Landscape Architecture Bureau, dated April 12, 2013, in the record as Exhibit 2A, as modified by the plans dated November 14, 2013, in the record as Exhibits 19A and 24D and the plans dated January 6, 2014, in the record as Exhibit 32, and as modified by the guidelines, conditions, and standards herein (collectively, the "Plans").
2. The PUD shall be a mixed-use residential and retail project, containing approximately 189,036 square feet of gross floor area and including approximately 170-216 residential units. Approximately 27,410 square feet of gross floor area, located on the ground and first floors, shall be devoted to retail and approximately 153,310 square feet of gross floor area, located on the second through sixth floors, inclusive, shall be devoted to residential use. The maximum density of the project shall be 5.0 FAR.
3. The maximum height of the building shall be approximately 80 feet as shown on the Plans.

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4. The project shall include approximately 215 vehicle parking spaces in the below-grade parking garage. The project shall provide one 30-foot loading berth and one 55-foot loading berth, as shown on the Plans.
5. Prior to the issuance of a certificate of occupancy for the residential component of the project, the Applicant shall demonstrate that it has set aside 20% (approximately 30,662 gross square feet) of the residential units as affordable housing in perpetuity. The affordable units shall be equitably dispersed among the market-rate units in the project on all floors of the project, and shall be of a size and type comparable to the market-rate units.
6. The affordable housing units shall be available to households with an annual income of no more than 80% of the Area Median Income for the Washington, DC Metropolitan Statistical Area (adjusted for household size).
8. Prior to the issuance of a certificate of occupancy for the residential component of the project, the Applicant shall provide evidence that the building has been designed to achieve the equivalent of 40 LEED points. However, the Applicant shall not be required to obtain LEED Certified or any other certification level from the United States Green Building Council. In addition, the project will provide a “cool roof” as requested by the Office of Planning.
9. Prior to the issuance of a certificate of occupancy for the residential component of the project, the Applicant shall provide, at no cost and for the life of the project, a community meeting room and related amenities, an ANC office, and a Metropolitan Police Department work station comprising a total of approximately 2,422 square feet of gross floor area (100 seat capacity), and the furnishings for such uses, as shown on the Plans and in accordance with Exhibit 32 of the record. If the Metropolitan Police Department chooses not to use the work station, the Applicant may use the space for building security purposes.
10. The ANC office shall be assigned to ANC 5D, or any successor ANC which may be designated to represent the Property by redistricting legislation enacted by the Council of the District of Columbia and signed by the Mayor.
11. The Applicant shall implement measures to promote the use of public transit and bicycle transportation and discourage the use of motor vehicles by:
 - (a) Providing garage parking for approximately 72 bicycle spaces;
 - (b) Providing a \$40 subsidy for a car sharing program or bike share program upon move-in for each new resident for the first three years after the issuance of the Certificate of Occupancy for the building’s residential use;

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- (c) Providing complementary SmarTrip cards with a Metro fare value of \$20 per person to the initial residential occupants upon move-in;
- (d) Providing links to CommuterConnections.com and goDCgo.com websites on the property management and developer websites;
- (e) Designating a Property Transportation Coordinator;
- (f) Developing an employer outreach program to encourage the use of non-auto means of transportation by employees of the project's retail tenants and providing information about non-auto transportation options via welcome packets;
- (g) Reserving at least one parking space for a car-sharing service in the underground parking garage. If the reserved space is not desired by any car-sharing service, then it shall revert to the Applicant's general use;
- (h) Providing an electronic message screen displaying real-time transportation information in the building's lobby; and
- (i) Providing the electrical wiring and disconnects to allow for the subsequent outfitting, at the request of retail tenants or as market demand otherwise dictates, of two parking spaces with 208/240-volt electric car charging stations in the parking garage accessible to residents and visitors.

Condition 7 of Z.C. Order No. 06-40 is deleted.

Condition 14 of Z.C. Order No. 06-40 is revised to read as follows:

14. The Applicant shall have flexibility with the design of the PUD in the following areas:
- (a) To vary the location and design of all interior components, including but not limited to partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration or appearance of the building;
 - (b) To make minor refinements to the floor-to-floor heights, so long as the maximum height and total number of stories as shown on the Plans do not change;
 - (c) To vary the final selection of the exterior materials within the color ranges and material types as proposed, without a reduction in quality, based on availability at the time of construction;

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- (d) To make minor refinements to exterior materials, details, and dimensions, including belt courses, sills, bases, cornices, railings, and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit or any other applicable approvals; and
- (e) To make refinements to the garage configuration, including layout, location, and design of parking spaces and/or other elements, so long as the total number of vehicle and bicycle parking spaces provided complies with the PUD approval.

In addition to such flexibility and the flexibility noted in the Plans, Applicant shall have the following flexibility to revise the design of the project:

- (i) To revise the design of the public space surrounding the Property and the exterior design of the project to the extent necessary to obtain approvals from District agencies and/or service to the Property from utilities;
- (ii) To vary the final streetscape design and materials subject to review and approval by the appropriate District permitting authorities;
- (iii) To vary the number of residential units between 170 to 216 residential units;
- (iv) To vary the number, size, location, and design features of retail entrances, including the size, location, and design of windows, doors, awnings, canopies, and similar features, to accommodate the needs of specific retail tenants and storefront design and market requirements; and
- (v) To vary the number, size, location, and other features of proposed building signage, provided that such signage is otherwise permitted under the applicable provisions of the Building Code.

Conditions 12, 13, 15, 16, and 18 of Z.C. Order No. 06-40 remain as originally approved.

The following conditions are added:

- 19. Prior to issuance of a certificate of occupancy for the residential component of the project, unless other timing results from the public space permitting process, and subject to approval by DDOT, the PUD shall provide public space improvements along the street frontages of the building, which shall include the following:
 - (a) The public space streetscape adjacent to the Property shall be improved in accordance with Exhibit 19A, Pages C-3.0 and L-1.01 through L-1.03 and Exhibit 28, Pages 42 through 44. The final streetscape design in public space shall be implemented in coordination with DDOT;
 - (b) The Applicant shall make the following traffic network improvements:

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- (i) A stop bar on Morse Street for eastbound traffic;
- (ii) A new stop sign for eastbound traffic located adjacent to the stop bar and two feet behind the curb; and
- (iii) A no parking sign placed such that no on street parallel parking is permitted within 25 feet of the stop bar or 40 feet from the edge of 4th Street (whichever is greater).

The final design of any such improvements in public space shall be subject to final approval from DDOT and the Applicant shall have flexibility to modify such improvements in response to DDOT direction as well as modify the corresponding elements in private space to align with the final design of streetscape improvements in public space;

- (c) The Applicant shall provide benches in public space adjacent to the project for the life of the Project. The final number and location of improvements in public space shall be implemented in coordination with DDOT; and
 - (d) The Applicant will provide bike racks in public space adjacent to the project for at least 16 short-term bicycle parking spaces. The final number and location of improvements in public space shall be implemented in coordination with DDOT.
20. The project shall provide loading consistent with the Plans, provided that the Applicant shall have flexibility to modify such plans in response to continued coordination efforts with DDOT. The Applicant shall implement the Loading Management Plan described as on Page 18 of Exhibit 19C of the record (the Applicant's Transportation Impact Study) and the supplemental and additional elements described by Applicant in Exhibit 32 for the life of the Project. Such additional elements are as follows:
- (a) Requiring residential and retail tenants to schedule loading activities with the loading coordinator; and
 - (b) Including loading requirements and obligations as exhibits or rules incorporated into retail and residential leases.

For this reason stated above, the Commission concludes that the Applicant has met its burden, and it is hereby **ORDERED** that the applications be **GRANTED**.

On December 5, 2013, upon the motion of Chairman Hood, as seconded by Commissioner Miller, the Zoning Commission **APPROVED** the application at the conclusion of its public hearing 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).

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On January 27, 2014, upon the motion of Commissioner Turnbull, as seconded by Chairman Hood, the Zoning Commission **APPROVED** the application at its public meeting by a vote of 5-0-0 (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Corrected Order became final and effective upon its publication in the *D.C. Register* March 14, 2014.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING
Z.C. Case No. 11-03F
(Wharf District Master Developer, LLC –
Second-Stage PUD & Modification to 1st-Stage PUD @ Square 473, Lot 889)
December 23, 2015**

THIS CASE IS OF INTEREST TO ANC 6D

On December 23, 2015, the Office of Zoning received an application from Wharf District Master Developer, LLC (the “Applicant”) for approval of a second-stage planned unit development (“PUD”) and modification to the first-stage PUD for the above-referenced property.

The property that is the subject of this application consists of Lot 889 in Square 473 in southwest Washington, D.C. (Ward 6), on property along the Washington Channel at Maine Avenue, S.W. The property is zoned, for the purposes of this project, W1 through a previously-approved PUD-related map amendment.

Due to concerns raised by USACE regarding the approved first-stage PUD plan to use Pier 4 for residential purposes, the Applicant has revised its plans for the Pier and now proposes to renovate and expand the existing pier structure, including renovation of the existing head house, primarily for use by Entertainment Cruises. The Applicant proposes to consolidated all entertainment cruise docking, boarding, staging/waiting areas, support functions, and sales and administrative office space into a single new facility on Pier 4. The Applicant proposes to renovate the interior of the existing head house and make improvements to the pier entry gates. The head house will be used for passenger ticketing and locker room for Entertainment Cruises employees.

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. 15-31

**(777 17th Street, LLC – Consolidated PUD & Related Map Amendment @ Square
4507, Lots 936, 941, and 942)**

December 21, 2015

THIS CASE IS OF INTEREST TO ANC 5D and 6A

On December 17, 2015, the Office of Zoning received an application from 777 17th Street, 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 Lots 936, 941, and 942 I Square 4507 in northeast Washington, D.C. (Ward 4), on property at the intersection of 17th Street, N.E., H Street, N.E., and Benning Road, N.E. The property is currently zoned C-2-A. The Applicant is proposing a PUD-related map amendment to rezone the property, for the purposes of this project, to the C-2-B Zone District.

The property is currently unimproved and the Applicant proposes to construct a mixed-use building with approximately 14,342 square feet of ground-floor retail uses and 180 residential units on nine floors above. The project will have an approximate density of 6.0 floor area ratio (“FAR”) and a maximum height of 90 feet.

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. 15-33

**(Insight E Street, LLC – Consolidated PUD and Related Map Amendment @ Square 1043)
December 23, 2015**

THIS CASE IS OF INTEREST TO ANC 6B

On December 22, 2015, the Office of Zoning received an application Insight E Street, 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 Lots 128,156, 157, 818 and 819 in Square 1043 in southeast Washington, D.C. (Ward 6), on property located in the 1300 block of E Street, S.E. The property fronts on, and is bounded by, E Street, S.E. to the north, a public alley to the west, a public alley to the south, and residential property and a public alley to the east. The property is currently zoned C-M-1. The Applicant is proposing a PUD-related map amendment to rezone the property, for the purposes of this project, to the R-5-B Zone District.

The Applicant proposes to construct a four story, multi-family residential building with approximately 153 units. The maximum height of the building will be 45 feet, 3 inches to the highest point of the roof and 50 feet, 3 inches to the top of the parapet. The project will also include a habitable penthouse, which has a height of 13 feet to the top of the screen wall, while the elevator override within the penthouse rises to a maximum height of 15 feet. The project will also include 90 parking spaces.

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. 15-34
(Sherman Avenue, LLC – Consolidated PUD @ Square 2873)
December 23, 2015**

THIS CASE IS OF INTEREST TO ANC 1B

On December 22, 2015, the Office of Zoning received an application Sherman Avenue, LLC (the “Applicant”) for approval of a consolidated planned unit development (“PUD”) for the above-referenced property.

The property that is the subject of this application consists of Lot 1102 in Square 2873 in northwest Washington, D.C. (Ward 1), on property located at 965 Florida Avenue, N.W. The property is zoned CR.

The Applicant proposes to construct a 10-story, mixed-use building with a grocery store on the ground and mezzanine levels and approximately 428 apartment units on levels 2-10. The maximum height will be 110 feet; a proposed density of 7.42 floor area ratio (“FAR”); and lot occupancy of 76% at the second level of the building, which is the lowest residential level. The project will also include approximately 343 off-site parking spaces.

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

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