

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council passes Resolution 21-519, Fair Shot Minimum Wage Emergency Declaration Resolution of 2016
- Board of Elections schedules a public hearing to review initiative measure on the Fair Minimum Wage Act of 2017
- Board of Ethics and Government Accountability publishes Advisory Opinion 1009-010 on the Hatch Act and Ethics laws, in Connection with “Statehood-Related Activities”
- Department of Health establishes initial licensing and renewal fees for manufacturers, distributors, importers, and vendors of medical devices in the District of Columbia
- Department of Human Services announces funding availability for the Transportation and Hotline Program
- Office of the Secretary revises regulations for the Office of Notary Commissions and Authentications to reflect the office’s current operations
- Office of the State Superintendent of Education updates criteria and procedures for issuing credentials for teachers and administrators

DISTRICT OF COLUMBIA REGISTER

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

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CONTENTS

ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA

D.C. ACTS

A21-416 Modifications to Contract No. CW22089 Approval and Payment Authorization Emergency Act of 2016 [B21-746] 008999 - 009000

A21-417 Change Orders to Contract No. DCAM-12-M-1031H-FM Approval and Payment Authorization Emergency Act of 2016 [B21-756]..... 009001 - 009002

A21-418 Modifications to Contract No. DCRL-2016-R-0004 Approval and Payment Authorization Emergency Act of 2016 [B21-757]..... 009003 - 009004

A21-419 Supporting Normalcy and Empowering Children in Foster Care Congressional Review Emergency Amendment Act of 2016 [B21-760]..... 009005 - 009007

A21-420 Metropolitan Police Department Officer Retention and Recruitment Incentives Congressional Review Emergency Amendment Act of 2016 [B21-761]..... 009008 - 009009

A21-421 Contract No. CFOPD-11-C-040 Extension Approval and Payment Authorization Emergency Act of 2016 [B21-762] 009010 - 009011

A21-422 Modifications to Human Care Agreement No. RM-15-HCA-SATS-003-GHI-BY4-CPS Approval and Payment Authorization Emergency Act of 2016 [B21-770] 009012 - 009013

A21-423 Contract No. CW40550 Approval and Payment Authorization Emergency Act of 2016 [B21-771] 009014 - 009015

A21-424 Modifications to Contract No. CW18948 Approval and Payment Authorization Emergency Act of 2016 [B21-772] 009016 - 009017

A21-425 Modifications to Human Care Agreement No. DCRL-2013-H-0039A Approval and Payment Authorization Clarification Emergency Act of 2016 [B21-773]..... 009018 - 009019

A21-426 Contract Nos. DCHT-2015-C-0003, DCHT-2016-C-0003, and DCHT-2016-C-0008 Modification Approval and Payment Authorization Emergency Act of 2016 [B21-776] 009020 - 009021

A21-427 Medical Marijuana Cultivation Center Relocation Emergency Amendment Act of 2016 [B21-782]..... 009022 - 009023

ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA CONT'D

RESOLUTIONS

Res 21-417 Board of Zoning Adjustment Anita Butani D’Souza
Confirmation Resolution of 2016009024

Res 21-445 Historic Preservation Review Board Brian D. Crane
Confirmation Resolution of 2016009025

Res 21-446 Chief Technology Officer Archana Vemulapalli
Confirmation Resolution of 2016009026

Res 21-468 Public Employee Relations Board Barbara Somson
Confirmation Resolution of 2016009027

Res 21-469 Public Employee Relations Board Douglas A. Warshof
Confirmation Resolution of 2016009028

Res 21-496 Local Rent Supplement Program Contract No.
2014-LRSP-07A Approval Resolution of 2016..... 009029 - 009030

Res 21-497 Board of Library Trustees Gregory McCarthy Confirmation
Resolution of 2016.....009031

Res 21-498 Board of Library Trustees Cleve Mesidor Confirmation
Resolution of 2016.....009032

Res 21-499 Public Charter School Board Saba Bireda Confirmation
Resolution of 2016.....009033

Res 21-502 Portner Flats Mortgage Revenue Bond Financing
Approval Resolution of 2016..... 009034 - 009035

Res 21-519 Fair Shot Minimum Wage Emergency Declaration
Resolution of 2016..... 009036 - 009037

BILLS INTRODUCED AND PROPOSED RESOLUTIONS

Notice of Intent to Act on New Legislation -
Bills B21-793, B21-804, B21-813 and Proposed Resolutions
PR21-822, PR21-823, PR21-836, PR21-839 and PR21-840..... 009038 - 009039

COUNCIL HEARINGS

Notice of Public Oversight Roundtable -
District of Columbia's Community Services Block Grant Program009040

ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA CONT'D

COUNCIL HEARINGS CONT'D

Notice of Public Oversight Roundtable/Public Hearing -

The DC Circulator (Revised and Abbreviated)	009041 - 009042
B21-785 DC Circulator High-Tech Upgrade Feasibility Study Act of 2016 (Public Hearing) (Revised and Abbreviated)	009041 - 009042

Notice of Public Roundtable -

Proposed Contract CA21-443 between DC Public Schools and DC Central Kitchen and Proposed Contract CA21-446 between DC Public Schools and SodexoMagic, LLC	009043
---	--------

OTHER COUNCIL ACTIONS

Contract Approval Resolutions -

PR 21-836 Proposed contract with DC Central Kitchen Approval Resolution of 2016 to approve CA 21-443, proposed contract with DC Central Kitchen	009044
PR 21-840 Proposed contract with SodexoMagic, LLC Approval Resolution of 2016 to approve CA 21-446, proposed contract with SodexoMagic, LLC	009045

Notice of Intent to Consider Legislation (Abbreviated) -

PR 21-839 Advisory Referendum on the State of New Columbia Admission Act Resolution of 2016	009046
--	--------

Notice of Reprogramming Requests -

21-202 Request to reprogram \$1,721,517 of Fiscal Year 2016 local funds budget authority within the Department of Health (DOH)	009047 - 009051
21-203 Request to reprogram \$44,399 of Pay-As-You-Go (Paygo) Capital Funds budget authority and allotment from the Department of General Services (DGS) to the Local funds budget of DGS	009047 - 009051
21-204 Request to reprogram \$78,489 of Pay-As-You-Go (Paygo) Capital Funds budget authority and allotment from the Department of General Services (DGS) to the Local funds budget of DGS	009047 - 009051
21-205 Request to reprogram \$3,000,000 of Capital funds budget authority and allotment from the Office of the Secretary (OS) to the Department of General Services (DGS)	009047 - 009051

ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA CONT'D

OTHER COUNCIL ACTIONS CONT'D

Notice of Reprogramming Requests - cont'd

21-206	Request to reprogram \$1,500,000 of Capital funds budget authority and allotment within the Department of General Services (DGS)	009047 - 009051
21-207	Request to reprogram \$3,132,135 of Fiscal Year 2016 Special Purpose Revenue funds budget authority within the Department of Issuance, Securities, and Banking (DISB)	009047 - 009051
21-208	Request to reprogram \$1,000,000 of Fiscal Year 2016 Local funds budget authority from the Department of Motor Vehicles (DMV) to the Pay-As-You-Go (Paygo)	009047 - 009051
21-209	Request to reprogram \$2,366,560 of Fiscal Year 2016 Local funds budget authority within the Fire and Emergency Medical Services Department (FEMS)	009047 - 009051
21-210	Request to reprogram \$2,500,000 of Fiscal Year 2016 Local funds budget authority within the Department of General Services (DGS)	009047 - 009051
21-211	Request to reprogram \$2,500,000 of Capital funds budget authority and allotment from the Office of the Chief Financial Officer (OFCO) to the Office of the Chief Technology Officer (OCTO)	009047 - 009051
21-212	Request to reprogram \$569,284 of Fiscal Year 2016 Local funds budget authority within the Department of Corrections (DOC)	009047 - 009051
21-213	Request to reprogram \$1,927,144 of Capital funds budget authority and allotment within the District Department of Transportation (DDOT)	009047 - 009051
21-214	Request to reprogram \$536,070 of Fiscal Year 2016 Local funds budget authority within the Office of Zoning (OZ)	009047 - 009051
21-215	Request to reprogram \$5,087,098 of Fiscal Year 2016 Special Purpose Revenue funds budget authority within the Department of Employment Services (DOES)	009047 - 009051
21-216	Request to reprogram \$8,806,289 of Capital funds and Pay-As-You-Go budget authority and allotment within Special Education Transportation	009047 - 009051

ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA CONT'D

OTHER COUNCIL ACTIONS CONT'D

Notice of Reprogramming Requests - cont'd

21-217	Request to reprogram \$734,600 of Fiscal Year 2016 Local funds budget authority within the Office of the Inspector General (OIG)	009047 - 009051
21-218	Request to reprogram \$1,278,953 of Fiscal Year 2016 Local Funds budget authority within the Department of Human Services (DHS)	009047 - 009051
21-219	Request to reprogram \$1,500,000 of Fiscal Year 2016 Local funds budget authority within the Office of the State Superintendent of Education (OSSE)	009047 - 009051

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES

PUBLIC HEARINGS

Alcoholic Beverage Regulation Administration -

Cordial Fine Wine & Spirits - ANC 6D - New - READVERTISEMENT	009052
Cordial Fine Wine & Spirits - ANC 6D - New - RESCIND.....	009053
Nazca Restaurant/Mochica Restaurant - ANC 2B - Change of Hours.....	009054
Pansaari - ANC 2B - New - CORRECTION	009055
Pansaari - ANC 2B - New - RESCIND.....	009056
Starbucks Coffee #26030 - ANC 5E - New	009057
Toscana Cafe - ANC 6C - Class Change	009058

Elections, Board of -

Receipt and Intent to Review Initiative Measure - Fair Minimum Wage Act of 2017	009059 - 009062
--	-----------------

Housing and Community Development, Department of -

Open Forum and Public Hearing - FY2016 – FY2020 Five-Year Consolidated Plan, First Year Annual Action Plan, and FY2017 National Housing Trust Fund Allocation Plan	009063 - 009065
--	-----------------

Zoning Commission - Case -

04-33G Amendments to Chapter 26, Inclusionary Zoning	009066 - 009069
--	-----------------

FINAL RULEMAKING

Documents and Administrative Issuances, Office of -

Errata notice to amend 31 DCMR (Taxicabs and Public Vehicles for Hire), Ch. 6 (Taxicab Parts and Equipment), Sec. 609 (Taxicab Vehicle Retirement), Subsection 609.7, to change paragraph (g) to (f)	009070
---	--------

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

FINAL RULEMAKING CONT'D

Education, Office of the State Superintendent of -
 Amend 5 DCMR (Education), Subtitle A (Office of
 the State Superintendent of Education), to add
 Ch. 16 (Credentials for Teachers and School
 Administrators), to update criteria and procedures for
 issuing credentials for teachers and administrators;
 Also updates Subtitle E (Original Title 5),
 Ch. 16 (License Requirements), to delete
 Sections 5E-1600 through 5E-1654,
 5E-1664 through 5E-1667, and 5E-1687009071 - 009088

Education, Office of the State Superintendent of -
 Amend 5 DCMR (Education), Subtitle E (Original Title 5),
 Ch. 30 (Special Education), to update Sections 3001 and 3023,
 and add Sections 3034 (Transfer of Rights: General Provisions
 and Supported Decision-Making), Sec. 3035 (Transfer of Rights:
 Exceptions), and Sec. 3036 (Transfer of Rights: Notice), to establish
 rules for the "Transfer of Rights" provisions under the Individuals
 with Disabilities Education Act (IDEA)009089 - 009095

Health Care Finance, Department of - Amend 29 DCMR
 (Public Welfare), Ch. 19 (Home and Community-Based
 Services Waiver for Individuals with Intellectual and
 Developmental Disabilities), Sec. 1918 (Creative Arts
 Therapies), to adjust the reimbursement rate for creative
 arts therapies.....009096 - 009097

Health, Department of - Amend 17 DCMR (Business,
 Occupations, and Professionals), Ch. 35 (Licensing
 Fees), Sec. 3500 (Fees), to establish initial licensing
 and renewal fees for manufacturers, distributors,
 importers, and vendors of medical devices in the
 District of Columbia 009098

Secretary, Office of the - Amend 17 DCMR (Business,
 Occupations, and Professionals), Ch. 24 (Notaries Public)
 in its entirety, to conform the Office of Notary Commissions and
 Authentications regulations to the office's current operations 009099 - 009109

Zoning Commission - Case No. 14-13C to Amend 11 DCMR
 (Zoning), Ch. 26 (Inclusionary Zoning), Sec. 2603 (Set-Aside
 Requirements) and 11 DCMR (Zoning Regulations of 2016),
 Subtitle C (General Rules), Ch. 10 (Inclusionary Zoning),
 Sec. 1003 (Set-Aside Requirements), to update the Inclusionary
 Zoning (IZ) regulations009110 - 009112

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

PROPOSED RULEMAKING

City Administrator, Office of the - Amend 6 DCMR (Personnel), Subtitle A (Police Personnel), Ch. 11 (Special Police), to update Sections 1100 through 1102, 1105, 1106, and 1109, and add Sec. 1111 (Eligibility Requirements – Health); 17 DCMR (Business, Occupations, and Professionals), Ch. 21 (Security Officers and Security Agencies), Sections 2101, 2104, 2108, and 2120, to modify the eligibility and training requirements for commissioned special police officers and licensed security officers, and create requirements for approved individuals to provide the training009113 - 009127

Zoning Commission, DC -

Z.C. Case No. 08-06E to amend 11 DCMR (Zoning Regulations of 2016) to make technical corrections to Z.C. Order 08-06A:

Subtitle A (Authority and Applicability)

Ch. 1 (Introduction to Title 11), Sec. 102.....009128 - 009178

Subtitle B (Definitions, Rules of Measurement, and Use Categories)

Ch. 1 (Definitions), Sec. 100.....009128 - 009178

Ch. 3 (General Rules of Measurement), Sections 308, 311, 312, 318, 323, and 328.....009128 - 009178

Subtitle C (General Rules)

Ch. 2 (Nonconformities), Sec. 201.....009128 - 009178

Ch. 3 (Subdivision), Sec. 301.....009128 - 009178

Ch. 4 (Tree Protection), Sec. 401.....009128 - 009178

Ch. 7 (Vehicle Parking), Sections 701 and 709.....009128 - 009178

Ch. 8 (Bicycle Parking), Sec. 802.....009128 - 009178

Ch. 15 (Penthouses), Sec. 1504.....009128 - 009178

Subtitle D (Residential House (R) Zones)

Ch. 1 (Introduction to Residential House (R) Zones), Sec. 101.....009128 - 009178

Ch. 2 (General Development Standards (R)), Sec. 207.....009128 - 009178

Ch. 3 (Residential House Zones – R-1-A, R-1-B, R-2, and R-3), Sections 303 and 309.....009128 - 009178

Ch. 4 (Tree and Slope Protection Residential House Zones – R-6 and R-7), Sec. 403.....009128 - 009178

Ch. 5 (Forest Hills Tree and Slope Residential House Zones – R-8, R-9, and R-10), Sec. 503.....009128 - 009178

Ch. 6 (Naval Observatory/Tree and Slope Residential House Zone – R-11), Sec. 603.....009128 - 009178

Ch. 7 (Naval Observatory Residential House Zones – R-12 and R-13), Sections 700 and 703.....009128 - 009178

Ch. 8 (Wesley Heights Residential House Zones – R-14 and R-15), Sec. 803.....009128 - 009178

Ch. 9 (Sixteenth Street Heights Residential House Zone – R-16), Sections 903 and 910.....009128 - 009178

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

PROPOSED RULEMAKING CONT'D

Zoning Commission, DC - cont'd

Z.C. Case No. 08-06E to amend 11 DCMR (Zoning Regulations of 2016) to make technical corrections to Z.C. Order 08-06A:

Subtitle D (Residential House (R) Zones) - cont'd

- Ch. 10 (Foggy Bottom Residential House Zones – R-17),
 Sec. 1003009128 - 009178
- Ch. 12 (Georgetown Residential House Zones – R-19 and R-20),
 Sec. 1203009128 - 009178
- Ch. 13 (Chain Bridge Road/University Terrace Residential House
 Zone – R-21), Sections 1301, 1302, and 1303009128 - 009178

Subtitle E (Residential Flat (RF) Zones)

- Ch. 1 (Introduction to Residential Flat (RF) Zones),
 Sec. 101009128 - 009178
- Ch. 2 (General Development Standards (RF)),
 Sec. 201009128 - 009178
- Ch. 3 (Residential Flat Zone – RF-1), Sections 302,
 303, and 304009128 - 009178
- Ch. 4 (Dupont Circle Residential Flat Zone – RF-2),
 Sections 402, 403, and 404009128 - 009178
- Ch. 5 (Capitol Precinct Residential Flat Zone – RF-3),
 Sections 503 and 504009128 - 009178
- Ch. 51 (Alley Lot Regulations), Sections 5101 and 5103009128 - 009178

Subtitle F (Residential Apartment (RA) Zones)

- Ch. 1 (Introduction to Residential Flat (RA) Zones),
 Sec. 101009128 - 009178
- Ch. 3 (Residential Apartment Zones – RA-1, RA-2, RA-3,
 RA-4, and RA-5), Sec. 306009128 - 009178
- Ch. 5 (Capitol Precinct Residential Apartment Zone – RA-7),
 Sec. 506009128 - 009178

Subtitle G (Mixed-Use (MU) Zones)

- Ch. 1 (Introduction to Mixed-Use (MU) Zones),
 Sec. 101009128 - 009178
- Ch. 2 (General Development Standards for MU Zones),
 Sec. 201009128 - 009178
- Ch. 7 (Capitol Interest and Capitol Hill Commercial
 Mixed-Use Zones – MU-23, MU-24, MU-25, and
 MU-26), Sec. 702009128 - 009178
- Ch. 8 (Naval Observatory Mixed-Use Zone – MU-27),
 Sections 802, 803, and 804009128 - 009178

Subtitle H (Neighborhood Mixed-Use (NC) Zones)

- Ch. 1 (Neighborhood Mixed-Use (NC) Zones),
 Sec. 101009128 - 009178
- Ch. 2 (General Development Standards), Sec. 201009128 - 009178

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

PROPOSED RULEMAKING CONT'D

Zoning Commission, DC - cont'd

Z.C. Case No. 08-06E to amend 11 DCMR (Zoning Regulations of 2016) to make technical corrections to Z.C. Order 08-06A:

Subtitle H (Neighborhood Mixed-Use (NC) Zones) - cont'd

- Ch. 9 (H Street Northeast Neighborhood Mixed-Use Zones –NC-9 through NC-17), Sections 902 and 904009128 - 009178
Ch. 11 (Use Permissions for NC Zones), Sec. 1101009128 - 009178

Subtitle I (Downtown (D) Zones)

- Ch. 2 (General Development Standards for Downtown (D) Zones), Sections 200, 205, 206, 207, 210, and 212.....009128 - 009178
Ch. 3 (General Zone-Based Use Requirements and Conditions), Sections 304 and 305.....009128 - 009178
Ch. 5 (Regulations Specific to Particular Downtown (D) Zones), Sections 503, 509, 510, 517, 525, 532, 539, 540, 548, 555, 556, 563, and 577009128 - 009178
Ch. 6 (Location-Based Regulations for Downtown Sub-Areas and Designated Street Segments), Sections 601, 607, 608, 616, and 617009128 - 009178
Ch. 7 (Design Review), Sec. 701009128 - 009178
Ch. 8 (Generation and Certification of Credits), Sections 802, 805, and 806009128 - 009178
Ch. 9 (Use of Credits), Sec. 900.....009128 - 009178

Subtitle J (Production, Distribution, and Repair (PDR) Zones)

- Ch. 1 (Introduction to Production, Distribution, and Repair (PDR) Zones), Sec. 101.....009128 - 009178

Subtitle K (Special Purpose Zones)

- Ch. 2 (Southeast Federal Center Zones – SEFC-1 through SEFC-4), Sections 201, 202, 203, and 237009128 - 009178
Ch. 3 (Union Station North Zone - USN), Sec. 301009128 - 009178
Ch. 4 (Hill East Zones - HE-1 through HE-4), Sections 401 and 410.....009128 - 009178
Ch. 5 (Capitol Gateway Zones – CG-1 through CG-7), Sections 500, 502, 504, 507, and 510.....009128 - 009178
Ch. 6 (Saint Elizabeths East Campus Zones – STE-1 through STE-19), Sections 601, 606, 607, and 619009128 - 009178
Ch. 7 (Reed-Cooke Zones - RC-1 through RC-3), Sections 712, 713, 715, and 717.....009128 - 009178
Ch. 8 (Mixed-Use Uptown Arts Zones - ARTS-1 through ARTS-4), Sections 811 and 814.....009128 - 009178

Subtitle U (Use Permissions)

- Ch. 1 (Use Permissions), Sec. 101009128 - 009178
Ch. 2 (Use Permissions Residential House (R) Zones), Sec. 254009128 - 009178

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

PROPOSED RULEMAKING CONT'D

Zoning Commission, DC - cont'd

Z.C. Case No. 08-06E to amend 11 DCMR (Zoning Regulations of 2016) to make technical corrections to Z.C. Order 08-06A:

Subtitle U (Use Permissions) - cont'd

- Ch. 3 (Use Permissions Residential Flats (RF) Zones), Sec. 320009128 - 009178
Ch. 5 (Use Permissions Mixed-Use (MU) Zones), Sections 502, 506, 510, 512, and 518.....009128 - 009178
Ch. 7 (Use Permissions Mixed-Use Uptown Arts (ARTS) and Downtown (D) Zones), Sec. 700009128 - 009178
Ch. 8 (Use Permissions Production, Distribution, and Repair (PDR) Zones), Sec. 801009128 - 009178

Subtitle W (Specific Zone Boundaries)

- Ch. 1 (Boundaries), Sections 101 and 105009128 - 009178

Subtitle X (General Procedures)

- Ch. 3 (Planned Unit Developments), Sections 300, 301, 302, and 303009128 - 009178
Ch. 7 (Airspace Development), Sec. 702009128 - 009178
Ch. 9 (Special Exceptions), Sec. 901009128 - 009178
Ch. 10 (Variances), Sec. 1001009128 - 009178
Ch. 13 (Text Amendments), Sections 1300 and 1301009128 - 009178

Subtitle Y (Board of Zoning Adjustment Rules of Practice and Procedure)

- Ch. 2 (Public Participation), Sec. 206009128 - 009178
Ch. 4 (Pre-Hearing and Hearing Procedures: Applications), Sections 401, 402, 404, and 406.....009128 - 009178
Ch. 5 (Pre-Hearing and Hearing Procedures: Zoning Appeals), Sec. 502.....009128 - 009178
Ch. 7 (Approvals and Orders), Sec. 703.....009128 - 009178
Ch. 16 (Fees), Sec. 1600.....009128 - 009178

Subtitle Z (Zoning Commission Rules of Practice and Procedure)

- Ch. 2 (Public Participation), Sec. 206009128 - 009178
Ch. 3 (Application Requirements), Sec. 302009128 - 009178
Ch. 4 (Pre-Hearing and Hearing Procedures: Contested Cases), Sections 402, 404, 405, and 406.....009128 - 009178
Ch. 5 (Pre-Hearing and Hearing Procedures: Rulemaking Cases), Sec. 500009128 - 009178
Ch. 6 (Post-Hearing Procedures), Sections 604 and 605.....009128 - 009178
Ch. 16 (Fees), Sec. 1602.....009128 - 009178

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

**NOTICES, OPINIONS, AND ORDERS
BOARDS, COMMISSIONS, AND AGENCIES**

Arts and Humanities, Commission on the -
Board of Commissioners' Meeting - July 28, 2016 009179

Breakthrough Montessori Public Charter School -
Intent to Enter a Sole Source Contract -
Montessori Services 009180

Request for Proposals -
Janitorial Services 009181

Center City Public Charter Schools -
Intent to Award Sole Source Contracts - Curriculum and
Online Learning Subscriptions..... 009182

DC Scholars Public Charter School - Request for Proposals -
Financial and Human Resources Services 009183

E.L. Haynes Public Charter School -
Intent to Enter a Sole Source Contract -
Capital Teaching Residency (CTR) Program..... 009184
Developmental Designs..... 009185

Request for Proposals -
After School Tutoring Services..... 009186

Eagle Academy Public Charter School - Request for Qualifications -
Professional Educational Consulting Services..... 009187

Elections, Board of -
Certification of Filling ANC/SMD Vacancy -
5E08 Horacio Sierra 009188

Ethics and Government Accountability, Board of - Advisory Opinion -
1009-010 Hatch Act and Ethics laws, in Connection with
"Statehood-Related Activities" 009189 - 009198

Excel Academy Public Charter School - Request for Proposals -
Finance & Accounting Services, Data Management Services,
and Special Education Related Services 009199

Health, Department of -
Information Hearing - LHC Group, Inc. - July 15, 2016 009200

Human Services, Department of - Notice of Funding Availability -
Transportation and Hotline Program - (RFA # DHS-THS-FY17)..... 009201 - 009202

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

**NOTICES, OPINIONS, AND ORDERS CONT'D
BOARDS, COMMISSIONS, AND AGENCIES CONT'D**

Judicial Disabilities and Tenure, Commission on -
 Judicial Tenure Commission Begins Reviews of Superior
 Court Judges Rhonda Reid Winston, Stephen F. Eilperin,
 Ronald P. Wertheim, and Peter H. Wolf009203 - 009204

LAYC Career Academy Public Charter School - Invitation for Bid -
 Food Service Management Services009205

Water and Sewer Authority, DC -
 Board of Directors Meeting - July 7, 2016.....009206

Zoning Adjustment, Board of - Cases -
 18895-A James Walker - ANC 5D - Order009207 - 009209
 19205 William Magrath and Susan Shen - ANC 3D - Order009210 - 009212
 19261 Ryland Memorial Church - ANC 7B - Order009213 - 009215
 19265 Marc Ross - ANC 6A - Order.....009216 - 009219
 19272 Alejandro Rosenberg - ANC 3F - Order.....009220 - 009222
 19273 John and Theresa Mongan - ANC 2E - Order009223 - 009225
 19276 James and Erika Hunter - ANC 6A - Order.....009226 - 009228
 19291 Geoffrey Earle and Cecilia Cortes-Earle - ANC 1D - Order009229 - 009231
 19296 James Little and William Colwell - ANC 5E - Order.....009232 - 009234

Zoning Commission - Cases -
 08-30C 25 M Street Holdings, LLC - Order.....009235 - 009248
 14-13C Text Amendment – 11 DCMR - Notice of
 Final Rulemaking & Order009249
 16-03 DB Residential Hill East, LLC - Order009250 - 009270

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-416

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 23, 2016

To approve, on an emergency basis, Modification Nos. 0003 and 0004 to Contract No. CW22089 with MVS, Inc. to provide information technology equipment and software and to authorize payment in the not-to-exceed amount of \$10,000,000 for the goods and services received and to be received during option year 3 of the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Modifications to Contract No. CW22089 Approval and Payment Authorization Emergency Act of 2016”.

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. 0003 and 0004 to Contract No. CW22089 with MVS, Inc. to provide information technology equipment and software and authorizes payment in the not-to-exceed amount of \$10,000,000 for the goods and services received and to be received during option year 3 of the contract, from April 1, 2016 through March 31, 2017.

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 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
June 23, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-417

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 23, 2016

To approve, on an emergency basis, Change Order Nos. 005 through 016, inclusive, to Contract No. DCAM-12-M-1031H-FM with MCN Build, LLC, for design-build services for Powell Elementary School and to authorize payment in the aggregate amount of \$11,292,587.82 for the goods and services received and to be received under the change orders.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Change Orders to Contract No. DCAM-12-M-1031H-FM Approval and Payment Authorization Emergency Act of 2016".

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 Change Order Nos. 005 through 016, inclusive, with MCN Build, LLC, for design-build services for Powell Elementary School and authorizes payment in the aggregate amount of \$11,292,587.82 for the goods and services received and to be received under the change orders.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal 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 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
June 23, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-418

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 24, 2016

To approve, on an emergency basis, Modification Nos. 0002 and 0004 to Contract No. DCRL-2016-R-0004 with the Far Southeast Family Strengthening Collaborative to provide community-based social welfare services and to authorize payment in the aggregate not-to-exceed amount of \$1,067,202.37 for the goods and services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modifications to Contract No. DCRL-2016-R-0004 Approval and Payment Authorization Emergency Act of 2016".

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. 0002 and 0004 to Contract No. DCRL-2016-R-0004 with the Far Southeast Family Strengthening Collaborative to provide community-based child welfare services and authorizes payment in the aggregate not-to-exceed amount of \$1,067,202.37 for the goods and services received and to be received under the modifications.

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.

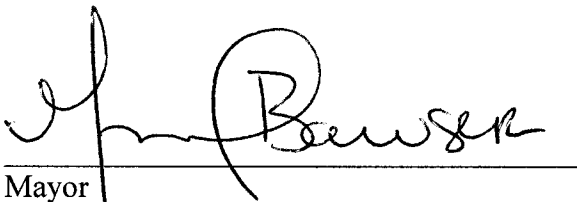
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

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
June 24, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-419

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 23, 2016

To amend, on an emergency basis, due to congressional review, the Prevention of Child Abuse and Neglect Act of 1977 to include in the definition of case plan an additional requirement for children 14 years of age and older, to define the reasonable and prudent parent standard, to require that foster children receive a credit report on an annual basis beginning at 14 years of age, and to require the use of the reasonable and prudent parent standard by foster parents and group homes; and to amend section 16-2323 of the District of Columbia Official Code to require additional reporting requirements for children who have been placed in another planned permanent living arrangement.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Supporting Normalcy and Empowering Children in Foster Care Congressional Review Emergency Amendment Act of 2016”.

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 (D.C. Official Code § 4-1301.02) is amended as follows:

(1) Paragraph (3) is amended as follows:

(A) Subparagraph (B) is amended by striking the phrase “under the plan;” and inserting the phrase “under the plan. With respect to a child who has attained 14 years of age, the plan, and any revision or addition to the plan, shall be developed in consultation with the child and, at the option of the child, with up to 2 members of the case planning team who are chosen by the child and who are not a foster parent of, or caseworker for, the child. The agency may reject an individual selected by a child to be a member of the case planning team at any time if the agency has good cause to believe that the individual would not act in the best interests of the child. One individual selected by a child to be a member of the child's case planning team may be designated to be the child's advisor and, as necessary, advocate, with respect to the application of the reasonable and prudent parent standard to the child.” in its place.

(B) Subparagraph (D) is amended by striking the phrase “16 years of age” and inserting the phrase “14 years of age” in its place.

(2) A new paragraph (16A) is added to read as follows:

“(16A) “Reasonable and prudent parent standard” means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth

ENROLLED ORIGINAL

of the child, that should be used when determining whether to allow a child to participate in extracurricular, enrichment, cultural, and social activities.”.

(b) Section 303(a)(16)(A) (D.C. Official Code § 4-1303.03(a)(16)(A)) is amended as follows:

(1) Sub-subparagraph (ii) is amended by striking the phrase “District of Columbia; or” and inserting the phrase “District of Columbia;” in its place.

(2) Sub-subparagraph (iii) is amended by striking the phrase “terminated.” and inserting the phrase “terminated; or” in its place.

(3) A new sub-subparagraph (iv) is added to read as follows:

“(iv) The ward reaches 14 years of age and on an annual basis thereafter.”.

(c) A new section 303f is added to read as follows

“Sec. 303f. Reasonable and prudent parent standard.

“(a) Foster parents and group homes for children who have been abused or neglected shall use the reasonable and prudent parent standard when determining whether to allow a ward to participate in extracurricular, enrichment, cultural, and social activities.

“(b) The Agency, foster parents, and group homes shall not be held liable for any civil damages resulting from the application of, or the failure to apply, the reasonable and prudent parent standard, except in cases constituting gross negligence.”.

Sec. 3. Section 16-2323(d)(4) of the District of Columbia Official Code is amended as follows:

(a) Subparagraph (B) is amended by striking the word “and”.

(b) A new subparagraph (D) is added to read as follows:

“(D) For a child placed in another planned permanent living arrangement, the steps taken by the agency to ensure that the reasonable and prudent parent standard, as defined in section 102(16A) of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1301.02(16A)), has been followed and that the child has opportunities to engage in age-appropriate or developmentally appropriate activities; and”.

Sec. 4. Applicability.

This act shall apply as of June 14, 2016.

Sec. 5. 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).

ENROLLED ORIGINAL

Sec. 6. 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
June 23, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-420

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 23, 2016

To amend, on an emergency basis, due to congressional review, the District of Columbia Government Comprehensive Merit Personnel Act of 1978 and the Metropolitan Police Department Application, Appointment, and Training Requirements Act of 2000 to create incentives for the retention and recruitment of Metropolitan Police Department officers.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Metropolitan Police Department Officer Retention and Recruitment Incentives Congressional Review Emergency Amendment Act of 2016”.

Sec. 2. Section 1103 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.03), is amended as follows:

(a) Subsection (f)(1) is repealed.

(b) A new subsection (g) is added to read as follows:

“(g)(1) The Chief of Police may grant time off, to be considered FLSA-exempt, to uniformed members of the Metropolitan Police Department at the rank of Inspector and above, and the civilian equivalents, for work performed in excess of an 80-hour biweekly pay period, excluding roll call; provided, that:

“(A) FLSA-exempt time off granted to any individual employee shall not exceed a total of 80 hours in any consecutive 12-month period;

“(B) FLSA-exempt time off shall be forfeited if not used by the end of the leave year following the leave year in which it was earned; and

“(C) FLSA-exempt time off not used at the time of an employee’s separation from service shall not be included in any form of leave payment.

“(2) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this subsection.”

Sec. 3. Section 202(e) of the Metropolitan Police Department Application, Appointment, and Training Requirements Act of 2000, effective October 4, 2000 (D.C. Law 13-160; D.C. Official Code § 5-107.01(e)), is amended as follows:

ENROLLED ORIGINAL

(a) The lead-in language is amended by striking the phrase "As of the effective date of the Metropolitan Police Department Amendment Act of 2006, passed on 2nd reading on December 5, 2006 (Enrolled version of Bill 16-586), to" and inserting the word "To" in its place.

(b) Paragraph (2) is amended by striking the phrase "3 years" and inserting the phrase "2 years" in its place.

(c) Paragraph (3) is amended by striking the phrase "5 years" and inserting the phrase "3 years" in its place.

Sec. 4. Applicability.

This act shall apply as of June 15, 2016.

Sec. 5. Fiscal impact statement.

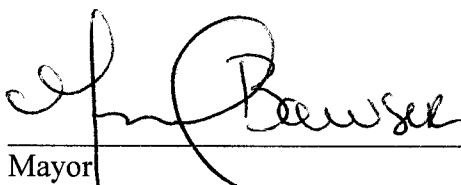
The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 6. 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
June 23, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-421

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 23, 2016

To approve, on an emergency basis, Modification 12 of Contract No. CFOPD-11-C-040 with eFunds Corporation to continue to provide electronic benefits transfer services to the Office of the Chief Financial Officer on behalf of the Office of Finance and Treasury, and to authorize payment for the 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. CFOPD-11-C-040 Extension Approval and Payment Authorization Emergency Act of 2016".

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 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 12 of Contract No. CFOPD-11-C-040 with eFunds Corporation to continue to provide electronic benefits transfer services to the Office of the Chief Financial Officer on behalf of the Office of Finance and Treasury and authorizes payment in the not-to-exceed amount of \$2,004,817.19 for services received and to be received under the contract from April 14, 2016, through April 13, 2018.

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
June 23, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-422

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 23, 2016

To approve, on an emergency basis, Modification Nos. 005 and 006 and proposed Modification No. 007 to Human Care Agreement No. RM-15-HCA-SATS-003-GHI-BY4-CPS with Good Hope Institute to continue to provide methadone maintenance and counseling treatment services to eligible District residents and to authorize payment for the services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modifications to Human Care Agreement No. RM-15-HCA-SATS-003-GHI-BY4-CPS Approval and Payment Authorization Emergency Act of 2016".

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. 005 and 006 and proposed Modification No. 007 to Human Care Agreement No. RM-15-HCA-SATS-003-GHI-BY4-CPS with Good Hope Institute to continue to provide methadone maintenance and counseling treatment services to eligible District residents and authorizes payment in the amount of \$1,060,000 for services received and to be received under the modifications from October 2, 2015, through October 1, 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
June 23, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-423

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 23, 2016

To approve, on an emergency basis, Contract No. CW40550 with Riva Modeling Systems, Inc. to provide information technology services supporting the Asset Management Program, including Modification No. 0001 to that contract, and to authorize payment in the total amount of \$1,395,000 for the goods and services received and to be received under the contract as modified by Modification No. 0001.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Contract No. CW40550 Approval and Payment Authorization Emergency Act of 2016".

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 Contract No. CW40550 with Riva Modeling Systems, Inc. to provide information technology services supporting the Asset Management Program, including Modification No. 0001 to that contract, and authorizes payment in the total amount of \$1,395,000 for goods and services received and to be received under the contract as modified by Modification No. 0001.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal 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.

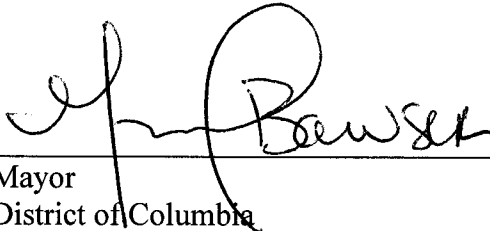
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than

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
June 23, 2016

ENROLLED ORIGINAL

AN ACT
D.C. ACT 21-424

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 23, 2016

To approve, on an emergency basis, Modification Nos. M009, M010, and M011 and proposed Modification No. M012 to Contract No. CW18948 with Aramark Correctional Services, LLC to continue to provide food services to inmates of the Department of Corrections' Central Detention Facility and Correctional Treatment Facility and to authorize payment for the services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modifications to Contract No. CW18948 Approval and Payment Authorization Emergency Act of 2016".

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. M009, M010, and M011 and proposed Modification No. M012 to Contract No. CW18948 with Aramark Correctional Services, LLC to continue to provide food services to inmates of the Department of Corrections' Central Detention Facility and Correctional Treatment Facility and authorizes payment in the amount of \$4,093,110.50 for services received and to be received under the contract modifications from March 1, 2016, through February 28, 2017.

Sec. 3. Fiscal impact statement.

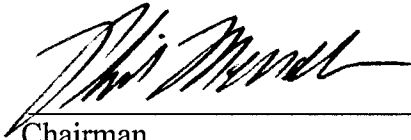
The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

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
June 23, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-425

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 23, 2016

To approve, on an emergency basis, Modification Nos. M020, M021, and M023, and proposed Modification No. M025 to Human Care Agreement No. DCRL-2013-H-0039A with The National Center for Children and Families to continue to provide case management and traditional and therapeutic family-based foster care services for children, and to authorize payment for the services received and to be received under these modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Modifications to Human Care Agreement No. DCRL-2013-H-0039A Approval and Payment Authorization Clarification Emergency Act of 2016”.

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. M020, M021, and M023, and proposed Modification No. M025 to Human Care Agreement No. DCRL-2013-H-0039A with The National Center for Children and Families to continue to provide case management and traditional and therapeutic family-based foster care services for children, and authorizes payment in the total not-to-exceed amount of \$10,563,472.10 for services received and to be received under these modifications.

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.

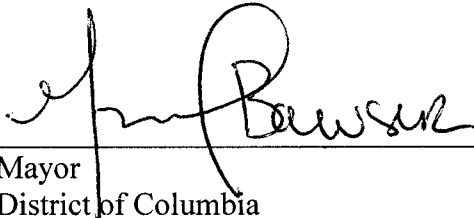
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

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
June 23, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-426

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 23, 2016

To approve, on an emergency basis, Contract Nos. DCHT-2015-C-0003, DCHT-2016-C-0003, and DCHT-2016-C-0008, and Modification Nos. 1 and 2 to Contract No. DCHT-2016-C-0003 with Universal Home Healthcare, Inc. to provide temporary staffing services for Personal Care Assistance to meet the needs of District Medicaid beneficiaries for the Department of Healthcare Finance and to authorize payment for the services received and to be received under these contracts and modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Contract Nos. DCHT-2015-C-0003, DCHT-2016-C-0003, and DCHT-2016-C-0008 Modification Approval and Payment Authorization Emergency Act of 2016”.

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 Contract Nos. DCHT-2015-C-0003, DCHT-2016-C-0003, and DCHT-2016-C-0008, and Modification Nos. 1 and 2 to Contract No. DCHT-2016-C-0003 with Universal Home Healthcare, Inc. to provide temporary staffing services for Personal Care Assistance to meet the needs of District Medicaid beneficiaries for the Department of Healthcare Finance and authorizes payment in the amount of \$1,465,000 for services received and to be received under these contracts and modifications.

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 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
June 23, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-427

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 23, 2016

To amend, on an emergency basis, the Legalization of Marijuana for Medical Treatment Initiative of 1999 to provide certain medical marijuana cultivation center applicants with the ability to relocate to another election ward.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Medical Marijuana Cultivation Center Relocation Emergency Amendment Act of 2016”.

Sec. 2. Section 7(d)(3) of the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.06(d)(3)), is amended by adding a new subparagraph (C) to read as follows:

“(C) Any applicant that submitted an application on July 19, 2015, for a registration to operate a cultivation center shall be allowed to modify the location of the cultivation center on its application without negatively affecting the current status of the application.”.

Sec. 3. Fiscal impact statement.

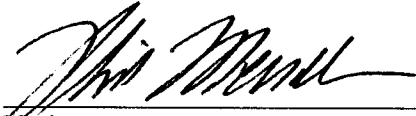
The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. Effective date.

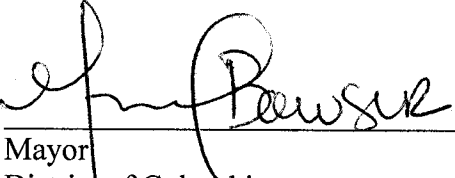
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

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
June 23, 2016

ENROLLED ORIGINAL

A RESOLUTION

21-417

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 1, 2016

To confirm the appointment of Ms. Anita Butani D'Souza to the Board of Zoning Adjustment.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Zoning Adjustment Anita Butani D'Souza Confirmation Resolution of 2016".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Ms. Anita Butani D'Souza
605 Q Street, N.W.
Washington, D.C. 20001
(Ward 6)

as a member of the Board of Zoning Adjustment, established by section 8 of An Act Providing for the zoning of the District of Columbia and the regulation of the location, height, bulk, and uses of buildings and other structures and of the uses of land in the District of Columbia, and for other purposes, approved June 20, 1938 (52 Stat. 799; D.C. Official Code § 6-641.07), for a term to end September 30, 2018.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-445

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 5, 2016

To confirm the appointment of Dr. Brian D. Crane to the Historic Preservation Review Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Historic Preservation Review Board Brian D. Crane Confirmation Resolution of 2016”.

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Dr. Brian D. Crane
913 Hughes Mews, N.W.
Washington, D.C. 20037
(Ward 2)

as an archeologist member of the Historic Preservation Review Board, established by Mayor’s Order 83-119, issued May 6, 1983 (30 DCR 3031), pursuant to section 4 of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144; D.C. Official Code § 6-1103), for a term to end July 21, 2017.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-446

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 5, 2016

To confirm the appointment of Ms. Archana Vemulapalli as the Chief Technology Officer of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Chief Technology Officer Archana Vemulapalli Confirmation Resolution of 2016”.

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Ms. Archana Vemulapalli
1577 44th Street, N.W.
Washington, D.C. 20007
(Ward 3)

as the Chief Technology Officer of the District of Columbia, established by section 1812 of the Office of the Chief Technology Officer Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code § 1-1401), in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01), to serve at the pleasure of the Mayor.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-468

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 19, 2016

To confirm the appointment of Ms. Barbara Somson to the Public Employee Relations Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Public Employee Relations Board Barbara Somson Confirmation Resolution of 2016”.

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Ms. Barbara Somson
3915 McKinley Street, N.W.
Washington, D.C. 20025
(Ward 3)

as a labor member of the Public Employee Relations Board, established by section 501 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-605.01), in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01), for a term to end December 12, 2017.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-469

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 19, 2016

To confirm the appointment of Mr. Douglas A. Warshof to the Public Employee Relations Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Public Employee Relations Board Douglas A. Warshof Confirmation Resolution of 2016".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Mr. Douglas A. Warshof
3958 Georgetown Court, N.W.
Washington, D.C. 20007
(Ward 2)

as a neutral, public member of the Public Employee Relations Board, established by section 501 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-605.01), in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01), for a term to end December 12, 2018.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-496

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 7, 2016

To approve an agreement to enter into a long-term subsidy contract for 15 years in support of the District's Local Rent Supplement Program to fund housing costs associated with affordable housing units for Contract No. 2014-LRSP-07A with South Capitol Improvements, LLC, for program units located at 4001 South Capitol Street, S.W.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Local Rent Supplement Program Contract No. 2014-LRSP-07A Approval Resolution of 2016".

Sec. 2. (a) In 2007, the District passed title II of the Fiscal Year 2007 Budget Support Act of 2006 ("BSA") to provide funding for affordable housing for extremely low-income households in the District. The passage of the BSA created the Local Rent Supplement Program ("LRSP"), a program designed to provide affordable housing and supportive services to extremely low-income District residents, including those who are homeless or in need of supportive services, such as elderly individuals or those with disabilities, through project-based, tenant-based and sponsored-based LRSP affordable housing units. The BSA provided for the District of Columbia Housing Authority ("DCHA") to administer the LRSP on behalf of the District.

(b) In April 2014, DCHA participated in a Request for Proposals issued by the District of Columbia Department of Housing and Community Development. Of the total proposals received, 12 developers were chosen to work with DCHA and other District agencies to develop affordable housing and permanent supportive housing units for extremely low-income families making from 0% to 30% of the area's median income, as well as the chronically homeless and individuals with mental or physical disabilities throughout Washington, D.C. Upon approval of the agreement to enter into a long-term subsidy contract ("ALTSC") by the Council, DCHA will execute the agreement with the selected housing providers under the LRSP.

(c) There exists an immediate need to approve the ALTSC with South Capitol Improvements, LLC, in order to provide long-term affordable housing units for extremely low-income households in the District for units located at 4001 South Capitol Street, S.W.

(d) The Council's approval authorizes the ALTSC between DHCA and South Capitol Improvements, LLC, with respect to the payment of rental subsidy, and allows the owner to lease

ENROLLED ORIGINAL

20 newly constructed units at South Capitol Multifamily and house District of Columbia extremely low-income households with incomes at 30% or less of the area median income.

Sec. 3. 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 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 the ALTSC with South Capitol Improvements, LLC, for the creation of 20 affordable housing units, in an initial amount not to exceed \$240,960 annually.

Sec. 4. Transmittal.

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

Sec. 5. 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. 6. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-497

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 7, 2016

To confirm the reappointment of Mr. Gregory McCarthy to the Board of Library Trustees.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Library Trustees Gregory McCarthy Confirmation Resolution of 2016".

Sec. 2. The Council of the District of Columbia confirms the reappointment of:

Mr. Gregory McCarthy
1334 Riggs Street, N.W.
Washington, D.C. 20009
(Ward 2)

as a member of the Board of Library Trustees, established by section 4 of An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia, approved June 3, 1896 (29 Stat. 244; D.C. Official Code § 39-104), for a term to end January 5, 2021.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-498

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 7, 2016

To confirm the appointment of Ms. Cleve Mesidor to the Board of Library Trustees.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Library Trustees Cleve Mesidor Confirmation Resolution of 2016".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Ms. Cleve Mesidor
1501 27th Street, S.E. #309
Washington, D.C. 20020
(Ward 7)

as a member of the Board of Library Trustees, established by section 4 of An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia, approved June 3, 1896 (29 Stat. 244; D.C. Official Code § 39-104), for a term to end January 5, 2021.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-499

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 7, 2016

To confirm the appointment of Ms. Saba Bireda to the Public Charter School Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA That this resolution may be cited as the "Public Charter School Board Saba Bireda Confirmation Resolution of 2016".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Ms. Saba Bireda
1438 V Street, S.E.
Washington, D.C. 20020
(Ward 8)

as a member of the Public Charter School Board, established by section 2214 of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1802.14), replacing Barbara Nophlin, for a term to end February 24, 2019.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-502

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 7, 2016

To approve HFA21-0018, the District of Columbia Housing Finance Agency Second Amended Resolution As To The Eligibility Of Portner Flats For Tax-Exempt And/Or Taxable Multifamily Housing Mortgage Revenue Bond Financing, which would increase the not-to-exceed amount of tax-exempt and/or taxable multifamily housing mortgage revenue bond financing for the Portner Flats project to \$30 million.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Portner Flats Mortgage Revenue Bond Financing Approval Resolution of 2016”.

Sec. 2. The Council finds that:

- (1) Portner Flats, located in the 1400 block of U and V Streets, N.W., is in a rapidly gentrifying area where affordable housing is at a premium.
- (2) With bonds, the development team will double the number of affordable units in a highly walkable neighborhood that is rapidly losing affordable units for working families.
- (3) The original 2- and 3-bedroom units of Portner Place will be replicated in the new Portner Flats with 36 2-bedroom units and 12 3-bedroom units with Section 8 subsidy within the new 96-unit affordable building Portner Flats.
- (4) Amenity spaces in the new building have been designed to meet the residents’ needs and the developer’s commitment to provide community spaces for an after-school program, playground, computer lab, community garden, and fitness center.
- (5) The developer has committed to set up an endowment fund to sustain resident services.
- (6) The Council has passively approved 2 previous financing resolutions from the District of Columbia Housing Finance Agency for this project.

Sec. 3. Pursuant to section 207 of the District of Columbia Housing Finance Agency Act, effective October 5, 1985 (D.C. Law 6-44; D.C. Official Code § 42-2702.07), the District of Columbia Housing Finance Agency transmitted to the Council on May 13, 2016, HFA 21-18, the District of Columbia Housing Finance Agency Second Amended Resolution As To The Eligibility of Portner Flats For Tax-Exempt And/Or Taxable Multifamily Housing Mortgage Revenue Bond Financing, which provided notice of the Board of Directors of the District of Columbia Housing Finance Agency’s proposal to issue revenue bond financing in a not-to-

ENROLLED ORIGINAL

exceed amount of \$30 million for the Porter Flats project. The Council approves the proposed revenue bond financing.

Sec. 4. Transmittal.

The Council shall transmit a copy of this resolution, upon its adoption, to the Mayor and the District of Columbia Housing Finance Agency.

Sec. 5. 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. 6. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-519

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 21, 2016

To declare the existence of an emergency with respect to the need to amend the Minimum Wage Act Revision Act of 1992 to progressively increase the minimum wage to \$15 an hour by 2020, beginning in 2021 to increase the minimum wage during each successive year pursuant to the Consumer Price Index, to progressively increase the tipped minimum wage to \$5 an hour by 2020, and beginning in 2021 to increase the tipped minimum wage during each successive year pursuant to the Consumer Price Index; and to amend the Living Wage Act of 2006 to provide that the minimum wage requirements of the Minimum Wage Act Revision Act of 1992 shall apply to contracts and agreements for government assistance if the minimum wage is higher than the living wage.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Fair Shot Minimum Wage Emergency Declaration Resolution of 2016”.

Sec. 2. (a) The Fair Shot Minimum Wage Emergency Amendment Act of 2016, passed on 1st reading on June 7, 2016 (Engrossed version of Bill 21-712) (“Fair Shot Act”), still must have a second reading, complete the District legislative process, and complete the 30-day congressional review period required by 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)).

(b) Congress, both the House and Senate, is set to adjourn in mid-July and not reconvene until early September. The congressional recess means a longer than usual congressional review period. As a result, the Fair Shot Act is unlikely to become law until near the end of 2016.

(c) It is important that this ground-breaking law be in place earlier than year’s end to provide surety to employers and employees of the mandated progressive increases.

(d) The next scheduled adjustment to the minimum hourly wage is July 1, 2016.

(e) It is important that the requirement that the Mayor publish each adjustment to the minimum hourly wage and make bulletins of the information available to employers be law as soon as possible so that it applies to the upcoming July 1, 2016 increase.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Fair Shot Minimum Wage Emergency Amendment Act of 2016 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

COUNCIL OF THE DISTRICT OF COLUMBIA
NOTICE OF INTENT TO ACT ON NEW LEGISLATION

The Council of the District of Columbia hereby gives notice of its intention to consider the following legislative matters for final Council action in not less than **15 days**. Referrals of legislation to various committees of the Council are listed below and are subject to change at the legislative meeting immediately following or coinciding with the date of introduction. It is also noted that legislation may be co-sponsored by other Councilmembers after its introduction.

Interested persons wishing to comment may do so in writing addressed to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, NW, Room 5, Washington, D.C. 20004. Copies of bills and proposed resolutions are available in the Legislative Services Division, 1350 Pennsylvania Avenue, NW, Room 10, Washington, D.C. 20004 Telephone: 724-8050 or online at www.dccouncil.us.

COUNCIL OF THE DISTRICT OF COLUMBIA**PROPOSED LEGISLATION****BILLS**

B21-793 Jackson School Lease Renewal Authorization Act of 2016

Intro. 6-20-16 by Councilmember Evans and referred to the Committee of the Whole

B21-804 Lesbian, Gay, Bisexual, Transgender and Questioning Health Disparities Documentation Act of 2016

Intro. 6-28-16 by Councilmembers Grosso, Cheh, Todd, Bonds, Allen, Evans, and Nadeau and referred to the Committee on Health and Human Services

B21-813 Comprehensive Inspector General Independence and Empowerment Amendment Act of 2016

Intro. 6-24-16 by Councilmember Evans and referred to the Committee on Finance and Revenue with comments from the Committee of the Whole

PROPOSED RESOLUTIONS

- PR21-822 Office of Public-Private Partnership Rules Approval Resolution of 2016
Intro. 6-20-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole
-
- PR21-823 Medicaid Asset Verification Program State Plan Amendment Approval Resolution of 2016
Intro. 6-22-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services
-
- PR21-836 Proposed contract with DC Central Kitchen Approval Resolution of 2016
Intro. 6-27-16 by Councilmembers Grosso, Cheh, McDuffie, and Silverman and Retained by the Council
-
- PR21-839 Advisory Referendum on the State of New Columbia Admission Act Resolution of 2016
Intro. 6-28-16 by Chairman Mendelson and Councilmembers Bonds, Silverman, Evans, Todd, Alexander, McDuffie, Allen, Grosso, Nadeau, Cheh, Orange, and May and Retained by the Council
-
- PR21-840 Proposed contract with SodexoMagic, LLC Approval Resolution of 2016
Intro. 6-27-16 by Councilmembers Grosso, Cheh, McDuffie, and Silverman and Retained by the Council
-

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

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

ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE ON

**THE DISTRICT OF COLUMBIA'S COMMUNITY SERVICES BLOCK GRANT
PROGRAM**

**THURSDAY, JULY 14, 2016
2:30 P.M., ROOM 500, JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004**

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health and Human Services, announces a Public Oversight Roundtable on the "District of Columbia's Community Services Block Grant Program." The roundtable will be held on Thursday, July 14, 2016, at 2:30 p.m., in Room 500 of the John A. Wilson Building.

The Community Services Block Grant Program provides funds to alleviate the causes and conditions of poverty in the District of Columbia. In accordance with the federal Community Services Block Grant Act, approved October 27, 1998 (112 Stat. 2728; 42 USC § 9901 *et seq.*), the Committee convenes this roundtable to receive public comment on the District's plan for Community Services Block Grant activities. The Committee will hear from the Department of Human Services, as well as the United Planning Organization in its capacity as a community action agency. Witnesses will be allowed four (4) minutes to testify. Less time will be allowed if there are a large number of witnesses.

Those who wish to testify should contact Malcolm Cameron, Legislative Analyst to the Committee on Health and Human Services, at 202-741-0909 or via e-mail at mcameron@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Tuesday, July 12, 2016. Persons wishing to testify are encouraged, but not required, to submit 15 copies of their written testimony.

For those unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Copies of written statements can be emailed to mcameron@dccouncil.us or mailed to Malcolm Cameron at the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Room 115, Washington, D.C., 20004. The record will close at 5:00 p.m. on Thursday, July 28, 2016.

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

REVISED AND ABBREVIATED

NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE ON

The DC Circulator
AND PUBLIC HEARING ON
B21-785, the DC Circulator High-Tech Upgrade Feasibility Study Act of
2016

Monday July 11, 2016
at 12:00 p.m.
in Room 120 of the
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

On Monday, July 11, 2016, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public oversight roundtable on the D.C. Circulator and a public hearing on B21-785, the DC Circulator High-Tech Upgrade Feasibility Study Act of 2016. The proceedings will begin at 12:00 p.m. in Room 120 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 (DDOT) management of the District's Circulator bus service and to review DDOT's response to maintenance concerns raised by the Transit Resource Center audit, the status of the agency's plan to construct a new fleet facility, and the financial and personnel resources required for DDOT to manage the entirety of the service. The Committee will also consider B21-785, which would require DDOT to conduct a study to determine the feasibility of adding technology services to all DC Circulator buses, including wireless internet and USB charging ports.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official record. Anyone wishing to testify should contact Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, at (202) 724-8062 or via e-mail at abenjamin@dccouncil.us. Persons representing organizations will have five minutes to present their testimony. Individuals will have three minutes to present their testimony. Witnesses should bring 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 July 25, 2016.

This notice has been revised and abbreviated to reflect that the time of the roundtable and hearing has been changed from 11:00 a.m. to 12:00 p.m.

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

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

on the

**Proposed Contract CA21-443 between DC Public Schools and DC Central Kitchen &
Proposed Contract CA21-446 between DC Public Schools and SodexoMagic, LLC**

on

**Wednesday, July 6, 2016
10:00 a.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Councilmember David Grosso announces the scheduling of a public roundtable of the Committee on Education on Proposed Contract CA21-443 between DC Public Schools (“DCPS”) and DC Central Kitchen and Proposed Contract CA21-446 between DCPS and SodexoMagic, LLC. The hearing will be held at 10:00 a.m. on Wednesday, July 6, 2016 in Room 412 of the John A. Wilson Building.

The stated purpose of this roundtable is to examine the proposed base year contracts between DCPS and DC Central Kitchen and SodexoMagic, LLC to manage the overall DCPS Food Service Program. The contract with DC Central Kitchen is in the amount of \$5,154,018.94 to manage the food service program for an estimated 12 schools. The contract with SodexoMagic, LLC is in the amount of \$35,401,842.20 to manage the food service program for an estimated 101 schools.

Those who wish to testify are asked to call the Committee on Education at (202) 724-8061 or email Christina Henderson at chenderson@dccouncil.us, and provide their name, telephone number, organizational affiliation and title (if any) by 5:00pm Monday, July 4. 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 July 12, 2016.

COUNCIL OF THE DISTRICT OF COLUMBIA
The Wilson Building

NOTICE OF CONTRACT APPROVAL RESOLUTION

The Council of the District of Columbia gives notice that the resolution listed below to approve CA 21-443, proposed contract with DC Central Kitchen in the amount of \$5,154,018.94 to serve an estimated twelve (12) schools, which covers this essential DCPS function for school year 2016-2017 was filed in the Office of the Secretary on June 23, 2016.

A copy of the approval resolution or the proposed contract is available in the Council's Legislative Services, Room 10, John A. Wilson Building. Telephone: 724-8050. Comments on the proposed contract can be addressed to the Secretary to the Council, Room 5.

PR 21-836: Proposed contract with DC Central Kitchen Approval Resolution of 2016

COUNCIL OF THE DISTRICT OF COLUMBIA
The Wilson Building

NOTICE OF CONTRACT APPROVAL RESOLUTION

The Council of the District of Columbia gives notice that the resolution listed below to approve CA 21-446, proposed contract with SodexoMagic, LLC in the amount of \$35,401,842.20 to serve an estimated one hundred (101) schools for the base year, which covers this essential DCPS function for the school year 2016-2017 was filed in the Office of the Secretary on June 23, 2016.

A copy of the approval resolution or the proposed contract is available in the Council's Legislative Services, Room 10, John A. Wilson Building. Telephone: 724-8050. Comments on the proposed contract can be addressed to the Secretary to the Council, Room 5.

PR 21-840: Proposed contract with SodexoMagic, LLC Approval Resolution of 2016

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, NW
Washington, DC 20004

ABBREVIATED NOTICE OF INTENT TO CONSIDER LEGISLATION

The Council of the District of Columbia hereby gives notice of its intention to take action in less than fifteen days on PR 21-839, the “Advisory Referendum on the State of New Columbia Admission Act Resolution of 2016,” to allow for the proposed resolution to be considered at an additional legislative meeting on July 12, 2016.

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Reprogramming Requests

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

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

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

Reprog. 21-202: Request to reprogram \$1,721,517 of Fiscal Year 2016 local funds budget authority within the Department of Health (DOH) was filed in the Office of the Secretary on June 23, 2016. This reprogramming ensures that DOH will be able to enable other District, federal, and state agencies to electronically access pre-defined birth and death records information for surveillance and program monitoring purposes; and staffing contracts within HAHSTA.

RECEIVED: 14 day review begins June 24, 2016

Reprog. 21-203: Request to reprogram \$44,399 of Pay-As-You-Go (Paygo) Capital Funds budget authority and allotment from the Department of General Services (DGS) to the Local funds budget of DGS was filed in the Office of the Secretary on June 23, 2016. This reprogramming is needed for the purchase of various furniture and equipment for Woodson High School and Van Ness Elementary School.

RECEIVED: 14 day review begins June 24, 2016

Reprog. 21-204: Request to reprogram \$78,489 of Pay-As-You-Go (Paygo) Capital Funds budget authority and allotment from the Department of General Services (DGS) to the Local funds budget of DGS was filed in the Office of the Secretary on June 23, 2016. This reprogramming is needed for the funding of various furniture items, computers, security cameras and exercise equipment for the Ridge Road Community Center capital project.

RECEIVED: 14 day review begins June 24, 2016

Reprog. 21-205: Request to reprogram \$3,000,000 of Capital funds budget authority and allotment from the Office of the Secretary (OS) to the Department of General Services (DGS) was filed in the Office of Secretary on June 23, 2016. This reprogramming is needed for the procurement and renovation of systemic and structural systems at Naylor Road.

RECEIVED: 14 day review begins June 24, 2016

Reprog. 21-206: Request to reprogram \$1,500,000 of Capital funds budget authority and allotment within the Department of General Services (DGS) was filed in the Office of the Secretary on June 23, 2016. This reprogramming is needed for the modernization/renovation of the Fort Greble Recreation Center.

RECEIVED: 14 day review begins June 24, 2016

Reprog. 21-207: Request to reprogram \$3,132,135 of Fiscal Year 2016 Special Purpose Revenue funds budget authority within the Department of Issuance, Securities, and Banking (DISB) was filed in the Office of Secretary on June 23, 2016. This reprogramming ensures that DISB will be able to support the Financial Fitness Initiative.

RECEIVED: 14 day review begins June 24, 2016

Reprog. 21-208: Request to reprogram \$1,000,000 of Fiscal Year 2016 Local funds budget authority from the Department of Motor Vehicles (DMV) to the Pay-As-You-Go (Paygo) was filed in the Office of the Secretary on June 23, 2016. This reprogramming ensures that the DMV is able to complete the renovation of its Vehicle Inspection Station.

RECEIVED: 14 day review begins June 24, 2016

Reprog. 21-209: Request to reprogram \$2,366,560 of Fiscal Year 2016 Local funds budget authority within the Fire and Emergency Medical Services Department (FEMS) was filed in the Office of the Secretary on June 23, 2016. This reprogramming ensures that FEMS will be able to fulfill critical fleet maintenance, equipment, and emergency medical services supply needs, in addition to covering a projected pressure in purchase card spending.

RECEIVED: 14 day review begins June 24, 2016

Reprog. 21-210: Request to reprogram \$2,500,000 of Fiscal Year 2016 Local funds budget authority within the Department of General Services (DGS) was filed in the Office of Secretary on June 23, 2016. This reprogramming will ensure the agency's ability to properly address the annual Summer School Blitz projects for DC Public Schools.

RECEIVED: 14 day review begins June 24, 2016

Reprog. 21-211: Request to reprogram \$2,500,000 of Capital funds budget authority and allotment from the Office of the Chief Financial Officer (OFCO) to the Office of the Chief Technology Officer (OCTO) was filed in the Office of the Secretary on June 23, 2016. This reprogramming is needed to support a critical major upgrade of the mainframe equipment supporting SOAR, ITAS, Check-Write, ARPS, CAPPS, UPPS, Destiny, DUTAS, and other applications.

RECEIVED: 14 day review begins June 24, 2016

Reprog. 21-212: Request to reprogram \$569,284 of Fiscal Year 2016 Local funds budget authority within the Department of Corrections (DOC) was filed in the Office of the Secretary on June 23, 2016. This reprogramming ensures that DOC will be able to procure food services, inmate clothing, residential substance abuse and strategic planning educational supplies, and information technology software maintenance, as well as fulfilling warehouse contractual obligations and inmate work squad detail needs.

RECEIVED: 14 day review begins June 24, 2016

Reprog. 21-213: Request to reprogram \$1,927,144 of Capital funds budget authority and allotment within the District Department of Transportation (DDOT) was filed in the Office of Secretary on June 23, 2016. This reprogramming is required for citywide alley rehabilitation work.

RECEIVED: 14 day review begins June 24, 2016

Reprog. 21-214: Request to reprogram \$536,070 of Fiscal Year 2016 Local funds budget authority within the Office of Zoning (OZ) was filed in the Office of the Secretary on June 23, 2016. This reprogramming is required for citywide alley rehabilitation work.

RECEIVED: 14 day review begins June 24, 2016

Reprog. 21-215: Request to reprogram \$5,087,098 of Fiscal Year 2016 Special Purpose Revenue funds budget authority within the Department of Employment Services (DOES) was filed in the Office of the Secretary on June 24, 2016. This reprogramming ensures that DOES will be able to cover projected payroll and associated operational costs needed in the Unemployment Insurance (UI) program, as well as to compensate for the reduction of the Federal UI Administration grant ward.

RECEIVED: 14 day review begins June 27, 2016

Reprog. 21-216: Request to reprogram \$8,806,289 of Capital funds and Pay-As-You-Go budget authority and allotment within Special Education Transportation was filed in the Office of the Secretary on June 24, 2016. This reprogramming is needed to purchase the new bus terminal for the growing bus fleet.

RECEIVED: 14 day review begins June 27, 2016

Reprog. 21-217: Request to reprogram \$734,600 of Fiscal Year 2016 Local funds budget authority within the Office of the Inspector General (OIG) was filed in the Office of the Secretary on June 24, 2016. This reprogramming will ensure that the agency's software and facility maintenance needs are satisfied.

RECEIVED: 14 day review begins June 27, 2016

Reprog. 21-218: Request to reprogram \$1,278,953 of Fiscal Year 2016 Local Funds budget authority within the Department of Human Services (DHS) was filed in the Office of the Secretary on June 24, 2016. This reprogramming ensures that funds will be available to provide emergency shelter to eligible families participating in the Homeless Services Continuum – Families program.

RECEIVED: 14 day review begins June 27, 2016

Reprog. 21-219: Request to reprogram \$1,500,000 of Fiscal Year 2016 Local funds budget authority within the Office of the State Superintendent of Education (OSSE) was filed in the Office of the Secretary on June 24, 2016. This reprogramming ensures that OSSE will be to support the child care database and establish eligibility criteria for its recipients.

RECEIVED: 14 day review begins June 27, 2016

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****READVERTISEMENT**

Posting Date: **July 1, 2016
Petition Date: **August 15, 2016
Hearing Date: **August 29, 2016
Protest Date: **October 26, 2016

License No.: ABRA-102733
Licensee: Cordial Wharf, LLC
Trade Name: Cordial Fine Wine & Spirits
License Class: Retailer’s Class “A” Liquor Store
Address: 690 Water Street, S.W.
Contact: Erin Sharkey: (202) 686-7600

WARD 6 ANC 6D SMD 6D04

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled on **October 26, 2016 at 1:30pm.

NATURE OF OPERATION

A neighborhood liquor store serving alcoholic beverages and offering tastings on premise.

HOURS OF OPERATION/ALCOHOLIC BEVERAGE
SALES/SERVICE/CONSUMPTION

Sunday through Thursday 7:00 am- 2:00 am, Friday and Saturday 8:00 am – 3:00 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Posting Date: **May 27, 2016
Petition Date: **July 11, 2016
Hearing Date: **July 25, 2016
Protest Date: **September 21, 2016

License No.: ABRA-102733
Licensee: Cordial Wharf, LLC
Trade Name: Cordial Fine Wine & Spirits
License Class: Retailer’s Class “A” Liquor Store
Address: 690 Water Street, S.W.
Contact: Erin Sharkey: (202) 686-7600

WARD 6 ANC 6D SMD 6D04

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled on **September 21, 2016 at 1:30pm.

NATURE OF OPERATION

A neighborhood liquor store serving alcoholic beverages and offering tastings on premise.

HOURS OF OPERATION/ALCOHOLIC BEVERAGE
SALES/SERVICE/CONSUMPTION

Sunday through Thursday 7:00 am- 2:00 am, Friday and Saturday 8:00 am – 3:00 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: July 1, 2016
Petition Date: August 15, 2016
Hearing Date: August 29, 2016

License No.: ABRA-100279
Licensee: NazcaMochica Restaurant, LLC
Trade Name: Nazca Restaurant/Mochica Restaurant
License Class: Retail Class "C" Restaurant
Address: 1633 P Street, N.W.
Contact: Bryan Short: 202-888-2107

WARD 2

ANC 2B

SMD 2B05

Notice is hereby given that this licensee who has applied for a Substantial Change to his license under the D.C. Alcoholic Beverage Control Act and for objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, Suite 400S, 2000 14th Street, N.W., Washington, DC 20009. A petition or request to appear before the Board must be filed on or before the petition date.

LICENSEE REQUESTS THE FOLLOWING SUBSTANTIAL CHANGE TO ITS NATURE OF OPERATIONS:

Change of Hours of operation and alcoholic beverage sales and consumption.

APPROVED HOURS OF OPERATON/ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Saturday 10 am – 11pm

APPROVED HOURS OF LIVE ENTERTAINMENT

Sunday through Saturday 6 pm – 11 pm

PROPOSED HOURS OF OPERATON/ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Thursday 8 am – 2 am, Friday and Saturday 8 pm – 3am

PROPOSED HOURS OF LIVE ENTERTAINMENT

Sunday through Thursday 6 pm – 2 am, Friday and Saturday 6 pm – 3am

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

Posting Date: June 17, 2016
Petition Date: August 1, 2016
Hearing Date: August 15, 2016
Protest Hearing: October 19, 2016

License No.: ABRA-103238
Licensee: Pansaari, LLC
Trade Name: Pansaari
License Class: Retail Class "C" **Restaurant
Address: 1603 17th Street, N.W.
Contact: Sujata Singh: 202-847-0115

WARD 2

ANC 2B

SMD 2B04

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for 4:30pm on October 19, 2016

NATURE OF OPERATION

New restaurant. Neighborhood chai bar, Indian market and café. Cooking classes. Total Occupancy Load: 60.

HOURS OF OPERATON AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Saturday 9 am – 11 pm

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

Posting Date: June 17, 2016
Petition Date: August 1, 2016
Hearing Date: August 15, 2016
Protest Hearing: October 19, 2016

License No.: ABRA-103238
Licensee: Pansaari, LLC
Trade Name: Pansaari
License Class: Retail Class "C" **Tavern
Address: 1603 17th Street, N.W.
Contact: Sujata Singh: 202-847-0115

WARD 2

ANC 2B

SMD 2B04

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for 4:30pm on October 19, 2016

NATURE OF OPERATION

New restaurant. Neighborhood chai bar, Indian market and café. Cooking classes. Total Occupancy Load: 60.

HOURS OF OPERATON AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Saturday 9 am – 11 pm

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

Posting Date: July 1, 2016
Petition Date: August 15, 2016
Hearing Date: August 29, 2016
Protest Date: October 26, 2016

License No.: ABRA-103336
Licensee: Coffee House Holdings, Inc.
Trade Name: Starbucks Coffee #26030
License Class: Retailer's Class "D" Restaurant
Address: 655 Michigan Avenue, N.E.
Contact: Stephen O'Brien: (202) 625-7700

WARD 5

ANC 5E

SMD 5E01

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled on October 26, 2016 at 4:30pm.

NATURE OF OPERATION

A coffee shop that offers breakfast all day, along with savory small plates, and desserts paired with wine and beer selections. Sidewalk Cafe with a Total Occupancy Load of 30 seats.

HOURS OF OPERATION ON PREMISE AND FOR SIDEWALK CAFE

Sunday through Saturday 5:00 am – 11:00 pm

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

Sunday 12:00 pm – 11:00 pm, Monday through Friday 2:00 pm- 11:00 pm, Saturday 12:00 pm – 11:00 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: July 1, 2016
Petition Date: August 15, 2016
Hearing Date: August 29, 2016

License No.: ABRA-097558
Licensee: Gobind, LLC
Trade Name: Toscana Cafe
License Class: Retailer's Class "D" Restaurant
Address: 601 2nd Street, N.E.
Contact: Amarjit Ghai: (202) 525-2693

WARD 6

ANC 6C

SMD 6C04

Notice is hereby given that this licensee has applied for a Substantial Change to its license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 1:30pm, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date.

NATURE OF SUBSTANTIAL CHANGE

Applicant has requested to Class Change from "D" Restaurant to "C" Restaurant.

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

Sunday through Saturday 11 am - 12 am

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

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

BOARD OF ELECTIONS**NOTICE OF PUBLIC HEARING
RECEIPT AND INTENT TO REVIEW INITIATIVE MEASURE**

The Board of Elections shall consider in a public hearing whether the proposed measure “Fair Minimum Wage Act of 2017” is a proper subject matter for initiative at its regular meeting on Wednesday, August 3, 2016 at 10:30 a.m., One Judiciary Square, 441 4th Street, NW, Suite 280 North, Washington, D.C.

The Board requests that written memoranda be submitted for the record no later than 4:00 p.m., Thursday, July 28, 2016 to the Board of Elections, General Counsel’s Office, One Judiciary Square, and 441 4th Street, NW, Suite 270 North, Washington, D.C. 20001.

Each individual or representative of an organization who wishes to present testimony at the public hearing is requested to furnish his or her name, address, telephone number, and name of the organization represented (if any) by calling the General Counsel’s office at 727-2194 no later than 4:00 p.m., Friday, June 29, 2016.

The Short Title, Summary Statement, and Legislative Text of the proposed initiative read as follows:

SHORT TITLE

Fair Minimum Wage Act of 2017

SUMMARY STATEMENT

This initiative would raise D.C.’s minimum wage to \$12.50 per hour in July 2017, and then raise it each year after that until it reaches \$15 per hour in July 2020; after that it would apply D.C.’s existing requirement that the minimum wage be adjusted each year to match the rising cost of living. It would also gradually raise the minimum wage employers have to pay employees who receive tips until it matches the full minimum wage by July 2026. These increased minimum wage levels would not apply to employees of the D.C. government or of D.C. government contractors.

LEGISLATIVE TEXT

BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA, That this measure may be cited as the “Fair Minimum Wage Act of 2017”

--D.C. Code § 32-1003--

Section 1. Section 4 of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1003), as amended by the Minimum Wage Amendment Act of 2013 (D.C. Law 20-459) is further amended as follows:

Paragraph (6) of subsection (a) is amended to read as follows:

“(6) Except as provided in subsections (h) and (i) of this section, as of July 1, 2017, the minimum wage required to be paid to any employee by any employer in the District of Columbia shall be not less than \$12.50 an hour.”

Subsection (a) is further amended by adding new paragraphs (7), (8), (9) and (10) to read as follows:

“(7) Except as provided in subsections (h) and (i) of this section, as of July 1, 2018, the minimum wage required to be paid to any employee by any employer in the District of Columbia shall be not less than \$13.25 an hour.

“(8) Except as provided in subsections (h) and (i) of this section, as of July 1, 2019, the minimum wage required to be paid to any employee by any employer in the District of Columbia shall be not less than \$14.00 an hour.

“(9) Except as provided in subsections (h) and (i) of this section, as of July 1, 2020, the minimum wage required to be paid to any employee by any employer in the District of Columbia shall be not less than \$15.00 an hour.

“(10)(A) Except as provided in subsections (h) and (i) of this section, beginning on July 1, 2021 and no later than July 1 of each successive year, the minimum wage provided in this subsection shall be increased in proportion to the annual average increase, if any, in the Consumer Price Index for All Urban Consumers in the Washington Metropolitan Statistical Area published by the Bureau of Labor Statistics of the United States Department of Labor for the previous calendar year. Any increase under this paragraph shall be adjusted to the nearest multiple of \$.05.

(B) The Mayor shall publish in the District of Columbia Register and make available to employers a bulletin announcing the adjusted minimum wage rate as provided in this paragraph. The bulletin shall be published at least 30 days before the annual minimum wage rate adjustment.”

(c) Subsection (f) is amended by redesignating subsection (f) thereof as subsection (f)(1) and adding to subsection (f) the following new paragraphs (2), (3), (4), (5), (6), (7), (8), (9) and (10) to read as follows:

“(2) Except as provided in subsections (h) and (i) of this section, as of July 1, 2018, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be not less than \$4.50 an hour, provided that the employee actually receives gratuities in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

“(3) Except as provided in subsections (h) and (i) of this section, as of July 1, 2019, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be not less than \$6.00 an hour, provided that the employee actually receives gratuities in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

“(4) Except as provided in subsections (h) and (i) of this section, as of July 1, 2020, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be not less than \$7.50 an hour, provided that the employee actually receives gratuities in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

“(5) Except as provided in subsections (h) and (i) of this section, as of July 1, 2021, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be not less than \$9.00 an hour, provided that the employee actually receives gratuities in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

“(6) Except as provided in subsections (h) and (i) of this section, as of July 1, 2022, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be not less than \$10.50 an hour, provided that the employee actually receives gratuities in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

“(7) Except as provided in subsections (h) and (i) of this section, as of July 1, 2023, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be not less than \$12.00 an hour, provided that the employee actually receives gratuities in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

“(8) Except as provided in subsections (h) and (i) of this section, as of July 1, 2024, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be not less than \$13.50 an hour, provided that the employee actually receives gratuities in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

“(9) Except as provided in subsections (h) and (i) of this section, as of July 1, 2025, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be not less than \$15.00 an hour, provided that the employee actually receives gratuities in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

“(10) Except as provided in subsections (h) and (i) of this section, as of July 1, 2026, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be not less than the minimum wage as set by subsection (a) of this section.”

A new subsection (i) is added to read as follows:

“(i) The provisions of paragraphs (6), (7), (8), (9) and (10) of subsection (a) of this section, and the provisions of paragraphs (2), (3), (4), (5), (6), (7), (8), (9) and (10) of subsection (f) of this

section shall not apply to employees of the District of Columbia, or to employees employed to perform services provided under contracts with the District of Columbia. Such employees shall continue to be subject to the minimum wage requirements of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code §§ 32-1003, et. seq.), as amended by the Enhanced Professional Security Amendment Act of 2008, effective March 20, 2008 (D.C. Law 17-114), as amended by the Minimum Wage Amendment Act of 2013 (D.C. Law 20-459), as they existed prior to the effective date of the Fair Minimum Wage Act of 2017, and to the requirements of all other applicable laws, regulations or policies relating to wages or benefits, including but not limited to, the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.1, et seq.).”

Section 3. Nothing in this act shall be construed as preventing the Council of the District of Columbia from increasing minimum wages or benefits to levels in excess of those provided for in this Act for any category of employees, including but not limited to those employees described in D.C. Official Code section 32-1003(i) as added by this Act.

Section 4. If any section of this act or its application to any persons or circumstances is held invalid, the remainder of this measure, or the application of its provisions to other persons or circumstances, shall not be affected. To this end, the provisions of this act are severable.

Section 5. This act shall take effect after a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Self-Government and Government Reorganization Act (Home Rule Act), approved December 24, 1971 (87 Stat. 813; D.C. Official Code §1-206.02(c)(1)).

Section 6. This act shall supersede any amendments to Section 4 of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1003) enacted on or after June 1, 2016 but before the effective date of this Act

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
NOTICE OF COMMUNITY ENGAGEMENT EVENT**

OPEN FORUM AND PUBLIC HEARING NOTICE

Wednesday, July 27, 2016

Housing Finance Agency - 815 Florida Avenue, NW

Open Forum: 5:00pm - 6:15pm

Public Hearing: 6:30pm

**FY2016 – FY2020 Five-Year Consolidated Plan
First Year Annual Action Plan
FY2017 National Housing Trust Fund Allocation Plan**

The Department of Housing and Community Development (DHCD) is seeking public input on draft priority needs, strategies, and projects laid out in the Five Year Consolidated Plan, First Year Annual Action Plan, and National Housing Trust Fund Allocation Plan. The City anticipates receiving roughly \$250 million from five federal resources between October 1, 2016 and September 30, 2021. These documents serve as the District of Columbia's strategic plan and application for the following federal resources:

- The **Community Development Block Grant (CDBG) program** is the District's most flexible funding resource and can be used for both housing and non-housing activities, including those that revitalize neighborhoods, promote economic development, and improve community facilities, infrastructure and services in low-moderate income communities. DHCD anticipates receiving \$13.7 million each year.
- The **HOME Investment Partnerships (HOME) program** supports building, buying, and/or rehabilitating affordable housing for rent, homeownership, or provides direct rental assistance to low-income residents. DHCD anticipates receiving \$3.7 million each year.
- The **Emergency Solutions Grant (ESG) program** provides funding for programs and service supporting homeless individuals and families to engage homeless individuals to help operate shelters, provide essential services to shelter residents, rapidly re-house homeless individuals and families, and prevent families and individuals from becoming homeless. The Department of Human Services (DHS) administers this program and anticipates \$1.2 million each year.

- The **Housing Opportunities for Persons with AIDS (HOPWA) program** makes grants to the District and nonprofit organizations for projects that benefit low-income persons living with HIV/AIDS and their families. The Department of Health (DOH) administers this program and anticipates \$11.17 million. HOPWA funds are distributed to the entire Washington, DC Eligible Metropolitan Statistical Area- District of Columbia, counties in Northern Virginia, Calvert, Charles and Prince George's Counties, Maryland and parts of West Virginia).
- The **National Housing Trust Fund (HTF)** supports the production, preservation, rehabilitation, and operation of housing affordable to extremely low-income households earning less than 30 percent of the area median income. DHCD anticipates receiving \$3 million per year.

DHCD is the lead agency responsible for the submission of the Consolidated Plan to the U.S. Department of Housing and Urban Development (HUD), which is updated every five years. The strategies outlined in the plan are a result of substantial consultations and input from the public, including an online survey, four "Needs Assessment" hearings, a public forum, focus groups with service providers and community-based organizations, and consultations with other DC government agencies.

In addition to the Plan, the District is required to complete two reports on an annual basis before funds can be spent. The first is the Annual Action Plan, which specifies one-year planned use of grant funds, including project- and program-level information. All activities must tie back to the priorities and goals outlined in the five-year plan. The second report is the National Housing Trust Fund Allocation Plan, which specifies allocation priorities and guidelines for use of the National Housing Trust Fund.

An **open forum** and **hearing** will be held on **Wednesday, July 27, 2016 at 815 Florida Avenue NW** (Housing Finance Agency) to provide an opportunity for the public to receive information related to the Consolidated Plan, Annual Action Plan, and Housing Trust Fund Allocation Plan and offer comments in person prior to the submission of these documents to HUD. The open forum will be held between 5pm and 6:15pm for the community to engage with DHCD staff freely and provide comments. The public hearing will start at 6:30pm.

Draft versions of the Five-Year Consolidated Plan, First Year Annual Action Plan, and National Housing Trust Fund Allocation Plan are available for public review and comment for a minimum of 30 days, pursuant to the District's Citizen Participation Plan. An online copy is available on DHCD's homepage at <http://dhcd.dc.gov> and is available for review at the Department's office at 1800 Martin Luther King, Jr. Avenue SE, Washington, DC 20020 in the Housing Resource Center. Additionally, copies will be available for review at the following community-based organizations:

AARP Legal Counsel for the Elderly 601 E Street NW (202) 434-2120	Central American Resource Center 1460 Columbia Road NW, #C1 (202) 328-9799	Greater Washington Urban League, Inc. 2901 14th Street NW (202) 265-8200	Housing Counseling Services, Inc. 2410 17th Street NW, Suite 100 (202) 667-7006
Latino Economic Development Center 641 S Street NW (202) 588-5102	Lydia's House 4101 Martin Luther King, Jr. Avenue SW (202) 373-1050	Manna, Inc. 828 Evarts Street NE (202) 832-1845	MiCasa 6230 3rd Street NW (202) 722-7423
University Legal Services 220 I Street NE, Suite 130 (202) 547-4747	University Legal Services 3939 Benning Road, NE (202) 650-5631	University Legal Services 1800 Martin Luther King, Jr. Avenue SE (202) 889-2196	

Pursuant to the Language Access Act of 2004, the Executive Summary, Table of Contents, and Notice of Community Engagement Events will be translated into the following six languages: Spanish, French, Korean, Chinese, Vietnamese, and Amharic. Translated versions will be available on DHCD's website no later than **Friday, July 1, 2016**.

Written comments on the Consolidated Plan, Annual Action Plan, and Housing Trust Fund Allocation Plan can be submitted one of two ways – via email to Jennifer.skow@dc.gov or by mail to Polly Donaldson, Director, DC Housing and Community Development, 1800 Martin Luther King, Jr. Avenue SE, Washington, DC 20020. Written comments may be submitted any time between the publication date and **Wednesday, August 10, 2016**.

Telecommunications Device for the Deaf relay service is available by calling (800) 201-7165. A sign language interpreter will be provided upon request by calling (202) 442-7251 five days prior to the event date. Residents who require language interpretation should specify which language (Spanish, Vietnamese, Chinese-Mandarin/Cantonese, Amharic, or French). Interpretation services will be provided to pre-registered persons only. Deadline for requesting services of an interpreter is five days prior to the event date. Bilingual staff will provide services on an availability basis to walk-ins without registration.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FURTHER HEARING ON DESIGNATED ISSUES**

TIME AND PLACE: **Wednesday, July 13, 2016, @ 6:30 p.m.**
Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220-South
Washington, D.C. 20001

CASE NO. 04-33G (Amendments to Chapter 26, Inclusionary Zoning)

THIS HEARING IS OF INTEREST TO ALL ANCs

The Zoning Commission, at its regularly scheduled public meeting held June 13, 2016, voted to hold an additional public hearing on this case. The scope of the public hearing will be limited to the first five decision points, and the options listed under each point, as described in the Office of Planning's ("OP") report dated June 10, 2016, and identified in the record as Exhibit No. 233¹.

Those decision points and options, including the OP recommendations, are as follows:

1. Shift Targeted Median Family Income (MFI):

Options:

- a. OP Final Recommendation 1A (amended §2603.3): Expand the requirement to split IZ units between 50% and 80% MFI to C-2-B, C-2-B-1, C-3-A, W-2, SP-1 zone districts;
- b. OP Set Down Option 1B §2603.3: Shift current targets to 60% MFI for rental IZ developments and 80% MFI for Ownership IZ Developments;
- c. Petitioner: Shift current targets to 50% MFI for rental IZ developments and 70% MFI for Ownership IZ Developments (Petitioner);
- d. Retain all current targets.

2. Change Percent IZ Square Footage Requirement:

Options:

- a. OP Final Recommendation (§ TBD): In expanded zones of OP's recommendation 1.a. listed above, keep the 8% of residential square footage requirement, but eliminate the IZ requirement connected to 50% of the bonus density achieved;
- b. OP Set Down Recommendation: In expanded zones of OP's recommendation 1.a. listed above, keep both the 8% of residential square footage requirement, and the 50% of the bonus density achieved requirement;
- c. Petitioner:

¹ This notice revises decision option to 3(b) to reflect a change to the Petitioner's text noted in Exhibit No. 10.

- i. Change percent of square feet required to 12% for most zone districts (Petitioner); and
 - ii. Change percent of square feet required in the St Elizabeth's (StE) from 8% to 10%;
- d. Retain current percent of square feet required.

3. Expand IZ Requirements to Currently Exempted Zone Districts:

Options:

- a. OP Final Recommendation: Retain current exempt zone districts, except for Hill East. OP notes that the HE set-aside and MFI recommendations did not make it into the final report or public hearing advertisement and OP submitted new text (04-33H) to exempt sites, such as portions of Hill East, from the IZ requirements when they are subject to greater affordability requirements as a result of District law.
- b. Petitioner: Expand IZ requirements to Downtown Development District (DD) and to Southeast Federal Center (SEFC), except for developments subject to the Development Agreement.

4. Increase Bonus Density

Options:

- a. OP Final Recommendation §2604: Retain current percent of bonus density permitted;
- b. Petitioner: Increase bonus density to 22% above matter of right Floor Area Ratio (FAR).

5. Change Flexibility in Permitted Building Envelope

Options:

- a. OP Final Recommendation (amended §2604.2): Increase the permitted height by 10 feet in the C-2-C and C-3-C zone districts and reduce permitted lot occupancy in the C-2-C to 80%; and/or
- b. OP Set Down Recommendation: Increase the permitted height by 10 feet in the C-2-C and reduce permitted lot occupancy to 80%; and/or
- c. Petitioner:
 - i. Relieve IZ developments of all lot occupancy restrictions in zones greater than R-4 and increase permitted height by 10 feet in zones listed in § 2604.2; and
 - ii. Decrease minimum permitted lot width by special exception to 30 feet in R-2 for detached dwellings, 23 feet in R-2 for attached dwellings, and 15 feet in the R-3 and R-4 (Petitioner).

- d. Retain all current height and lot occupancy requirements.

Because this hearing is limited to a discussion of specific issues, rather than the question of whether or not to adopt a rule, the usual order for presenting testimony, as specified in 11 DCMR § 3021, is modified as follows:

1. The Commission will first hear testimony from the Petitioner and then from the District of Columbia Building Industry Association, each of which will have fifteen minutes to speak.
2. The Commission will then hear from the authorized representatives of Advisory Neighborhood Commissions (“ANCs”) followed by testimony from members of the public. Person representing ANCs and other organizations will have five minutes to testify and individual will have three minutes.

Pursuant to § 3020.3, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time so as to assure that all views have been fairly heard.

Further, the Commission reserves the right to pose questions to OP at any time during the hearing and following the completion of testimony.

In all other respects, this rulemaking hearing will be conducted in accordance with the provisions of § 3021.

This Commission also has scheduled this case for proposed action consideration at a special public meeting to be held on Wednesday, July 20, 2016, at 6:30 p.m., at the above-described location.

Proposed amendments to the Zoning Regulations of the District of Columbia are authorized pursuant to the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 *et seq.*)

How to participate as a witness.

The Commission requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

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

Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusion in the record. Written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Please include the case number on your submission. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

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

OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

ERRATA NOTICE

The Administrator of the Office of Documents and Administrative Issuances (ODAI), pursuant to the authority set forth in Section 309 of the District of Columbia Administrative Procedure Act, approved October 21, 1968, as amended (82 Stat. 1203; D.C. Official Code § 2-559 (2012 Repl.)), hereby gives notice of corrections to the Notice of Final Rulemaking issued by the District of Columbia Taxicab Commission and published in the *D.C. Register* on June 24, 2016 at 63 DCR 8881.

The final rulemaking amended Chapter 6 (Taxicab Parts and Equipment) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR). Section 609 (Taxicab Vehicle Retirement) mistakenly identifies a new paragraph (g) to Subsection 609.7 instead of paragraph (f). The correction to the final rulemaking is made below:

Section 609, TAXICAB VEHICLE RETIREMENT, is amended as follows:

Subsection 609.7 is amended as follows:

A new paragraph (f) is added as follows:

- (f) The vehicle shall be painted in the uniform color scheme in accordance with the requirements of § 503.

This Errata Notice's correction to the Notice of Final Rulemaking is non-substantive in nature and does not alter the intent, application, or purpose of the proposed rules. The rules are effective upon the original publication date of June 24, 2016.

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

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FINAL RULEMAKING

The State Superintendent of Education, pursuant to the authority set forth in Sections 2a, 3(b)(11), (12) and (17) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code §§ 38-2601.01, 38-2602(b)(11), (12), and (17) (2012 Repl. & 2016 Supp.)), and Sections 1002(a)(22) and (36) of the Non-Health Related Occupations and Professions Licensure Act of 1998, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code § 47-2853.04(a)(22) and (36) (2015 Repl.)), hereby gives notice of the adoption of the following amendments to create a new Chapter 16 (Credentials for Teachers and School Administrators) in Title 5 (Education), Subtitle A (Office of the State Superintendent of Education) of the District of Columbia Municipal Regulations (“DCMR”), and delete in their entirety Sections 1600-1654, 1664-1667, and 1687 in Chapter 16 (License Requirements) in Subtitle E (Original Title 5), Title 5 (Education) DCMR.

The purpose of the final rulemaking is to update the current criteria and procedures under which the Office of the State Superintendent (“OSSE”) shall issue credentials to teachers and administrators in a manner that aligns with current research and needs; eliminate onerous credentials requirements; and streamline the process for awarding credentials in the District.

A Notice of Emergency Rulemaking was published in the *D.C. Register* on March 25, 2016 in 63 DCR 4469. The emergency rulemaking was adopted on March 1, 2016 and became effective on that date. A Notice of Proposed Rulemaking was published in the *D.C. Register* for a thirty (30) day public comment period on April 22, 2016, at 63 DCR 6162. The comment period officially closed on May 23, 2016, with the State Superintendent having received comments from one stakeholder. Based on the comments filed in response to the Notice of Proposed Rulemaking, OSSE amended the language in Subsections 1601.6(b), 1601.9(b), and 1601.9(c) by striking the phrase “three (3)” and inserting the phrase “five (5)” in its place to clarify OSSE’s original intent to recognize individual needs to take time away from the classroom for various personal reasons such as continuing education or care for family members. In addition, OSSE has removed the provisions regarding pathways to obtaining advanced teaching credentials and advanced administrative service credentials in Subsections 1601.12 through 1601.14, 1603.10 through 1603.12, and 1604.9 through 1604.10. OSSE has reserved those subsections, however, in order to further explore those pathways. OSSE anticipates addressing the advanced credential pathways through a separate rulemaking action in the near future.

The final rules are being adopted in substantially the same form as proposed with clarifications and deletions taking into account suggestions received in public comments. These changes do not substantially alter or change the intent, meaning, or application of the proposed rules or exceed the scope of the rules as published with the notice of proposed rulemaking.

These rules were adopted as final on June 23, 2016 and will be effective upon publication of this notice in the *D.C. Register*.

A new Chapter 16 is added to Title 5-A DCMR, OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION, as follows:

CHAPTER 16: CREDENTIALS FOR TEACHERS AND SCHOOL ADMINISTRATORS

1600 PURPOSE & SCOPE

- 1600.1 The purpose of this chapter is to specify criteria under which the Office of the State Superintendent (OSSE) shall issue the following:
- (a) Teaching credential; and
 - (b) Administrative Services credential.
- 1600.2 OSSE shall issue a credential to any applicant who meets the criteria in this chapter including the criteria for a specific credential type, the criminal background check requirements described in Section 1606 and the submission of required application fees described in Section 1608.
- 1600.3 All credentials that are in effect as of the effective date of this rulemaking shall remain in effect until the date of their expiration.

1601 TEACHER CREDENTIALS

- 1601.1 An individual shall hold a teaching credential to serve as a teacher in the District of Columbia Public Schools for the sub-specializations enumerated in this section.
- 1601.2 All individuals required to hold a teaching credential to serve as a teacher in a local education agency (LEA) in the District of Columbia must do so in accordance with the sub-specializations enumerated in this chapter.
- 1601.3 OSSE shall issue an initial, standard, and advanced teaching credential in accordance with the provisions of this chapter.
- 1601.4 All teaching credentials shall specify the discipline(s) and/or sub-specialization(s) in which the holder is authorized to teach.
- 1601.5 All applicants seeking an initial teaching credential in the District of Columbia shall:
- (a) Have earned a bachelor's degree at a college or university accredited by one of the regional accrediting bodies approved by the U.S. Department of Education;
 - (b) Have successfully passed an examination approved by OSSE and developed to assess general reading, writing, mathematics skills and other general content knowledge as designated by OSSE, with a qualifying score determined by OSSE;

- (c) Have successfully passed a subject matter content exam approved by OSSE, in the discipline(s) and/or sub-specializations(s) of the credential being sought; and
- (d) Meet the requirements of Subsection 1601.6.

1601.6 An applicant shall be issued an initial teaching credential by meeting the requirements described in Subsection 1601.5 and submitting the following:

- (a) Documentation satisfactory to OSSE to confirm that the applicant
 - (1) Is admitted into an OSSE-approved teacher preparation program aligned with the content discipline of the credential being sought, or in a teacher preparation program approved by another state approved by OSSE in accordance with the interstate agreement provisions outlined in this chapter; and
 - (2) Is employed or contracted as a teacher by an LEA operating in the District of Columbia; or
- (b) Documentation satisfactory to OSSE to confirm that the applicant:
 - (1) Has at least two (2) years of effective full-time teaching experience in another state as measured by a summative evaluation rating or two (2) years of effective or equivalent teaching as measured by the student growth component of an evaluation rating. The experience shall be completed within the previous five (5) years, and the final year shall show a rating of effective or higher; and
 - (2) Has a valid, current teaching credential, in good standing, issued from another state approved by OSSE in accordance with the interstate agreement provisions outlined in this chapter; or
- (c) Documentation satisfactory to OSSE to confirm that the applicant:
 - (1) Is employed or contracted as a teacher by an LEA operating in the District of Columbia; and
 - (2) Has a written request for issuance of an initial teaching credential addressed to OSSE from the employing LEA.

1601.7 The term of the initial teaching credential shall expire on July 31st of the third (3rd) calendar year after issuance.

1601.8 The initial teaching credential is not renewable.

1601.9 An applicant shall be issued a standard teaching credential by meeting the following requirements and submitting the following:

- (a) Documentation satisfactory to OSSE to confirm that the applicant:
 - (1) Completed an educator preparation program approved by OSSE or an approved program in another state approved by OSSE in accordance with the interstate agreement provisions outlined in this chapter;
 - (2) Successfully passed an examination approved by OSSE, developed to assess general reading, writing, mathematics skills, and other general content knowledge as designated by OSSE;
 - (3) Successfully passed a subject matter content examination approved by OSSE, in the content discipline for which a credential is sought; and
 - (4) Successfully passed a grade-appropriate pedagogy examination approved by OSSE, or performance-based assessment, as designated by OSSE, with a qualifying score determined by OSSE; or
- (b) Documentation satisfactory to OSSE to confirm that the applicant:
 - (1) Held an initial teaching credential in the District of Columbia;
 - (2) Completed at least two (2) years of effective or equivalent full-time teaching experience at an LEA in the District of Columbia within the five (5) year period prior to the application, as demonstrated by the applicant's summative evaluation rating from the employing LEA; and
 - (3) Successfully passed a grade-appropriate pedagogy examination approved by OSSE, or performance-based assessment, as designated by OSSE, with a qualifying score determined by OSSE; or
- (c) Documentation satisfactory to OSSE to confirm that the applicant:
 - (1) Holds a teaching credential issued by another state approved by OSSE in accordance with the interstate agreement provisions outlined in this chapter;

- (2) Successfully passed an examination approved by OSSE and developed to assess basic reading, writing, mathematics skills, and other general content knowledge designated by OSSE;
 - (3) Successfully passed a subject matter content examination approved by OSSE in the content discipline for which a credential is sought;
 - (4) Successfully passed a grade-appropriate pedagogy examination or performance-based assessment, as designated by OSSE; and
 - (5) Has at least two (2) years of effective or equivalent full-time teaching experience in another state, as measured by a summative evaluation rating of two (2) years of effective or equivalent teaching based upon the student growth component of an evaluation rating. The experience shall be completed within five (5) years prior to an application for the credential, and the final year shall show a rating of effective or higher; or
- (d) Documentation satisfactory to OSSE to confirm that the applicant:
- (1) Is currently or has been employed as a teacher by an LEA operating in the District of Columbia;
 - (2) Has completed at least two (2) years of effective or equivalent full-time teaching experience at an LEA in the District of Columbia within the three (3) years prior to the application, as demonstrated by the applicant's summative evaluation rating from the employing LEA;
 - (3) Successfully passed an examination approved by OSSE, developed to assess general reading, writing, mathematics skills and other general content knowledge as designated by OSSE;
 - (4) Successfully passed a subject matter content examination approved by OSSE, in the content discipline for which a credential is sought; and
 - (5) Successfully passed a grade-appropriate pedagogy examination or performance-based assessment, as designated by OSSE, with a qualifying score determined by OSSE.

1601.10 A standard teaching credential shall be valid for a term of four (4) years.

1601.11 A standard teaching credential may be renewed if the requirements for renewal of this credential are met, in accordance with this chapter. A renewal period shall be for a term of four (4) years.

1601.12 [RESERVED]

1601.13 [RESERVED]

1601.14 [RESERVED]

1602 TEACHER CREDENTIALS: SUB-SPECIALIZATIONS

1602.1 OSSE shall establish criteria for the preparation of teachers in the following sub-specializations:

- (a) Adult Basic Education (Adult)
- (b) Adult Education (Academic Subjects)
- (c) Art (Pre-kindergarten – Grade 12)
- (d) Bilingual Education (Pre-kindergarten – Grade 12)
- (e) Bilingual Special Education (Pre-kindergarten – Grade 12)
- (f) Biology (Grades 7 – 12)
- (g) Business Education (Grades 7 – 12)
- (h) Chemistry (Grades 7 – 12)
- (i) Computer Education Laboratory Teacher (Pre-kindergarten – Grade 12)
- (j) Computer Science (Grades 7 – 12)
- (k) Early Childhood Education (Pre-kindergarten – Grade 3)
- (l) Early Childhood – Montessori Primary (Pre-kindergarten – Grade 3)
- (m) Early Childhood Special Education (Pre-kindergarten – Grade 3)
- (n) Educational Technology Teacher Trainer (Pre-kindergarten – Grade 12)
- (o) Elementary Education (Grades 1 – 6)
- (p) Elementary Mathematics Resource (Grades 1-6)
- (q) Elementary Science Resource (Grades 1-6)

- (r) Elementary – Montessori Elementary (Grades 1-6)
- (s) English (Grades 7 - 12)
- (t) General Science (Grades 7 - 12)
- (u) Gifted and Talented Education (Pre-kindergarten – Grade 12)
- (v) Home Economics (Grades 7-12)
- (w) Mathematics (Grades 7 - 12)
- (x) Physical Education (Pre-kindergarten – Grade 12)
- (y) Physics (Grades 7 - 12)
- (z) Reading (Pre-kindergarten - Grade 12)
- (aa) Social Studies (Grades 7 - 12)
- (bb) Middle School Education (Grades 4 – 8)
- (cc) Industrial Arts (Grades 7-12)
- (dd) Marketing Education (Grades 7-12)
- (ee) Performing Arts – Visual Arts (Pre-kindergarten – Grade 12)
- (ff) Performing Arts – Music (Pre-kindergarten – Grade 12)
- (gg) Performing Arts – Drama and Theatre (Pre-kindergarten – Grade 12)
- (hh) Performing Arts – Dance (Pre-kindergarten – Grade 12)
- (ii) Foreign Languages (Pre-kindergarten – Grade 12)
- (jj) Health Education (Pre-kindergarten – Grade 12)
- (kk) Instrumental Music (Pre-kindergarten – Grade 12)
- (ll) Vocal Music (Pre-kindergarten – Grade 12)
- (mm) Non-Categorical Special Education (Pre-kindergarten – Grade 12)
- (nn) Categorical Special Education - (Pre-kindergarten – Grade 12)

- (oo) English as a Second Language (Pre-kindergarten – Grade 12)
- (pp) Technical and Industrial Occupations (Grades 7-12)

1602.2 OSSE shall not issue credentials in the following sub-specializations:

- (a) Athletic Trainer;
- (b) Athletic Coach;
- (c) Health Occupation; and
- (d) Military Science and Tactics.

1602.3 Individuals in possession of OSSE-issued credentials enumerated in Subsection 1602.2 that are in effect on the date of this regulation shall remain in effect until the credential's expiration date. After expiration, individuals employed to fulfill these roles shall be subject to the qualifications and conditions established by their employing LEA for these roles.

1603 ADMINISTRATIVE SERVICES CREDENTIALS

1603.1 An individual shall hold an administrative services credential to serve as principal or assistant principal in the District of Columbia Public Schools.

1603.2 All individuals required to hold an administrative services credential to serve as a principal or assistant principal in a local education agency in the District of Columbia must do so in accordance with this section.

1603.3 OSSE shall issue an initial, standard, and advanced administrative services credential in accordance with the provisions of this section.

1603.4 An applicant shall be issued an initial administrative services credential by meeting the following requirements, as demonstrated by submitting documentation satisfactory to OSSE to confirm that the applicant:

- (a) Has earned a bachelor's degree at a college or university accredited by one of the regional accrediting bodies approved by the U.S. Department of Education;
- (b) Earned a graduate degree or higher at a college or university accredited by one of the regional accrediting bodies approved by the U.S. Department of Education or successfully completed the requirements of a state approved program approved by OSSE for educational administrators, or holds a valid administrative services credential from another state; and

- (c) Has two (2) years full-time preschool-grade 12 school-based teaching or instructional leadership experience, or full-time preschool- grade 12 school-based experience in guidance counseling, social work, psychological services, or rehabilitative services for students with disabilities; but has not passed the School Leaders Licensure Assessment (SLLA).

1603.5 An initial administrative services credential shall be valid for a term of two (2) years.

1603.6 An initial administrative services credential is not renewable.

1603.7 An applicant shall be issued a standard administrative services credential by meeting the following requirements and submitting the following:

- (a) Documentation satisfactory to OSSE to confirm the applicant:
 - (1) Has earned a bachelor's degree at a college or university accredited by one of the regional accrediting bodies approved by the U.S. Department of Education;
 - (2) Earned a graduate degree or higher from an accredited institution of higher education or successfully completed the licensure requirements of a state approved program approved by OSSE for educational administrators, or holds a valid administrative services credential from another state;
 - (3) Successfully completed four years of full-time preschool-grade 12 school-based teaching, instructional leadership experience, guidance counseling, social work, psychological services, or rehabilitative services for students with disabilities; and
 - (4) Successfully completed the SLLA, with a qualifying score determined by OSSE;
- (b) Documentation satisfactory to OSSE to confirm the applicant:
 - (1) Has earned a bachelor's degree at a college or university accredited by one of the regional accrediting bodies approved by the U.S. Department of Education;
 - (2) Earned a graduate degree or higher from an accredited institution of higher education or successfully completed the licensure requirements of a state approved program approved by OSSE for educational administrators, or holds a valid administrative services credential from another state;

- (3) Successfully completed two years of effective or the equivalent, full-time preschool-grade 12 school-based teaching or instructional leadership experience, or two years of effective or the equivalent, full-time preschool-grade 12 school-based experience in guidance counseling, social work, psychological services, or rehabilitative services for students with disabilities; as demonstrated by the applicant’s summative evaluation rating from his or her LEA; and
- (4) Successfully completed the SLLA, with a qualifying score determined by OSSE; or

(c) Documentation satisfactory to OSSE to confirm the applicant:

- (1) Has earned a bachelor’s degree at a college or university accredited by one of the regional accrediting bodies approved by the U.S. Department of Education;
- (2) Holds a valid administrative services credential issued by another state approved by OSSE in accordance with the interstate agreement provisions outlined in this chapter;
- (3) Successfully completed two years of effective or equivalent, full-time preschool-grade 12 school-based teaching or instructional leadership experience, in another state, as measured by a summative evaluation rating of two (2) years of effective or equivalent teaching based upon the student growth component of an evaluation rating; or, two years of effective or the equivalent, full-time preschool-grade 12 school-based experience in guidance counseling, social work, psychological services, or rehabilitative services for students with disabilities, as demonstrated by the applicant’s summative evaluation rating from his or her LEA; and
- (4) Successfully completed the SLLA, with a qualifying score determined by OSSE.

1603.8 A standard administrative services credential shall be valid for a term of four (4) years.

1603.9 A standard administrative services credential may be renewed if the requirements for renewal of this credential are met in accordance with this chapter. A renewal period shall be for a term of four (4) years.

1603.10 [RESERVED]

1603.11 [RESERVED]

1603.12 [RESERVED]

1604 CREDENTIAL STATUSES AND RENEWAL REQUIREMENTS

1604.1 The following statuses shall apply to the credentials described in this chapter:

- (a) Active;
- (b) Expired;
- (c) Revoked; and
- (d) Suspended

1604.2 Each credential holder shall be responsible for knowing the requirements needed to maintain a valid District of Columbia credential. When a teaching credential is renewed, all sub-specializations for which the credential holder is authorized will be renewed.

1604.3 To renew a standard teaching credential, credential holders shall present:

- (a) Documentation showing that the credential holder has achieved a summative LEA teacher evaluation rating of effective or equivalent for a minimum of three (3) years during the four (4) year term of validity; or
- (b) Evidence showing that the credential holder has engaged in a minimum of one hundred twenty (120) hours of professional development activities during the four (4) year term of validity.

1604.4 A standard teaching credential that has expired cannot be renewed but may be reinstated by submitting and meeting the requirements for a new application.

1604.5 To renew an advanced teaching credential, a credential holder shall present documentation showing that the credential holder has achieved a summative LEA evaluation rating of highly effective or equivalent for a minimum of three (3) years during the five (5) year term of validity.

1604.6 An advanced teaching credential that has expired cannot be renewed but may be reinstated by submitting and meeting the requirements for a new application.

1604.7 To renew a standard administrative services credential, credential holders will present:

- (a) Documentation showing that the credential holder has achieved summative LEA administrator evaluation rating of effective or equivalent

for a minimum of three (3) years during the four (4) year term of validity;
or

- (b) Evidence showing that the credential holder has engaged in a minimum of one hundred twenty (120) hours of professional development activities during the four (4) year term of validity.

1604.8 A standard administrative services credential that has expired cannot be renewed but may be reinstated by submitting and meeting the requirements for a new application.

1604.9 [RESERVED]

1604.10 [RESERVED]

1605 INTERSTATE AGREEMENT ON QUALIFICATION OF EDUCATIONAL PERSONNEL

1605.1 OSSE shall conduct periodic reviews to determine whether any state has established teacher preparation standards that are at least comparable or equivalent to teacher preparation standards in the District of Columbia.

1605.2 If OSSE determines that the teacher preparation standards established by any state are at least comparable or equivalent to teacher preparation standards in the District of Columbia, OSSE shall initiate negotiations with that state to provide reciprocity in teacher or administrative services credentialing.

1605.3 OSSE shall award a credential to any applicant who holds or qualifies for an equivalent credential awarded by a state that has established a reciprocity agreement with the District of Columbia.

1605.4 OSSE shall grant an appropriate credential to any applicant from another state that has completed teacher preparation that is at least comparable or equivalent to preparation that meets teacher preparation standards in the District of Columbia, as determined by OSSE, if both of the following circumstances exist:

- (a) A reciprocity agreement with the other state is pending completion, or the other state has declined to enter into a reciprocity agreement with the District of Columbia; and
- (b) The applicant has met the requirements of the District of Columbia for obtaining a credential in accordance with this section.

1605.5 An interstate agreement established pursuant to this section shall not exempt an out-of-state applicant from being required to submit to, and comply with, a

background or criminal history record check, in conjunction with obtaining a credential under this chapter.

1606 REQUIRED CRIMINAL BACKGROUND CHECKS

1606.1 Each applicant for a credential under this chapter shall be required to undergo a criminal history record check prior to receiving the credential, and shall be required to submit to additional checks for purposes of renewing or continuing to hold the credential.

1606.2 OSSE shall develop policies or directives setting forth the criteria for the review of such records in accordance with applicable law.

1606.3 Criminal convictions, in accordance with Section 1607, and pending criminal charges shall be taken into account by OSSE with regard to criminal background information in determining whether or not an individual is qualified to hold the credential.

1606.4 Holding a credential issued by OSSE shall not exempt an individual from the criminal background check requirements of any employer.

1607 DENIAL, SUSPENSION OR REVOCATION OF TEACHING AND ADMINISTRATIVE SERVICES CREDENTIALS

1607.1 An application for a credential shall be denied by OSSE and a credential issued pursuant to this chapter shall be denied for renewal, suspended for a period determined by OSSE, or revoked by OSSE if the applicant or credential holder has:

- (a) Fraudulently or deceptively obtained or attempted to obtain the credential;
- (b) Pled guilty or *nolo contendere* with respect to, or received probation before judgment with respect to, or been convicted of, one of the following crimes as defined in the District of Columbia Official Code or a comparable crime in another state or federal law:
 - (1) Murder;
 - (2) Child abuse;
 - (3) Rape or sexual abuse;
 - (4) A sexual offense involving a minor or non-consenting adult;
 - (5) Child pornography;

- (6) Kidnapping or abduction of a child;
 - (7) Illegal possession, use, sale, or distribution of controlled substances;
 - (8) Illegal possession or use of weapons;
 - (9) A felony involving moral turpitude to be defined as one characterized by behavior or acts that gravely violate moral sentiments or accepted moral standards of this community and are of a morally culpable quality; or
 - (10) A crime of violence as defined in District of Columbia Official Code Section 23-1331(4);
- (c) Failed to report suspected child abuse or neglect, as required by District of Columbia Official Code Section 4-1321.02; or
 - (d) Been denied a credential or had his/her credential denied, suspended, or revoked in another jurisdiction within the previous five (5) years for a cause which would be grounds for denial, suspension, or revocation under this section.

1607.2 The following reporting procedures shall govern this chapter with regard to conduct in this section:

- (a) Employees, agents, and contractors of local education agencies in the District of Columbia shall notify OSSE in writing if they become knowledgeable of a person with a current credential issued under this chapter or an applicant for a credential under this chapter who engages in an act listed in Subsection 1607.1.
- (b) The written notice shall include the following information:
 - (1) Name and current or last known address of the person being reported;
 - (2) Type of credential held or applied for by the person; and
 - (3) Specific act set forth in Subsection 1607.1 engaged in by the individual at issue.
- (c) OSSE shall establish and implement policies and procedures for the review of documents associated with the reporting of actions listed in Subsection 1607.1.

- 1607.3 OSSE shall send a potential or current credential holder written notification before denying an application for, denying the renewal of, suspending or revoking a credential for reasons set forth in Subsection 1607.1; or before denying an application or renewal for failure to achieve a summative evaluation rating of effective or highly effective (or their equivalent). The written notification shall include the following:
- (a) The intent to deny the application or to deny the renewal of, suspend, or revoke the credential, specifying the basis for the intended action;
 - (b) Notice that a potential or current credential holder has the right to appeal the proposed action at a hearing;
 - (c) Notice that, if the potential or current credential holder requests a hearing to appeal the proposed action, the decision to deny, suspend or revoke shall not become final until the conclusion of the hearing.
 - (d) Notice that at a hearing the standard of proof shall be a preponderance of the evidence and that the burden of proof shall rest upon:
 - (1) OSSE to sustain a decision to suspend or revoke a credential; and
 - (2) The applicant to reverse a decision to deny a credential.
 - (e) Notice that an individual appealing the proposed action shall have the right, at his/her own expense, to be represented by an attorney or other representative at the hearing.
 - (f) Notice that a request for a hearing to appeal the proposed action shall be filed within ten (10) business days of the date of the written notification of the intent to deny the application or deny, suspend or revoke the credential as a result of moral character and fitness issues.
 - (g) Notice that, absent the timely filing of a request for a hearing, the decision shall become final on the eleventh (11th) business day after written notification of the intent to deny the application or deny the renewal of, suspend or revoke the credential as a result of character and fitness issues.
- 1607.4 If an application for or renewal of a credential is intended for denial by OSSE as a result of the failure to meet the requirements of Subsections 1601.12, 1603.4, 1606.7, or 1606.10, and the applicant requests a hearing under Subsection 1607.3, the LEA(s) that issued the summative evaluation(s) shall cooperate with OSSE in defense of the intended action.
- 1607.5 OSSE shall notify all other states of denial, suspension, and revocation decisions as part of the interstate certification data exchange.

- 1607.6 If the decision of denial, suspension, or revocation is based on Subsection 1607.1 (b), and if the decision subsequently is overturned in an appeal or other post decision proceeding, an applicant may re-apply for a credential, and a credential suspension or revocation shall end on the date a conviction or plea of guilty is overturned.
- 1607.7 A credential which has been suspended under this chapter shall be automatically reinstated at the end of a suspension period; provided that the credential has not expired during the period of suspension.
- 1607.8 If a credential expired during the period of suspension, a person may reapply and shall be required to meet the credential requirements in effect at the time the application is submitted for a new credential.

1608 FEES

- 1608.1 Each application for a credential submitted to OSSE for processing under this chapter shall be accompanied by a fee established by OSSE.
- (a) OSSE shall determine the amount of revenue that shall be required to administer the teacher and administrator credentialing process, and shall establish an application processing fee in the amount deemed necessary for such purposes;
 - (b) As required by Section 3 of the State Education Office Establishment Act of 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602), all revenue collected by OSSE under this subsection for the processing of credentials shall be deposited in the OSSE “Academic Certification and Testing Fund,” which shall be separate from the Local Operating Funds of the District of Columbia. Any unexpended funds in the Academic Certification and Testing Fund at the end of a fiscal year shall revert to the unrestricted fund balance of the General Fund of the District of Columbia pursuant to Section 3(c)(2) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602(c)(2)).
 - (c) All revenue collected by OSSE under this subsection for the processing of credentials shall be used for the purposes directly related to credentialing activities, shall include:
 - (1) Travel, including per diems;
 - (2) Educator professional training and development, including food and beverages, pursuant to 5 U.S.C. § 4109;

- (3) Award programs, including food and beverages pursuant to 5 U.S.C. § 4503;
 - (4) Stipends;
 - (5) Professional organization membership dues;
 - (6) Day-to-day office operational needs related to credentialing activities;
 - (7) Salaries of individuals who perform, manage, monitor or oversee credentialing or support the processing and issuing of credentials; and
 - (8) The maintenance of credentialing program systems and records, including the creation and maintenance of any electronic or online system.
- (d) Fees shall be made payable to the D.C. Treasurer as specified by OSSE.
 - (e) OSSE shall establish and publish on its website the application fee for first time applicants and renewals, and for requests for duplicate credentials.

1699**DEFINITIONS**

1699.1

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

- (a) **“Credential”** means a document issued under this chapter to a person who has met the eligibility standards and other requirements of this chapter and who is therefore authorized to perform the services permitted by law and regulation to be performed by a person holding such a credential, and to hold himself or herself out as authorized to perform such services.
- (b) **“Local Education Agency” or “LEA”** means an educational institution at the local level that exists primarily to operate a publicly funded school or schools providing elementary or secondary education in the District of Columbia, including the District of Columbia Public Schools (DCPS) and a District of Columbia public charter school.
- (c) **“Office of the State Superintendent of Education” or “OSSE”** means the District of Columbia state education level agency established by Section 2 of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2601 (2012 Repl. & 2015 Supp.)).

- (d) **“School Leaders Licensure Assessment”** means the statewide assessment of school administration knowledge and skills that has been adopted by OSSE as a requirement for issuance of the administrative services credential.
- (e) **“Stipends”** means payments issued to a District of Columbia teacher, administrator, or other school-based professional in exchange for performing a service related to credentialing activities under this chapter.
- (f) **“Sub-specialization”** means the designation on a credential issued under this chapter authorizing a person to practice a specialty within a credential category.

The following sections of Chapter 16, LICENSE REQUIREMENTS, of Title 5-E DCMR, ORIGINAL TITLE 5, are hereby deleted in their entirety:

5-E DCMR §§ 1600 through 1654

5-E DCMR §§ 1664 through 1667

5-E DCMR § 1687

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FINAL RULEMAKING

The State Superintendent of Education (“State Superintendent”), pursuant to the authority set forth in Sections 3(b)(11) and (15) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code §§ 38-2602(b)(11) and (15) (2012 Repl. & 2015 Supp.)); and Section 301 of the Special Education Procedural Protections Expansion Act of 2014 (the “Act”), effective March 10, 2015 (D.C. Law 20-194, D.C. Official Code § 38-2573.01) (2012 Repl. & 2016 Supp.)), hereby gives notice of intent to amend Chapter 30 (Special Education) in Subtitle E (Original Title 5) of Title 5 (Education) of the District of Columbia Municipal Regulations (“DCMR”).

The purpose of the final rulemaking is to comply with Section 301 of the Act, which requires the Office of the State Superintendent of Education (“OSSE”) to issue rules implementing Section 104(a) of the Act by July 1, 2016. Section 104(a) requires that OSSE establish a procedure to determine when rights accorded to parents under the Individuals with Disabilities Education Act (IDEA) shall not transfer to a child with a disability who has reached the age of majority because the child with a disability does not have the ability to provide informed consent for purposes of educational decision-making, and to appoint another adult to represent the educational interests of the child with a disability.

A Notice of Proposed Rulemaking was published in the *D.C. Register* for a thirty (30) day public comment period on July 24, 2015, at 62 DCR 10013. In addition, OSSE held two public hearings, on August 5, 2015 and on August 20, 2015. The comment period officially closed on August 24, 2015, with OSSE having received numerous comments from advocates and members of the regulated community regarding Section 3023, “Transfer of Rights,” in the Notice of Proposed Rulemaking. OSSE carefully considered all of the comments and made a number of the requested non-substantive and substantive amendments and issued a Notice of Second Proposed Rulemaking, which was published in the *D.C. Register* for a fourteen (14) day public comment period on May 13, 2016, at 63 DCR 7283. In addition, OSSE held two public hearings, on May 20, 2016 and on May 26, 2016 on the Notice of Second Proposed Rulemaking. The comment period official closed on May 27, 2016. Based on the comments filed in response to the Notice of Second Proposed Rulemaking, OSSE made the following technical clarifying amendments: (1) amended the language in Subsections 3034.1 and 3036.1 by striking § 3025.1 and inserting § 3035.1 in its place to correct the cross-cite; (2) amended the language in Subsection 3035.9 by striking “of the required documentation” and inserting “documentation requirements” in its place; and (3) amended the language in Subsection 3034.2 by striking the phrase “another willing adult” and inserting “other willing adults” in its place to clarify the original intent of permitting students to choose multiple adults to help with educational decisions.

The final rules are being adopted in substantially the same form as proposed with clarifications and deletions taking into account suggestions received in public comments. These changes do not substantially alter or change the intent, meaning, or application of the proposed rules or exceed the scope of the rules as published with the Notice of Proposed Rulemaking.

These rules were adopted as final on June 23, 2016 and will be effective upon publication of this notice in the *D.C. Register*.

Chapter 30, SPECIAL EDUCATION, of Title 5-E DCMR, ORIGINAL TITLE 5, is amended as follows:

Section 3001, DEFINITIONS, is amended by adding the following definitions to Subsection 3001.1:

Educational Representative – an adult appointed by OSSE to represent the educational interests of a child with a disability who upon reaching eighteen (18) years of age is determined under this chapter to be unable to provide informed consent for educational purposes.

Incapacitated Individual – shall have the same meaning as the term is defined in D.C. Official Code § 21-2011(11).

Supported Decision-Making - supports, services, and accommodations that help a child with a disability make his or her own decisions, by using adult friends, family members, professionals, and other people he or she trusts to help understand the issues and choices, ask questions, receive explanations in language he or she understands, and communicate his or her own decisions to others.

Section 3023, TRANSFER OF RIGHTS, is deleted in its entirety and is amended to read:

3023 [RESERVED]

A new Section 3034, TRANSFER OF RIGHTS: GENERAL PROVISIONS AND SUPPORTED DECISION-MAKING, is added to read as follows:

3034 TRANSFER OF RIGHTS: GENERAL PROVISIONS AND SUPPORTED DECISION-MAKING

3034.1 In accordance with D.C. Official Code § 46–101 and IDEA, a child with a disability (“student”) who has reached the age of eighteen (18) shall be presumed to be competent, and all rights under IDEA and local law governing the delivery of special education and related services shall transfer to the child with a disability (“student”), unless one of the exceptions in Subsection 3035.1 is met.

3034.2 Any student who has reached eighteen (18) years of age and to whom all rights afforded parents under IDEA have transferred, may voluntarily choose to receive support from his or her parents, family members, or other willing adults to aid the student with educational decision-making. The student’s decisional choice shall prevail any time that a disagreement exists between the student and the other adult providing support in this manner and the student may withdraw his or her decision to receive support at any time.

3034.3 Supported decision-making arrangements shall be documented in writing and include the name, contact information, relationship to the student, and the extent to which the student grants the identified adult access to his or her education records pursuant to District and federal law. The student may change this arrangement and/or revoke access to education records at any time.

A new Section 3035, TRANSFER OF RIGHTS: EXCEPTIONS, is added to read as follows:

3035 TRANSFER OF RIGHTS: EXCEPTIONS

3035.1 In accordance with D.C. Official Code § 46–101 and IDEA, all rights accorded to parents under IDEA and local law governing the delivery of special education and related services shall transfer to the child with a disability (“student”) at the age of eighteen (18), unless one of the following exceptions is met:

- (a) The student is declared a legally incapacitated individual, as defined in this chapter, by a court of competent jurisdiction and a legal guardian or representative has been appointed by the court to make decisions for the student, including educational decisions.
- (b) The student has designated by power of attorney or similar legal document another adult to be the student’s agent to:
 - (1) Make educational decisions;
 - (2) Receive notices; and
 - (3) Participate in meetings and all other procedures related to the student’s educational program.
- (c) The student has been determined, in accordance with Subsection 3035.9, to not have the ability to provide informed consent regarding educational decisions and another adult has been appointed by OSSE to represent the educational interests of the student.

3035.2 An adult student who has executed a power of attorney or similar legal document transferring his or her right to make educational decisions to another to be his or her agent in accordance with Subsection 3035.1(b) may terminate the power of attorney at any time and assume the right to make decisions regarding his or her education. An LEA or responsible public agency shall keep a copy of any written power of attorney in the student’s special education record and shall rely on it until the power of attorney has been revoked by the student in writing or the power of attorney has been superseded by a court order.

- 3035.3 OSSE shall appoint an educational representative for a student who has reached the age of eighteen (18) only after the following documents have been submitted:
- (a) A written request for the appointment of an educational representative signed by the parent, legal guardian, or other interested adult, and made on an OSSE-issued form available on the OSSE website or, upon request, in hard copy; and
 - (b) Two signed professional certifications that meet all of the requirements of this section.
- 3035.4 Appointment of an educational representative should be sought only where necessary and where supported decision-making is not appropriate.
- 3035.5 OSSE will provide written confirmation that all submission requirements have been met and, absent extenuating circumstances, will appoint an educational representative within ten (10) business days of OSSE's receipt of a complete written request with all required information and certifications. A written request shall not be considered complete unless all requested information has been provided in the required manner.
- 3035.6 The professional certifications shall be completed by two different licensed professionals, one (1) meeting the requirements of (a) and one (1) meeting the requirements of (b):
- (a) A licensed professional who is any of the following:
 - (1) Licensed medical doctor;
 - (2) Physician assistant, if authorized by a supervising licensed medical doctor; or
 - (3) Certified nurse practitioner.
 - (b) A licensed professional who is any of the following:
 - (1) Licensed medical doctor;
 - (2) Licensed psychiatrist;
 - (3) Clinical psychologist; or
 - (4) Licensed independent clinical social worker.
- 3035.7 The professional certifications shall meet the following requirements:

- (a) The professional has conducted a personal examination of or interview with the student within one (1) calendar year of the certification;
- (b) Based on the professional's knowledge and expertise and upon clear evidence, the professional determined that the student is unable to provide informed consent regarding educational decisions as described in this section provided, however, that a finding that the student is unable to make educational decisions shall not be based solely on the fact that the student has been voluntarily or involuntarily hospitalized for a mental illness or has a diagnosis of an intellectual disability;
- (c) The professional has informed the student in writing of the determination; and
- (d) Confirmation that the professional is not employed by the LEA or responsible public agency currently serving the student and does not have a personal conflict of interest with the student or the adult seeking appointment as the student's educational representative. A personal conflict of interest includes, without limitation, being related by blood or marriage to the student or adult seeking appointment as the educational representative.

3035.8 A student shall be deemed unable to provide informed consent regarding educational decisions if two (2) qualified professionals each independently determine at least one (1) of the following:

- (a) The student is unable to understand, on a continuing or consistent basis, the nature, extent, and probable consequences of an educational decision or proposed educational program;
- (b) The student is unable to evaluate the benefits or disadvantages of an educational decision or a proposed educational program as compared with alternative options on a continuing or consistent basis; or
- (c) The student is unable to communicate understanding verbally, in writing, or in the mode of communication used by the student to communicate his or her decisions, an understanding of or an evaluation of the benefits or disadvantages of an educational decision or proposed educational program.

3035.9 Professional certifications may be submitted as early as ninety (90) calendar days prior to the student's eighteenth (18th) birthday but shall not be reviewed by OSSE until all documentation requirements have been met, and shall not take effect prior to the student's eighteenth (18th) birthday.

3035.10 Upon confirming receipt of the required professional certifications, OSSE shall appoint the parent of the student to act as the student's educational representative.

For a student who has already reached the age of eighteen (18), parent means the individual who acted as the parent for purposes of special education before the student reached age eighteen (18). If the parent is unavailable or does not wish to serve as the student's educational representative, OSSE, with notice to the parent or legal guardian seeking the certification, shall appoint another adult relative willing to act as the student's educational representative. If no adult relative is available to serve as the student's educational representative, OSSE, with notice to the parent or legal guardian seeking the certification, shall appoint a person trained as an educational surrogate parent to serve as the student's educational representative.

- 3035.11 The term of appointment for an educational representative shall expire when the student is no longer eligible for special education services, or graduates with a regular high school diploma, whichever occurs first.
- 3035.12 A determination that a student is unable to provide informed consent for educational purposes shall not be construed as a finding of incompetence or incapacity for any other purpose or as relevant or precedential evidence in any future court or legal action seeking to remove decision-making authority for the student.
- 3035.13 OSSE shall provide notice of the appointment to the educational representative, parent, student, and LEA or responsible public agency. The notice shall include the steps a student may take to challenge the appointment of an educational representative and shall direct the student's LEA or responsible public agency to deliver a hard copy of the appointment to the student and to inform the student of the appointment verbally, or in the manner of communication with which the student is most comfortable.
- 3035.14 The student may challenge the certification of the student as unable to provide informed consent for educational purposes or appointment of an educational representative in accordance with this section at any time, in accordance with the following requirements:
- (a) A challenge made under this section shall be made in writing to OSSE, except that OSSE shall assist a student who is unable to provide a written challenge to document a verbal challenge in writing and may refer the student to a community organization for assistance.
 - (b) OSSE shall notify the student, the responsible LEA or public agency, any current appointed educational representative, and the person who submitted the request for the appointment of an educational representative (if different), of any such challenge in writing no later than two (2) business days from the receipt of the challenge.

3035.15 If the certification of a student is challenged by the student, the existing certification is invalidated, and all educational rights transfer back to the student.

A new Section 3036, TRANSFER OF RIGHTS: NOTICE, is added to read as follows:

3036 TRANSFER OF RIGHTS: NOTICE

3036.1 No later than one (1) year before a child with a disability (“student”) reaches eighteen (18) years of age, the LEA or responsible public agency shall notify the parents and student, in writing, that adult students with disabilities are presumed competent, and that all rights under IDEA will transfer to the student when he or she reaches eighteen (18) years of age, unless the student or parent pursues one of the exceptions described in Subsection 3035.1. The notice shall also describe the supported decision-making provisions of this section and the necessary procedures to pursue the exceptions described in Section 3035 related to educational decisions.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2012 Repl. & 2016 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 amendments to Section 1918, entitled “Creative Arts Therapies,” 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 change the reimbursement rate for creative arts therapies provided to participants in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver).

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. 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; D.C. Official Code § 1-307.02(a)(8)(E) (2014 Repl. & 2016 Supp.)). CMS approved the amendment to the ID/DD Waiver effective September 24, 2015.

Creative arts therapies are designed to provide therapeutic supports to help a person with a disability express and understand emotions through artistic expression and the creative process. A Notice of Emergency and Proposed Rulemaking for 29 DCMR § 1918 (Art Therapies) was published in the *D.C. Register* on March 18, 2016, at 63 DCR 004103. The emergency and proposed rulemaking amended the previously published final rulemaking by changing the reimbursement rates in Subsection 1918.16 for art, dance, drama, and music therapy. The emergency rulemaking was adopted on March 9, 2016, became effective immediately, and shall remain in effect until July 7, 2016, or until superseded by publication of this Notice of Final Rulemaking in the *D.C. Register*. DHCF received no comments to the emergency and proposed rulemaking and no changes have been made.

The Director adopted these rules as final on June 23, 2016, 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:

Subsection 1918.16 of Section 1918, CREATIVE ARTS THERAPIES, is amended to read as follows:

1918.16 The reimbursement rate for Creative Arts Therapies services shall be:

- (a) Twenty-five dollars and six cents (\$25.06) per person for a total of no more than one hundred dollars and twenty-four cents (\$100.24) per forty-five (45) minutes for art, dance, drama or music therapy in a group not to exceed four (4); and
- (b) Seventy-five dollars and twenty-three cents (\$75.23) per forty-five (45) minutes for art, dance, drama or music therapy as an individual service.

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in Sections 4902 and 4908 of the Department of Health Functions Clarification Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code §§ 7-731(a)(8) and (c), and 7-737 (2012 Repl. & 2016 Supp.)); and Mayor’s Order 2006-34, dated March 12, 2006; hereby gives notice of the adoption of the following amendments to Chapter 35 (Licensing Fees) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

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

A Notice of Proposed Rulemaking was published in the *D.C. Register* on August 28, 2015 at 62 DCR 011943. No comments were received; no changes have been made. The rules were adopted as final on April 5, 2016 and will become effective on the date of publication in the *D.C. Register*.

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

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

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

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

OFFICE OF THE SECRETARY**NOTICE OF FINAL RULEMAKING**

The Secretary of the District of Columbia (Secretary), pursuant to the authority set forth in Section 558 of An Act to establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1189, ch. 854, § 558; D.C. Official Code §§ 1-1201 *et seq.* (2012 Repl.)), as amended by An Act to authorize the Commissioners of the District of Columbia to appoint notaries public, approved December 16, 1944 (58 Stat. 810, ch. 597, § 1); Regulation No. 73-13, approved May 24, 1973 (19 DCR 1147 (June 11, 1973)); the Notaries Public Fees Increase Act of 1983, effective June 22, 1983 (D.C. Law 5-14; 30 DCR 2632 (June 3, 1983)); the Notaries Public Fee Act of 1983, effective March 8, 1984 (D.C. Law 5-52; 30 DCR 5931 (November 18, 1983)); the Notaries Public Authentications and License Fee Amendment Act of 2010, effective September 24, 2010 (D.C. Law 18-223; 57 DCR 6242 (July 23, 2010)); Section 3(k) of Mayor's Order 97-177, dated October 9, 1997; and Mayor's Order 2016-031, dated March 1, 2016; hereby gives notice of the adoption of the following amendments to Chapter 24 (Notaries Public) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the rulemaking is to make changes to the Office of Notary Commissions and Authentications regulations to conform to the office's current operations. The rulemaking also makes editorial amendments to enhance readability and consistency within and across chapters.

The Notice of Proposed Rulemaking was published in the *D.C. Register* on May 13, 2016 at 63 DCR 7293. No comments were received and no substantive changes have been made.

The rules were adopted as final on June 15, 2016 and will become effective upon publication of this notice in the *D.C. Register*.

Chapter 24, NOTARIES PUBLIC, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is deleted in its entirety and replaced with the following new Chapter 24:

CHAPTER 24 NOTARIES PUBLIC**2400 APPOINTMENT OF NOTARIES**

2400.1 New appointments of notaries public shall be made to serve the needs and convenience of members of the public, the bar, financial institutions, and other fiduciary bodies.

2400.2 The District of Columbia Office of the Secretary, Office of Notary Commissions and Authentications Section, may appoint citizens of the United States who are residents of the District of Columbia or whose sole place of business or employment is located in the District.

- 2400.3 Any person requesting an appointment as a notary public in the District of Columbia shall be at least eighteen (18) years of age.
- 2400.4 Each person requesting an appointment as a notary public shall indicate to the Office of Notary Commissions and Authentications (ONCA) the hours during which he or she will be available at a designated place of business in the District or if a residential notary the hours he or she will be available in the residence.
- 2400.5 Requests for an appointment as a notary public by a privately employed or self-employed person shall be made by the employer or an official of the company or business in which the applicant is employed. The employer's letterhead must have a District of Columbia physical address and phone number.
- 2400.6 Request for an appointment as a notary public by a government employee shall be made by the employer or an official of the government office in which the applicant is employed.
- 2400.7 An individual requesting a residential appointment as a notary public must submit the request in writing on his or her official letterhead. The letterhead must have a District of Columbia address and phone number.
- 2400.8 Applications for dual commissions (business and residential), shall include a both a letter from the employer and a letter from the individual.
- 2400.9 A letter requesting an appointment of a notary public shall include:
- (a) For business notaries, the reasons the business or government needs the individual to serve as a notary and how that will improve the service to the customers, public and others; and
 - (b) For residential notaries, the individual should state how they intend to use their commission to serve the public, their community and others.
- 2400.10 Letters requesting appointment shall be sent to the Office of Notary Commissions and Authentications, 441 4th Street N.W., Suite 810 South, Washington D.C. 20001.

2401 GOVERNMENT EMPLOYEES

- 2401.1 A person employed in an executive department or other government office shall not be appointed or reappointed a notary public to function for the government business unless his or her appointment is requested by the head of the department or office or designee to facilitate the transaction of government business.
- 2401.2 The commission of a government employee shall be terminated when the employee leaves government service. The notary must notify ONCA and return

his or her official notary seal to the ONCA office (see Section 2409 on the Expiration of Commission).

2401.3 Government employees who desire to exercise notarial powers other than in connection with their government work, or in addition to that work, may be granted a separate residential commission upon submission of an application and upon compliance with the appointment requirements.

2401.4 Government employees who have dual commissions (business and residential) may not charge any fee for notarial service performed during hours of active duty as a government employee.

2402 APPLICATION AND ORIENTATION; REAPPOINTMENT

2402.1 Application shall be made on the form furnished by the Office of Notary Commissions and Authentications at 441 4th Street N.W., Suite 810 South, Washington D.C. 20001, or online at <http://os.dc.gov/service/notary-commissions>.

2402.2 Each application shall include the names, addresses, phone number, and email address of two (2) individuals who can attest to the character of the applicant. The references may not include family members or the employer submitting the letter of request.

2402.3 Each candidate applying for a new appointment, or applying for reappointment after more than twelve (12) months, shall be required to attend an orientation session provided by ONCA.

2402.4 District notary publics are appointed for a renewable five (5)-year term, and may apply for reappointment at the end of the term.

2402.5 A notary public applying for reappointment shall submit the reappointment application, furnished by ONCA, by the deadline indicated by ONCA. A reappointment only applies to those who have been a notary in the District of Columbia within twelve (12) months of commission expiration. A notary whose commission has been expired for more than twelve (12) months must apply as a new applicant.

2402.6 A notary in another jurisdiction must apply as a new applicant.

2403 COMMISSION FEES, OATH, AND SURETY BOND REQUIREMENTS

2403.1 Each notary public, before obtaining his or her commission, and for each renewal of his or her commission, shall pay to the District of Columbia Treasurer an application fee of seventy-five dollars (\$75.00). District and federal government employees whose notarial duties are confined solely to official government business are exempt from the application fee.

- 2403.2 Before entering upon the duties of the office, each notary public will take the Oath of Office administered by an official of ONCA. The names and business addresses of all approved notary publics will be published in the *D.C. Register*.
- 2403.3 Before entering upon the duties of the office, each notary public shall give bond to the District of Columbia in the sum of two thousand dollars (\$2,000), with security, to be approved by ONCA, for the faithful discharge of the duties of the office.
- 2403.4 District of Columbia Government employees whose notarial duties are confined solely to government official business are not required to obtain an individual surety bond, but may be covered by bond obtained by the Mayor of the District of Columbia. Federal government employees are required to obtain an individual surety bond.

2404 SIGNATURES AND SEALS

- 2404.1 Each notary public commissioned in the District shall file his or her official signature and an impression of his or her official seal with ONCA.
- 2404.2 A notary shall keep an official seal that is the exclusive property of the notary. When not in use, the seal shall be kept secure and accessible only to the notary. In addition:
- (a) A business notary who no longer is employed by that business may take his or her commission with him or her upon the approval of the business. If the business does not consent to the continuation of the commission, the commission shall be terminated.
 - (b) Upon termination of a commission, a notary shall return the notary seal to ONCA.
- 2404.3 The seal shall not be possessed or used by any other person, nor be used for any purpose other than performing lawful notarizations.
- 2404.4 An official notary seal shall include the following elements:
- (a) The notary's name at the top, exactly as indicated on the commission;
 - (b) The words "Notary Public" in the center
 - (c) The words "District of Columbia" at the bottom
 - (d) The expiration date in the center

- (e) A border in a circular shape no larger than one and three-quarters inches (1.75 in.) surrounding the required words.

2404.5 A notary public shall affix his or her official signature and official seal on every document notarized, at the time the notarial act is performed.

2404.6 A seal impression inker shall be used in conjunction with the official seal, making the impression legible, permanent, and photographically reproducible.

2404.7 In the case that the document being notarized is made of a non-porous material, such as Mylar or a similar material to which standard ink will not adhere, an embossed seal shall be used alone or in conjunction with a non-porous, permanent ink that dries through evaporation, which will adhere without smearing.

2404.8 Notaries public commissioned prior to December 15, 2010, may use an official seal that does not comply with Subsection 2404.4 provided that seal is made visible with a seal impression inker and coupled with an expiration stamp on all notarizations.

2404.9 Notaries public commissioned on or after December 15, 2010, must obtain a seal impression inker that complies with Subsection 2404.4 upon being newly- or re-appointed.

2405 NOTARY SIGN

2405.1 Each notary public must exhibit a sign.

2405.2 The provisions of this section do not apply to notaries functioning in the government service.

2406 NOTARY PUBLIC PROCEDURES AND FEES

2406.1 Each notary public shall have the authority as follows:

- (a) To take and to certify the acknowledgement or proof of powers of attorney, mortgages, deeds, and other instruments of writing;
- (b) To take depositions;
- (c) To administer oaths and affirmations;
- (d) To take affidavits to be used before any court, judge, or officer within the District;
- (e) To demand acceptance and payment of foreign bills of exchange, and to protest the same for non-acceptance and nonpayment;

- (f) To demand acceptance of inland bills of exchange and payment thereof, and of promissory notes and checks, and may protest the same for non-acceptance and nonpayment;
- (g) To exercise such other powers and duties notary publics are authorized by the law of nations and according to commercial usages; and
- (h) To exercise such other powers and duties notary publics are authorized by the law of any state or territory of the United States, or any foreign government in amity with the United States;

2406.2 Fees. Notary publics may not charge more than \$2.00 per notarial act.

2406.3 Any notary public who shall take a higher fee than is prescribed by Subsection 2409.2 shall pay a fine of \$100 and be removed from office.

2406.4 A notary is prohibited from a notarial act in matters in which the notary is a signatory; employed as counsel, attorney, or agent; or in any way directly interested in the matter.

2407 NOTARY PUBLIC RECORDS

2407.1 Each notary public shall keep a fair record of all official acts performed, and when required, provide a certified copy of any record in his office to any person upon payment of the fees incurred. Based on national standard practices, the Office of Notary Commissions and Authentications recommends that each notary's log include the:

- (a) Name: The name and address of each person appearing before the notary;
- (b) Date: The date they appeared before the notary;
- (c) Identification: The method by which each person was identified to the notary;
- (d) Document Type: The type of document involved;
- (e) Fee: The fee charged; and
- (f) Signature: The signature(s) of person(s) signing the document(s).

2407.2 The certificate of a notary public, under hand and seal of office, drawn from the notary public's record, stating the protest and the facts recorded in the record, shall be accepted as evidence of the facts in like manner as an original protest.

2407.3 The log may be kept by hard copy or electronically, but if electronically, a record of the signature of the person who had the document notarized should be saved. All signatures must be completed in person. No electronic signatures shall be accepted.

2408 CHANGES IN NAME, ADDRESS, OR OFFICE HOURS

2408.1 Each notary shall inform ONCA promptly of any change in name, address, or phone number. No fees will be charged for a change of name or address.

2408.2 If a notary changes a place of business, the individual should provide a letter from the new employer providing the name, physical address, and phone number of the new place of employment. If a notary changes his or her name, the individual shall provide ONCA with a copy of the legal document showing the change of name and shall come into the office to provide a new impression of their seals.

2408.3 Notaries should also inform the surety bond company of the change of name or address; order new seal(s); and provide a new impression of the seal with ONCA.

2409 EXPIRATION OF COMMISSION

2409.1 Notary commissions expire at the end of the five year term or upon resignation of the commission. (See Section 2402 on Reappointment). Notaries who no longer reside in the District or who cease to be employed in a business physically located in the District must resign their commission by notifying ONCA, in writing, at: Secretary of the District of Columbia Attention: Office of Notary Commissions and Authentications, 441 4th Street N.W., Suite 810 South, Washington D.C. 20001. Notification may also be sent by email to: notary@dc.gov.

2410 DENIAL OR REVOCATION OF COMMISSION

2410.1 The Office of Notary Commissions and Authentications may refuse to issue a commission to an applicant or may remove a notary public from office upon determining that the action is necessary in view of the conditions and restrictions as provided in this chapter and by law, as well as upon written complaints received by the Secretary of the District of Columbia.

- (a) Denials. A notary commission may be denied if there is probable cause to believe that an applicant fails to meet the qualifications of a notary or if the application was not submitted according to the code, regulation or policies set forth by ONCA. If the application incomplete, it will be returned and may be re-submitted.
- (b) Revocations. A notary commission may be revoked if a notary fails to discharge fully and faithfully any of the duties or responsibilities required

of a notary public, or otherwise commits misconduct that substantially relates to the duties or responsibilities of a notary public.

2410.2 A notice, in writing, of a determination to deny or revoke a commission shall be given by ONCA to the person concerned.

2410.3 The notice of determination shall explain the following:

- (a) The nature of and grounds for the action;
- (b) The right of the person concerned to be heard on the matter; and
- (c) The finality of the decision to deny or revoke a commission unless the person concerned requests a hearing on the matter by filing a petition for review with the Office of Administrative Hearings.

2410.4 Applicants denied a notary commission or removed from office may file a petition for review of the decision. The petition for review will be governed by the Office of Administrative Hearings Rules of Practice and Procedure as set forth in 1 DCMR Chapter 28.

2411 FILING A PETITION FOR REVIEW OF ADVERSE NOTARY COMMISSION DECISION

2411.1 A petition for review shall be sent to the Office of Administrative Hearings (OAH), pursuant to 1 DCMR § 2808, within twenty (20) days after service of the notice to deny or revoke a license.

2411.2 The petition for review may be delivered as follows:

- (a) By certified letter to the Office of Administrative Hearings, 441 Fourth Street, N.W., Suite 450 North, Washington D.C. 20001;
- (b) By email, pursuant to the procedures in 1 DCMR § 2841;
- (c) By fax, to (202) 442-4789.

2411.3 To file any paper at OAH, a person must bring, mail, fax, or have the paper delivered to the Clerk's office during regular business hours from 9:00 a.m. to 5:00 p.m. on a business day. A paper is filed on the day the Clerk's office receives it during business hours, except as provided in Subsections 2411.4 and 2411.5.

2411.4 The filing date of a fax transmission will be determined as follows:

- (a) The filing date is the date on which the fax is received in the Clerk's office between the hours of 9:00 a.m. and 5:00 p.m. If a paper is received on a date or at a time when the Clerk's office is not open, the paper shall be deemed to have been filed when the Clerk's office is next open.
- (b) A party filing a paper by fax is responsible for delay, disruption, interruption of electronic signals, and legibility of the paper, and accepts the risk that the paper may not be filed.
- (c) Any incomplete or illegible fax will not be considered received unless a hard copy of the fax is filed or a complete and legible fax is received within three (3) calendar days of the first transmission. In a response to a motion, the Administrative Law Judge may extend this time.

2411.5 The filing date for an e-mail filing received between 9:00 a.m. and 5:00 p.m. on any OAH business day will be the date it is received in the correct OAH electronic mailbox. The filing date for an e-mail filing received at other times will be the next day that the Clerk's Office is open for business. The date and time recorded in the correct OAH electronic mailbox shall be conclusive proof of when it was received.

2411.6 The petition for review shall be signed by the petitioner and shall follow the guidance for requesting a hearing with the Office of Administrative Hearings pursuant to 1 DCMR § 2808, include the following:

- (a) A request for review of the decision of ONCA;
- (b) A statement of why the petitioner believes the decision of ONCA was in error;
- (c) A copy of the notice denying or revoking the notary commission;
- (d) The petitioner's full name, address, telephone numbers, and email address, if available; and
- (e) If the petitioner will be represented by legal counsel, the name, address, email address, and telephone number of that legal counsel.

2411.7 OAH shall, after receipt of the petition of review, notify the petitioner concerned of the time and place of a hearing. Hearings shall be governed by OAH Rules of Practice and Procedure, as set forth in 1 DCMR Chapter 28.

2412 CERTIFICATION (AUTHENTICATIONS) OF NOTARIES PUBLIC AND CERTIFICATION OF RECORDS

2412.1 The Secretary of the District of Columbia shall issue certifications (authentications) of seals and signatures of notaries appointed in the District of

Columbia pursuant to Section 588 of An Act to establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1279; D.C. Official Code § 1-1201), and this chapter.

- 2412.2 The Secretary of the District of Columbia shall issue certifications of the signatures of the District of Columbia governmental officials who are required to sign documents of public records. The certifications shall be as follows:
- (a) A Certificate: For documents that will be used within the United States, generally for interstate commerce.
 - (b) Department Head Certificate: For documents that require the signature of an agency head (or his or her designee) and the official seal of the agency.
 - (c) Apostille: For documents destined for countries that are parties to the Hague Convention.
 - (d) Foreign Certificate: For documents destined for countries that are not parties to the Hague Convention.
- 2412.3 A fee of fifteen dollars (\$15.00) per certificate shall be charged for the issuance of District certifications under this section. The certifications will be issued through the Office of Notary Commissions and Authentications.
- 2412.4 For procedures on obtaining notarizations in other state or foreign jurisdictions that will be recognized in the District of Columbia, please see D.C. Official Code §§ 42-141 *et seq.*

2499 DEFINITIONS

When used in this chapter, the following terms and phrases shall have the meanings ascribed as follows:

Business Notary - A business notary public is an individual who is employed by a business physically operating in the District of Columbia, but who may or may not reside in the District, and exercises notarial functions on behalf of his or her employer.

A person may also apply to be a “government” notary public if they obtain a business commission in their role as a government employee, providing the agency is physically located in the District of Columbia. The notarial functions may only be exercised on behalf of the government employer. The application is submitted to ONCA as a Business application, but no fee is required.

District – The District of Columbia

Dual Commission - A District of Columbia resident who desires to exercise notarial functions from his/her personal residence in the District in addition to their business commission may apply for a dual commission. A letter from the individual and the business must be submitted with the application, but only one fee is required.

ONCA – The Office of Notary Commissions and Authentications

Residential Notary - A residential notary public resides in and performs notarial functions from his/her personal residence in the District of Columbia. The notary must submit a Residential Letter of Request that sets forth the need for the notary's commission to be issued for use in the community and in his/her personal residence.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**NOTICE OF FINAL RULEMAKING****AND****Z.C. ORDER NO. 14-13C****Z.C. Case No. 14-13C****(Text Amendment – 11 DCMR)****Technical Correction to Z.C. Order No. 14-13 (Penthouse Regulations)****June 13, 2016**

The Zoning Commission for the District of Columbia, (Commission) pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2012 Rep1.)), hereby gives notice of the adoption of amendments to the current version and to the adopted, but not yet effective version of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (DCMR)) to make a technical correction to amendments made by Z.C. Order No. 14-13 (Order). The Order, which took the form of a Notice of Final Rulemaking, adopted amendments to the currently effective version of the Zoning Regulations (Current Regulations) governing rooftop penthouses as well as conforming amendments to other provisions, including the provisions of Chapter 26 (Inclusionary Zoning). The substance of the amendments was later included by the Commission in the version of Title 11 DCMR, Subtitle C (General Rules) that will become effective on September 6, 2016 (2016 Regulations), which was adopted by the Commission through a Notice of Final Rulemaking published in Part II of the March 4, 2016 edition of the *District of Columbia Register*.

The corrections concern the set-aside requirements under the Inclusionary Zoning (IZ) regulations as set forth in § 2602 of the Current Regulations, and Subtitle C, Chapter 10 of the 2016 Regulations, which provide that properties that are subject to the IZ regulations must set-aside a certain amount of gross floor area for IZ units. The regulations also allow certain of these properties to increase matter-of-right density by up to twenty percent (20%). The amount of the IZ set-aside is (depending on the construction type or zone) the greater of eight percent (8%) or ten percent (10%) of the gross floor area of the building devoted to residential use including habitable penthouse space, or fifty percent (50%) or seventy-five percent (75%) of the bonus density utilized. The amendments add new language to §§ 2602.1 and 2602.2 of the Current Regulations and Subtitle C §§ 1003.1 and 1003.2 of the 2016 Regulations to clarify that when the set-aside is based upon the percentage of the bonus density utilized, an additional set-aside equal to eight percent (8%) or ten percent (10%) of any penthouse habitable space should be added.

The amendments address an anomaly brought to the attention of the Commission by the Office of Planning that has not been the basis of any permits issued, as DCRA recognizes that it is contrary to the Commission's intent. As such, the Commission considered the amendments as being modifications of little or no importance or consequence and therefore properly proposed pursuant to 11 DCMR § 3030, which permits such modifications to be adopted without a hearing or referral to the National Capital Planning Commission.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on May 20, 2016, at 63 DCR 7708. No comments were received in response.

The Commission took final action to adopt the amendments at a public meeting on June 13, 2016, making no changes to the proposed text. As to the Current Regulations, the final rulemaking is effective upon publication of this notice in the *D.C. Register*. As to the 2016 Regulations, the Final Rulemaking shall become effective on September 6, 2016.

Current Regulations:

Chapter 26, INCLUSIONARY ZONING, of Title 11 DCMR, ZONING, § 2603, SET-ASIDE REQUIREMENTS, is amended as follows:

Subsection 2603.1 is amended by adding the phrase “plus an area equal to ten percent (10%) of the penthouse habitable space as described in § 2602.1(d)” after the phrase “of the bonus density being utilized for inclusionary units”, so that the entire provision reads as follows:

2603.1 Except as provided in § 2603.8, an inclusionary development for which the primary method of construction does not employ steel and concrete frame structure located in an R-2 through an R-5-B Zone District or in a C-1, C-2-A, W-0, or W-1 Zone District shall devote the greater of ten percent (10%) of the gross floor area being devoted to residential use including penthouse habitable space as described in § 2602.1(d), or seventy-five percent (75%) of the bonus density being utilized for inclusionary units plus an area equal to ten percent (10%) of the penthouse habitable space as described in § 2602.1(d).

Subsection 2603.2, is amended by adding the phrase “plus an area equal to eight percent (8%) of the penthouse habitable space as described in § 2602.1(d)” after the phrase “of the bonus density being utilized for inclusionary units”, so that the entire provision reads as follows:

2603.2 An inclusionary development of steel and concrete frame construction located in the zone districts stated in § 2603.1 or any development located in a C-2-B, C-2-B-1, C-2-C, C-3, CR, R-5-C, R-5-D, R-5-E, SP, USN, W-2, or W-3 Zone District shall devote the greater of eight percent (8%) of the gross floor area being devoted to residential use including floor area devoted to penthouse habitable space as described in § 2602.1(d), or fifty percent (50%) of the bonus density being utilized for inclusionary units plus an area equal to eight percent (8%) of the penthouse habitable space as described in § 2602.1(d).

2016 Regulations:

Subtitle C, GENERAL RULES, Chapter 10, INCLUSIONARY ZONING, is amended as follows:

§ 1003, SET-ASIDE REQUIREMENTS, § 1003.1, is amended by adding the phrase “plus an area equal to ten percent (10%) of the penthouse habitable space as described in Subtitle C § 1001.2(d)” after the phrase “of its achievable bonus density to inclusionary units”, so that the entire provision reads as follows:

1003.1 An inclusionary residential development for which the primary method of construction does not employ steel or steel and concrete frame structure and which is located in a zone with a by-right height limit of fifty feet (50 ft.) or less shall set aside the greater of ten percent (10%) of the gross floor area dedicated to residential use including penthouse habitable space as described in Subtitle C § 1001.2(d), or seventy-five percent (75%) of its achievable bonus density to inclusionary units plus an area equal to ten percent (10%) of the penthouse habitable space as described in Subtitle C § 1001.2(d).

§ 1003, SET-ASIDE REQUIREMENTS, § 1003.2, is amended by adding the phrase “plus an area equal to eight percent (8%) of the penthouse habitable space as described in Subtitle C § 1001.2(d)” after the phrase “of its achievable bonus density to inclusionary units”, so that the entire provision reads as follows:

1003.2 An inclusionary residential development of steel or steel and concrete frame construction shall set aside the greater of eight percent (8%) of the gross floor area dedicated to residential use including penthouse habitable space as described in Subtitle C § 1001.2(d), or fifty percent (50%) of its achievable bonus density to inclusionary units plus an area equal to eight percent (8%) of the penthouse habitable space as described in Subtitle C § 1001.2(d).

On June 13, 2016 upon a motion by Commissioner Turnbull, as seconded by Chairman Hood Miller, the Zoning Commission **APPROVED** the rulemaking and **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Michael G. Turnbull, and Peter G. May to approve and adopt).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on July 1, 2016.

OFFICE OF THE CITY ADMINISTRATOR**NOTICE OF PROPOSED RULEMAKING**

The City Administrator, on behalf of the Mayor, pursuant to the authority under the second paragraph under the section titled “FOR METROPOLITAN POLICE” of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred, and for other purposes, approved March 3, 1899 (30 Stat. 1057; D.C. Official Code § 5-129.02 (2012 Repl.)), and Mayor’s Order 2015-36, dated January 9, 2015, hereby gives notice of the intent to adopt amendments to Chapter 11 (Special Police) of Title 6 (Personnel), Subtitle A (Police Personnel), and Chapter 21 (Security Officers and Security Agencies) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the publication of this notice in the *D.C. Register*.

This rulemaking modifies the eligibility and training requirements for commissioned special police officers and licensed security officers, and creates requirements for approved individuals to provide the training; a summary of the proposed rulemaking follows.

Summary of the Proposed Regulatory Action

This rulemaking ensures special police officers (SPOs) and security officers (SOs) meet increased eligibility requirements, including more comprehensive training, so as to be better qualified, trained, and responsive to community concerns. It also creates requirements for individuals seeking to provide the training, including professional experience and review of the curriculum.

Eligibility

The rulemaking strengthens applicant eligibility requirements so that a person convicted of misdemeanor sexual abuse is prohibited from applying to be a special police officer for ten (10) years and a security officer for two (2) years. This doubles the current length of time of ineligibility for SPOs and SOs, and is consistent with prohibitions for felonies. While those with prior convictions should not be automatically precluded from new career opportunities, this rulemaking seeks to lessen the risk of negative interactions between SPOs, SOs, and residents. Given the violation of trust between parties in sexual abuse cases and the trust expected of SPOs and SOs in the community, it is important that any applicant convicted of misdemeanor sexual abuse remains ineligible for an extended time before being put in a position of responsibility.

Training Requirements

The rulemaking increases training requirements for both incoming and current SPOs. By increasing pre-assignment training to at least eighty (80) hours, which is double the current requirement, SPOs will receive more comprehensive training and be better equipped to respond to potential emergency situations, while protecting the rights of individuals. The training will expand to include active shooter, emergency response, individuals in health or mental health crisis, de-escalation procedures, and biased-based policing. The use of force curriculum will

specify the types of force to be addressed (e.g., carotid neck restraint techniques, knees in back, and positional asphyxia).

Newly-assigned SPOs will be required to meet an increased standard of twenty-four (24) hours of on-the-job training within their first 80 hours with a special police officer who has at least one year experience. This will allow SPOs to be better equipped to conduct their job effectively. Additional in-service training from the current eight (8)-hour requirement to 24-hours annually will ensure SPOs are regularly informed and updated as to changes in laws and procedures.

The rulemaking requires at least forty (40) hours of firearms training and at least eight (8) hours of requalification training twice a year to ensure SPOs are meeting appropriate standards of responsible firearms use, storage, and maintenance. It also ensures SPOs are required to receive the same amount of annual firearms requalification as Metropolitan Police Department (MPD) officers.

To ensure these new standards are met, the rulemaking requires security agencies to pay for the costs of the training and maintain records of all training provided to their SPO and SO employees. This will allow all parties to be held accountable and to reduce the potential of employer liability concerns.

Under this rulemaking, there would be an additional sixty-four (64) hours of training added to the current SPO training requirements (seventy-two (72) hours of training for armed SPOs). The chart below provides a comparison of the current training requirements and the training requirements from this rulemaking.

	Current	Rulemaking proposal
Pre-assignment Training	40 hours total	80 hours total (required by May 31, 2018)
Part I	16 hours covering: <ul style="list-style-type: none"> • Arrest powers • Search and seizure • D.C. Official Code • Use of force 	32 hours covering: <ul style="list-style-type: none"> • Arrest powers • Search and seizure • D.C. Official Code • Use of force, including: <ul style="list-style-type: none"> • Carotid neck restraint techniques • Knees in back • Positional asphyxia
Part II	24 hours covering: <ul style="list-style-type: none"> • Terrorism awareness, including building evacuation, unattended packages, and unknown substances • Emergency procedure, including evacuation and first-aid; and 	48 hours, covering: <ul style="list-style-type: none"> • Terrorism awareness, including building evacuation, unattended packages, and unknown substances • Emergency procedures, including evacuation, cardio-pulmonary (CPR) and automated external defibrillator

	<ul style="list-style-type: none"> • Customer service and interaction with tourists 	<p>(AED) training, and a First Aid program</p> <ul style="list-style-type: none"> • Cultural competency and individual rights, including the D.C. Human Rights Act and Bias-Related Crime Act • Active Shooter • Police interaction with persons with health or mental health crisis issues, including substance abuse • De-escalation procedures • Biased-based policing • MPD’s records and arrest management systems • Community policing (if there’s possibility of assignment at a park, recreation center, residential building or community)
On-the-Job Training	16 hours of on-the-job training within 90 working days	24 hours of on-the-job training within the first 80 hours of work and while paired with a special police officer who has at least one year of experience (required by May 31, 2017)
Annual In-Service Training	Eight hours annually	24 hours annually (required by May 31, 2017)
Armed SPOs	40 hours initially and eight hours annually	40 hours initially and eight hours twice a year (required by May 31, 2017)

Outside Employment

To increase accountability, the rulemaking clarifies that SPOs cannot work for more than one security agency at a time. An SPO must be accountable to a single security agency and its policies and practices; this ensures that both the public and MPD can readily identify the agency that is responsible for the actions of an SPO.

Uniforms

The rulemaking specifies that SPO uniforms be consistent in appearance among all SPOs. This will present a level of professionalism and accountability so as to not confuse the public.

Physical/Psychological Fitness

In 2006, the regulations for SOs were amended to specify standards for physical and psychological fitness for duty. This rulemaking adopts the same clear standards for SPOs so as to ensure they perform effectively in a demanding position.

Material Misstatements

The rulemaking clarifies that any false statement or omission in an application for SPO commission or SO license application is a material misstatement and grounds for MPD denying the application or revoking the SPO commission or SO license. This clarification is needed due to several cases where the Office of Administrative Hearings overturned a commission or license denial or revocation by MPD and held that a person failing to disclose their arrest history in their commission or license application was not a material misstatement.

Approved Trainers

The rulemaking specifies that a qualified SPO instructor should have demonstrated relevant knowledge and experience. An instructor may meet that requirement as a resigned or retired full-duty status officer in good standing or having served as a special police officer for at least four (4) years. Alternatively, an instructor may have specific knowledge of the District demonstrated through two (2) years as in full-duty status resigned or retired or as a current member of the District of Columbia Bar.

Pursuant to D.C. Official Code § 5-129.02(c), this rulemaking shall be submitted to the Council of the District of Columbia for a forty-five (45)-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess.

Chapter 11, SPECIAL POLICE, of Title 6-A DCMR, POLICE PERSONNEL, is amended as follows:

Section 1100, APPOINTMENT: GENERAL PROVISIONS, is amended as follows:

Subsection 1100.7 is amended to read as follows:

1100.7 No person shall be appointed as special police office under D.C. Official Code §§ 5-129.02 or 5-129.03 unless he or she meets the following requirements:

- (a) Have reached the age of twenty-one (21) years;
- (b) Be a citizen of the United States;
- (c) Be of good moral character;
- (d) Be approved for appointment by the Chief of Police; possess a high school diploma or a general equivalency diploma or one (1) year of experience as

a special police officer in the District of Columbia; be able to read, write, and speak English; and be certified by a licensed physician as physically and psychologically fit to perform the duties of a special police officer in compliance with § 1111;

- (e) Shall not have been dishonorably discharged from the U.S. armed forces;
- (f) Satisfactorily complete the following pre-assignment, on-the-job, and in-service training programs which have been prescribed and approved by the Mayor:
 - (1) No later than May 31, 2018, pre-assignment training shall include at least thirty-two (32) hours of training on arrest powers, search and seizure laws, the District of Columbia Official Code, and the use of force, including carotid neck restraint techniques, knees in back, and positional asphyxia. Pre-assignment training shall include an additional forty-eight (48) hours of training generally relating to the special police officer's duties and specifically including:
 - (A) Terrorism awareness, including building evacuation, unattended packages, and unknown substances;
 - (B) Emergency procedures, including evacuation, cardio-pulmonary (CPR) and automated external defibrillator (AED) training, and a First Aid program;
 - (C) Cultural competency and individual rights, including the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code §§ 2-1401.01 *et seq.*), and the Bias-Related Crime Act 1989, effective May 8, 1990 (D.C. Law 8-121; D.C. Official Code §§ 22-3701 *et seq.*);
 - (D) Active shooter;
 - (E) Individuals in health and mental health crisis;
 - (F) De-escalation procedures;
 - (G) Biased-based policing;
 - (H) The record and arrest management system of the Metropolitan Police Department; and
 - (I) Community policing, if there is the possibility of being assigned to a park, recreation center, residential building or community.

- (2) No later than May 31, 2017, special police officers shall satisfactorily complete:
 - (A) Within eighty (80) working hours following employment and before being assigned to a post by themselves, twenty-four (24) hours of on-the-job training with a special police officer who has at least one (1) year experience; and
 - (B) Twenty-four (24) hours in annual in-service training courses.
- (3) No later than May 31, 2017, special police officers licensed to carry a firearm shall satisfy:
 - (A) At least forty (40) hours of initial firearms training;
 - (B) At least eight (8) hours of requalification training twice a year, representing sixteen (16) total hours, as applicable; and
 - (C) All additional initial and re-qualification training standards for other equipment, as applicable.
- (g) Nothing herein shall be construed to prohibit a security agency from voluntarily providing training programs and courses which exceed the minimum requirements of this chapter. Upon satisfactory completion of a required training course, a special police officer shall receive from his or her employer a certificate evidencing satisfactory completion thereof. A security agency must also maintain records of all training provided to its special police officer employees.

New Subsections 1100.8 and 1100.9 are added to read as follows:

- 1100.8 In order to provide the training required by § 1100.7, an instructor must obtain certification from the Department of Consumer and Regulatory Affairs.
- 1100.9 To be considered for approval as an instructor who can provide training pursuant to § 1100.1, a person shall:
 - (a) Have reached the age of twenty-one (21) years;
 - (b) Be a citizen of the United States;
 - (c) Be of good moral character;
 - (d) Possess a high school diploma or a general equivalency diploma and be able to read, write, and speak English;
 - (e) Not have been dishonorably discharged from the U.S. Armed Forces;

- (f) Undergo a criminal background check pursuant to the standards and procedures set forth in § 1102.1;
- (g) Possess at least four (4) years of experience within the last seven (7) years in at least one of the following positions:
 - (1) Served in a full-duty status with a full-service police department in a municipality or state or served in a federal or military agency and have resigned or retired in good standing; or
 - (2) Served as a special police officer continuously employed by a Licensed security agency; and
- (h) Possess demonstrated knowledge of District laws pertaining to law enforcement through either:
 - (1) At least twenty-four (24) months of service as a police officer or special police officer in the District of Columbia with the experience described in 6-A DCMR § 1100.9(g)(1) or (g)(2); or
 - (2) As a current member of the District of Columbia Bar with at least three (3) years of significant experience in law enforcement or criminal justice.

Section 1101, APPOINTMENTS, is amended as follows:

Subsection 1101.4 is amended to read as follows:

1101.4 The name of the agency shall be specified upon the face of the commission issued to those special police officers.

Subsection 1101.7 is amended to read as follows:

1101.7 The property which any special police officer shall be appointed to protect pursuant to § 1101.5 shall be located within the geographical limits of the District of Columbia.

Subsection 1101.14 is amended to read as follows:

1101.14 No special police officer may, at the same time, hold a commission under more than one (1) security agency located in the District of Columbia.

Section 1102, CRIMINAL HISTORY, is amended to read as follows:

1102.1 No person shall be commissioned or employed as a special police officer, nor shall an existing special police officer have a commission renewed, until the Mayor has conducted a criminal history check of the applicant through the record systems of the Federal Bureau of Investigation and the Metropolitan Police Department

- 1102.2 An applicant shall be ineligible to be commissioned as a special police officer if that applicant has ever been convicted of, pled guilty or *nolo contendere* to, or been given probation before judgment for any offense in any jurisdiction that would be a crime of violence, as defined in D.C. Official Code § 23-1331(4), if committed in the District of Columbia.
- 1102.3 If an applicant has ever been convicted of, pled guilty or *nolo contendere* to, or been given probation before judgment for any offense, other than a crime of violence, as defined in D.C. Official Code § 23-1331(4), in any jurisdiction that would be a felony if committed in the District of Columbia, the applicant shall be ineligible to be commissioned as a special police officer for ten (10) years following the applicant's release from incarceration and the conclusion of any court-ordered parole, probation, or supervision relating to that offense.
- 1102.4 If an applicant has ever been convicted of, pled guilty or *nolo contendere* to, or been given probation before judgment for any offense, other than a crime of violence, as defined in D.C. Official Code § 23-1331(4), or traffic offense, in any jurisdiction that would be a misdemeanor if committed in the District of Columbia, the applicant shall be ineligible to be commissioned as a special police officer for five (5) years following the applicant's release from incarceration and the conclusion of any court-ordered parole, probation, or supervision relating to that offense.
- 1102.5 If an applicant has ever been convicted of, pled guilty or *nolo contendere* to, or been given probation before judgment for any offense, in any jurisdiction that would be a misdemeanor sexual abuse if committed in the District of Columbia, the applicant shall be ineligible to be commissioned as a special police officer for ten (10) years following the applicant's release from incarceration and the conclusion of any court-ordered parole, probation, or supervision relating to that offense.
- 1102.6 In evaluating an application for a special police officer commission, the Mayor shall also consider:
- (a) An applicant's arrest history;
 - (b) An applicant's conviction history;
 - (c) Any court finding of an applicant's mental incompetence that has not been removed or expunged;
 - (d) An applicant's history of criminal traffic offenses;
 - (e) The bearing, if any, the criminal offense for which the person was previously convicted will have on his or her fitness or ability to perform one or more duties or responsibilities of a special police officer;
 - (f) The time that has elapsed since the occurrence of the criminal offense or court finding of mental incompetence;

- (g) The age of the applicant at the time of the occurrence of the criminal offense or court finding of mental incompetence;
- (h) The frequency and seriousness of the criminal offense;
- (i) Any information produced by the applicant, or produced on his or her behalf, in regard to his or her rehabilitation and good conduct since the occurrence of the criminal offense or court finding of mental incompetence; and
- (j) Any material misstatement, including, but not limited to, a false statement or omission in the commission application. A commission shall be subject to denial, suspension, or revocation for any such material misstatement.

1102.7 If a special police officer is arrested, the special police officer shall report the arrest to the Mayor within two (2) business days. The commission of such special police officer shall be suspended immediately, and the security agency shall be notified of such suspension immediately, pending further disposition. If a special police officer fails to report an arrest as required, the special police officer's commission shall be summarily revoked.

1102.8 The Mayor shall conduct random criminal history checks of special police officers through the record systems of the Metropolitan Police Department. The commission of any special police officer whose record indicates an unreported arrest or conviction shall be summarily revoked, and the security agency shall be notified of such revocation immediately. The commission of any special police officer whose record indicates an outstanding warrant shall be suspended immediately, and the security agency shall be notified of such suspension immediately, pending further disposition.

1102.9 Notwithstanding any other law or regulation, the information obtained from criminal history checks conducted pursuant to this chapter and considered by the Mayor shall not be limited by the date of the offense nor shall the information obtained and considered be limited to arrests resulting in conviction.

Subsection 1105.3 of Section 1105, APPLICATIONS, is amended to read as follows:

1105.3 Each application shall be accompanied by eighty-four dollars (\$84), which includes sixty-five dollars (\$65) for the application and nineteen dollars (\$19) for licensing. Additionally, an applicant must pay a thirty-five dollar (\$35) fee for fingerprints. The eighty-four dollar (\$84) fee is refundable in the event of a final denial.

Section 1106, SECURITY AGENCY RESPONSIBILITIES, is amended as follows:

New Subsections 1106.9, 1106.10, and 1106.11 are added to read as follows:

1106.9 Special police officers shall not work for more than one (1) security agency at any time located in the District of Columbia.

- 1106.10 In reviewing an employment application for a special police officer previously employed by another security agency and who received that other security agency's pre-assignment training, a security agency shall review and certify that the previously received pre-assignment training meets the requirements of § 1100.7(f).
- 1106.11 A security agency shall pay the costs of the pre-assignment training, on-the-job and in-service training, including any required firearms requalification training, required by § 1100.7(f).

Subsection 1109.1 of Section 1109, UNIFORMS, is amended to read as follows:

- 1109.1 Special police officers shall, while on duty, wear distinctive uniforms. Uniform waivers for armed special police officers are prohibited.

A new Section 1111, ELIGIBILITY REQUIREMENTS – HEALTH, is added to read as follows:

- 1111.1 Each applicant for commission shall be required to submit a physician's certificate stating, to the best of the physician's knowledge after examining the applicant, the following:
- (a) The applicant is not presently addicted to drugs or alcohol;
 - (b) The applicant is not suffering from any debilitating mental defect or disorder; and
 - (c) The applicant is not suffering from serious heart disease, severe epilepsy, or other physical defect which might cause substantial loss of control in situations of severe stress.
- 1111.2 When testing for epilepsy or other physical defects which might involve substantial costs to determine, the doctor may rely upon the sworn statement of the applicant, under oath. The doctor must give his or her affirmation to the same effect.
- 1111.3 In cases where commission is requested concurrent with or as a condition of employment with a security agency or an employer, the security agency or employer shall certify the health of the applicant.
- 1111.4 Each applicant shall be required to pass a drug screening administered by the security agency or employer upon initial application and upon application for commission renewal.
- 1111.5 Special police officers shall be subject to reasonable suspicion drug and alcohol testing by the security agency or employer. For the purposes of this subsection, the term "reasonable suspicion" means the officer is impaired while on duty.

- 1111.6 Security agencies or employers shall immediately notify the Mayor of any unexplained positive tests.
- 1111.7 The certification of a special police officer who fails a reasonable suspicion drug or alcohol test shall be summarily revoked. For the purposes of this section, the term “fails” means:
- (a) The officer’s blood contained more than .03%, by weight, of alcohol, or the officer’s urine contained more than .04%, by weight, of alcohol, or that at the time of the test more than .14 micrograms of alcohol were contained in 1 milliliter of his or her breath, consisting of substantially alveolar air; or
 - (b) The drug test detected the presence of a controlled substance in the officer’s blood or urine.

Chapter 21, SECURITY OFFICERS AND SECURITY AGENCIES, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Section 2101, DUTY OF SECURITY AGENCY OR EMPLOYER, is amended as follows:

New Subsections 2101.5 and 2101.6 are added to read as follows:

- 2101.5 A security agency shall use an instructor approved by the Department of Consumer and Regulatory Affairs to provide the training required by § 2108.4 and 6-A DCMR § 1100.7(f).
- 2101.6 A security agency shall pay the costs of the pre-assignment training, on-the-job and in-service training, including any required firearms requalification training, required by 6-A DCMR § 1100.7(f).

Subsection 2104.1 of Section 2104, ELIGIBILITY REQUIREMENTS – CRIMINAL CONVICTIONS, is amended to read as follows:

- 2104.1
- (a) A person who is in any of the following categories shall not be eligible for certification as a security officer unless he or she meets the burden of proving to the Office of Administrative Hearings that he or she is not a significant safety risk to the community and meets all other requirements for certification:
 - (1) A person who has been released from incarceration for a felony conviction in any jurisdiction in the United States within two (2) years prior to the date of filing an application for certification; or

- (2) A person who has been released from incarceration for a misdemeanor conviction in any jurisdiction in the United States involving larceny or involving the illegal use, carrying, or concealment of a dangerous weapon within one (1) year prior to the date of filing an application for certification.
 - (3) A person who has been released from incarceration for a misdemeanor conviction in any jurisdiction in the United States involving sexual abuse within two (2) years prior to the date of filing an application for certification.
- (b) The provisions of this section do not preclude a security company from imposing stricter standards or from requiring a longer period of ineligibility for a felony or misdemeanor.

Section 2108, EXAMINATION AND TRAINING, is amended as follows:

Subsection 2108.4 is amended to read as follows:

2108.4 To qualify for certification as a security officer, an individual shall meet the eligibility and training requirements established in this chapter and be an employee or an applicant for employment with a security firm.

Subsection 2108.7 is amended to read as follows:

2108.7 Security officers shall be required to satisfactorily complete pre-assignment, on-the-job, and in-service training programs that meet the requirements of this chapter.

Subsection 2108.8 is amended to read as follows:

2108.8 Pre-assignment training shall include at least twenty-four (24) hours of training generally relating to the security officer's duties and specifically including:

- (a) Terrorism awareness, including building evacuation, unattended packages, and unknown substances;
- (b) Emergency procedures, including evacuation, cardio-pulmonary (CPR) and automated external defibrillator (AED) training, and a First Aid program;
- (c) Cultural competency and individual rights, including the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code §§ 2-1401.01 *et seq.*), and the Bias-Related Crime Act 1989, effective May 8, 1990 (D.C. Law 8-121; D.C. Official Code §§ 22-3701 *et seq.*);

- (d) Active shooter;
- (e) Individuals in health and mental health crisis;
- (f) De-escalation procedures;
- (g) Biased-based policing; and
- (h) Community policing, if there is the possibility of being assigned to a park, recreation center, residential building or community.

Subsection 2108.9 is amended to read as follows:

2108.9 Security officers shall satisfactorily complete a sixteen- (16-) hour, on-the-job training course within thirty (30) working days following employment, and an eight- (8-) hour annual in-service training course.

Subsection 2108.12 is amended to read as follows:

2108.12 The training requirements in § 2108.8 and § 2108.9 shall apply as of May 1, 2018.

A new Subsection 2108.13 is added to read as follows:

2108.13 A security agency shall maintain records of all training provided to its security officer employees.

A new Subsection 2108.14 is added to read as follows:

2108.14 To be considered for approval as an instructor to provide training pursuant to § 2108.4, a person shall:

- (a) Possess a valid security officer's license;
- (b) Possess a high school diploma or its equivalent;
- (c) Undergo a criminal background check pursuant to the procedures set forth in 6-A DCMR § 1102;
- (d) Possess at least thirty-six (36) months of experience, at least eighteen (18) of which is in the District of Columbia, as any combination of the following:
 - (1) A full-duty status with a full-service police department in a municipality or state or served in a federal or military agency and have resigned or retired in good standing;

- (2) A security officer employed by a licensed security agency or a series of security agencies;
- (3) A trainer employed by a licensed security agency or series of security agencies to train security officers; or
- (4) The owner or manager of a security agency.

A new Subsection 2108.15 is added to read as follows:

2108.15 The Department of Consumer and Regulatory Affairs shall publish on its website a regularly updated list of the instructors approved under this section.

Section 2120, DENIAL, SUSPENSION, AND REVOCATION OF CERTIFICATION, is amended to read as follows:

- 2120.1 Certification of a security officer shall be subject to denial, suspension, or revocation for any of the following reasons:
- (a) Any material misstatement, including but not limited to a false statement or omission, in the license application;
 - (b) Violation of requirements pertaining to identifications cards, uniforms, badges, advertising, and displays as set forth in §§ 2110, 2111, 2112, and 2113;
 - (c) Failure or refusal to comply with any statute or regulation governing security officers, or the willful and fraudulent circumvention of any statute or regulation;
 - (d) Conviction of a felony while employed as a security officer; provided, that denial, suspension, or revocation for this reason shall not prevent a person from reapplying for certification;
 - (e) Conviction for a misdemeanor involving theft, fraudulent conduct, assault, or false arrest or imprisonment;
 - (f) Conviction of any offense arising out of or based on employment as a security officer which involved a breach of trust or an invasion of privacy; or
 - (g) Carrying a deadly weapon, handcuffs, or an aerosol chemical dispenser in the course of employment. This does not prohibit the carrying of a night stick constructed solely of wood.

All persons interested in commenting on this proposed rulemaking action may submit comments in writing to Kelly O'Meara, Strategic Change Division, Metropolitan Police Department, 300

Indiana Avenue, N.W., Suite 5117, Washington, D.C. 20001, or via email at Regulations.SPO@dc.gov. Comments must be received no later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of the proposed rules can be obtained from the address listed above. Copies of this proposal may be obtained, at cost, by writing to the above address.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING**Z.C. Case No. 08-06E****(Text Amendment – 11 DCMR)****Technical Corrections to Z.C. Order 08-06A**

The Zoning Commission for the District of Columbia, (Commission) pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938, as amended (52 Stat. 797; D.C. Official Code § 6-641.01 (2012 Repl.)), hereby gives notice of its intent to amend the newly adopted, but not yet effective, version of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (DCMR)) to make minor modifications and technical corrections to the amendments made by Z.C. Order 08-06A (Order). The Order, which took the form of a Notice of Final Rulemaking, adopted comprehensive amendments to the Zoning Regulations that will become effective on September 6, 2016 (2016 Regulations). The Commission adopted the 2016 Regulations through a Notice of Final Rulemaking published in Part II of the March 4, 2016 edition of the *District of Columbia Register*.

A full explanation for the corrections and modifications proposed may be found in the Office of Planning report, which appears as Exhibits 1 and 2 in this case, and which may be accessed on the Office of Zoning website at <http://dcoz.dc.gov>.

Final rulemaking action shall be taken not less than fourteen (14) days from the date of publication of this notice in the *D.C. Register* although the amendments, if adopted, will not become effective until September 6, 2016. This fourteen (14) day period is less than the thirty (30) day period ordinarily required. A reduced comment period is permitted by D.C. Official Code § 2-505(a) when “good cause” to do so is found and stated in the notice. These amendments, though technical in nature, need to become effective on September 6th because that is the date upon which the 2016 Regulations become effective. The Commission authorized the issuance of this notice on June 13, 2016. The Commission’s last opportunity to adopt these rules to allow for a September 6th effective date will be July 25th, which is its final public meeting before the Commission begins its August recess. The Commission was aware that due to the length of this notice, the Office of Documents and Administrative Issuances (ODAI) would need a two (2) week period to complete its review. In order to accommodate ODAI’s review period, and recognizing the technical nature of these amendments, the Commission concluded that good cause existed for a reduced comment period.

The following amendments to the 2016 Regulations (Title 11 DCMR) are proposed (additions are shown in bold underlined text and deletions are shown in strikethrough text):

Subtitle A, AUTHORITY AND APPLICABILITY, Chapter 1, INTRODUCTION TO TITLE 11, § 102, VESTED RIGHTS UNDER THE PREVIOUS 1958 ZONING REGULATIONS, AS AMENDED, § 102.4 is amended as follows:

102.4 Any proposed amendment or modification to a vested project identified within this section **that cannot be granted by the Zoning Administrator as a**

deviation permitted by Subtitle A § 304 or as a minor modification permitted by Subtitle X § 311.6 shall conform with the 2016 Regulations, and if no building permit has been issued for the vested project, the entire project must conform with the 2016 Regulations ~~be reviewed in the context of the general purpose and intent of the 2016 Regulations and shall not be inconsistent with the general purpose and intent of the initial approval.~~

Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is amended as follows:

Chapter 1, DEFINITIONS, § 100, DEFINITIONS, § 100.2, is amended as follows:

Definition for “Lot, Alley” is amended as follows:

Lot, Alley: Is either a lot that is recorded on the records of the Surveyor, District of Columbia, that faces or abuts an alley that does not face or abut a street at any point (alley record lot), or a lot that is recorded on the records of the D.C., and that is recorded on the records of the Office of the Surveyor or the Office of Tax and Revenue, on or before November 1, 1957, that faces or abuts an alley that does not face or abut a street at any point (alley tax lot).

Definition for “Height, Floor-to-Ceiling Clear” is amended as follows:

Height, Floor-to-Ceiling Clear: The vertical distance measured from the finished floor to the underside of the finished ceiling. (See Subtitle B § 328.) ~~that is unobstructed by any of the following:~~

- ~~(a) — Elements of the building structure other than columns and walls;~~
 - ~~(b) — Components of mechanical, plumbing, or fire suppression systems; or~~
 - ~~(c) — Components of electrical systems other than lighting fixtures.~~
- ~~If the ceiling is not finished, the distance shall be measured to the lowest point of any of the structural elements of systems referenced in (a), (b), or (c) above.~~

Chapter 3, GENERAL RULES OF MEASUREMENT, is amended as follows:

Section 308, RULES OF MEASUREMENT FOR BUILDING HEIGHT: R, RF, AND RA ZONES, is amended as follows:

308 RULES OF MEASUREMENT FOR BUILDING HEIGHT: R, RF, AND RA, RC-1, CG-1, AND D-1 ZONES

- 308.1 The height of buildings, not including a penthouse, in R, RF, and RA, RC-1, CG-1, and D-1 zones shall be measured in accordance with the rules provided in this section. If more than one (1) of these subsections applies to a building, the rule permitting the greater height shall apply.

Section 311, LOT OCCUPANCY, § 311.1 is amended as follows:

- 311.1 Lot occupancy regulations are intended to provide a primary control of the total volume of buildings ~~and structures~~ on a lot through the restriction of a building's horizontal area above a designated horizontal plane. The lot occupancy standards applied through land use subtitles are intended to contribute, along with height regulations, to ensuring that buildings within a zone are generally consistent in their volume.

Section 312, RULES OF MEASUREMENT FOR LOT OCCUPANCY, §§ 312.1, 312.2, and 312.3 are amended to read as follows:

- 312.1 The main building and any accessory buildings ~~or structures~~ shall be subject to the lot occupancy standard prescribed in the development standards table for the zone in which the building is located.
- 312.2 Lot occupancy shall be calculated by dividing the total building area of all buildings ~~and structures~~ on a lot by the total area of the lot.
- 312.3 Building area shall be the maximum horizontal projected area of a principal building and its accessory buildings, measured at the ground level of the ~~principal buildings~~ and measured from the exterior faces of exterior walls and from the center line of walls separating two (2) buildings.

Section 318, RULES OF MEASUREMENT FOR REAR YARDS, § 318.3 is amended as follows:

- 318.3 Where the rear lot line is not parallel to the street lot line, or where there are more than one (1) rear lot lines that intersect at a point at an angle greater than ninety degrees (90°), the required rear yard shall be measured as a vertical plane along a line measured in from the rear lot line at a point ~~equal distant~~ equidistant from the side lot lines;

Section 323, PROJECTIONS INTO REQUIRED OPEN SPACES, § 323.6 is amended by deleting it in its entirety, and by renumbering the subsequent subsections.

- 323.6 ~~An open or lattice enclosed fire balcony or fire escape may project into a required yard or an open court for a distance not to exceed four feet (4 ft.).~~

By adding a new § 328, RULES OF MEASUREMENT FOR FLOOR TO CEILING CLEAR HEIGHT, to read as follows:

328 RULES OF MEASUREMENT FOR FLOOR TO CEILING CLEAR HEIGHT

328.1 The upper point of the measurement is the finished ceiling that is unobstructed by any of the following:

- (a) Elements of the building structure, other than columns and walls;**
- (b) Components of mechanical, plumbing, or fire suppression systems; or**
- (c) Components of electrical systems, except lighting fixtures.**

328.2 If the ceiling is not finished, the distance shall be measured to the lowest point of any of the structural elements of systems referenced in Subtitle B §§ 328.1(a), (b), or (c).

328.2 For all stories above the ground level and for a ground story for which there is no clear height requirement, the bottom point of the measurement shall be the level of the finished floor. For a ground story subject to minimum clear height requirements, the bottom measuring point for clear height shall be the level of the curb opposite the middle of the building’s frontage on the street from which the building draws its clear height requirement.

Subtitle C, GENERAL RULES, is amended as follows:

Chapter 2, NONCONFORMITIES, § 201, GENERAL PROVISIONS, §§ 201.1 and 201.3 are amended to read as follows:

201.1 Except as otherwise permitted in this chapter, nonconforming structures or uses may not be enlarged upon, expanded, or extended, nor may they be used as a basis for adding other structures or uses prohibited elsewhere in the same zone district.

...

201.3 It is necessary and consistent with the establishment of the separate zone districts under this title that all uses and structures incompatible with permitted uses or structures shall be regulated strictly and permitted only under rigid controls, to the extent permitted by the Zoning Act of 1938.

Chapter 3, SUBDIVISION, the title of § 301, GENERAL PROVISIONS, is amended to read as follows:

301 GENERAL PROVISIONS SUBSTANDARD LOTS

Chapter 4, TREE PROTECTION, § 401, TREE PROTECTION REGULATIONS, § 401.4 is amended to read as follows:

- 401.4 Where removal or cutting of trees has occurred that would have been prohibited by this section if an application for a building permit had been contemporaneously filed, no building permit shall be issued for a period of five (5) years from such removal or cutting unless the Board of Zoning Adjustment grants a special exception pursuant to Subtitle X, Chapter 9 **and Subtitle D § 5202.**

Chapter 7, VEHICLE PARKING, is amended as follows:

Section 701, MINIMUM VEHICLE PARKING REQUIREMENTS, § 701.5 is amended as follows:

- 701.5 Except as provided for in Subtitle C § 702, parking requirements for all use categories are as follows **(all references to “sq. ft.” refers to square feet of gross floor area as calculated in Subtitle C § 709):**

Section 709, RULES OF CALCULATION, § 709.1 is amended as follows:

- 709.1 **Gross floor area shall be as defined in Subtitle B, except that** for purposes of calculating off-street parking requirements:

- (a) **In all zones,** gross floor area shall not include floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space or space devoted exclusively to bicycle storage or support (lockers and showers) facilities; ~~and~~
- (b) **In all zones,** gross floor area shall include penthouse habitable space except that recreation space for residents or tenants of the building or other ancillary space associated with a rooftop deck shall not be included.;
- (c) **In the R, RF, RA, and MU-11 through MU-14 zones, gross floor area shall include cellar floor area devoted to uses within the Government, Local use;**
- (d) **In the MU-3, MU-4, MU-7, MU-17, MU-24, MU-25, MU-26, MU-27, NC-1, NC-2, NC-3, NC-4, NC-6, NC-7, NC-8, NC-9, NC-12, NC-14, NC-15, NC-16, RC-2, ARTS-1, ARTS-3, PDR-1, PDR-4, PDR-5, PDR-6, and PDR-7 zones, gross floor area shall include cellar floor area devoted to uses within following use groups:**
 - (1) Animal sales, care and boarding;**
 - (2) Arts, design and creation;**
 - (3) Chancery;**
 - (4) Eating and drinking establishments;**
 - (5) Firearm sales;**
 - (6) Medical care;**
 - (7) Office;**
 - (8) Retail; and**

(9) Service, general and financial; and

(e) In the PDR-2 and PDR-3 zones, gross floor area shall include the cellar floor area devoted to uses within the Office and Chancery use groups.

Chapter 8, BICYCLE PARKING, § 802, MINIMUM NUMBER OF BICYCLE PARKING SPACES, § 802.1, Table C § 802.1: MINIMUM NUMBER OF BICYCLE PARKING SPACES is amended as follows (and all other entries are unchanged):

Use	Long-Term Spaces	Short-Term Spaces
Residential house, <u>single dwelling unit</u>	None	None
Residential, flat		
Residential apartment, <u>multiple dwelling unit</u>	1 space for each 3 dwelling units	1 space for each 20 dwelling units

Chapter 15, PENTHOUSES, § 1504, RELIEF TO PENTHOUSE REQUIREMENTS, § 1504.1 is amended as follows:

1504.1 Relief to the requirements of ~~this chapter other than Subtitle C § 1501 penthouse height~~ **§§ 1506 – 1500.10 and 1502** may be granted as a special exception by the Board of Zoning Adjustment subject to Subtitle X, Chapter 9 and subject to the following considerations:

Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is amended as follows:

Chapter 1, INTRODUCTION TO RESIDENTIAL HOUSE (R) ZONES, § 101, DEVELOPMENT STANDARDS, is amended by adding a new § 101.4 to read as follows:

101.4 In addition to the development standards set forth in this subtitle, additional general regulations relevant to this subtitle can be found in Subtitle C.

Chapter 2, GENERAL DEVELOPMENT STANDARDS (R), is amended by adding a new § 207, HEIGHT, to read as follows:

207 HEIGHT

207.1 Except in the R-11, R-12 and R-13 Naval Observatory Residential zones, and except as provided in Subtitle D § 207.9, the maximum height of buildings or structures specified in each R zone may be exceeded as provided in this section.

207.2 A spire, tower, dome, pinnacle, minaret serving as an architectural embellishment, or antenna may be erected to a height in excess of that which this section otherwise authorizes in the district in which it is located.

- 207.3 A chimney or smokestack may be erected to a height in excess of that authorized in the district in which it is located when required by other municipal law or regulation.
- 207.4 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.); provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the natural grade.
- 207.5 A place of worship may be erected to a height of sixty feet (60 ft.); provided, that it shall not exceed the number of stories permitted in the district in which it is located.
- 207.6 An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.); provided, that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each one foot (1 ft.) of height in excess of that authorized in the district in which it is located.
- 207.7 A public school building or structure may be erected to a height not exceeding sixty feet (60 ft.).
- 207.8 A public recreation and community center in any residential zone may be erected to a height not to exceed forty-five feet (45 ft.).
- 207.9 Where required by the Height Act, a height in excess of that permitted shall be authorized by the Mayor.

Chapter 3, RESIDENTIAL HOUSE ZONES – R-1-A, R-1-B, R-2, AND R-3, is amended as follows:

Section 303, HEIGHT, is amended by deleting § 303.2, and amending §§ 303.3 and 303.4 as follows:

- ~~303.2 An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each foot of height in excess of that authorized in the zone in which it is located.~~

~~303.3~~ 303.2 The maximum permitted height of a penthouse, except as permitted in Subtitle D § ~~303.4~~ 303.3 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

~~303.4~~ 303.3 A non-residential building constructed pursuant to Subtitle D ~~§ 303.2~~ D § 207.6 shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

Section 309, SPECIAL EXCEPTION, § 309.1 is amended to read as follows:

309.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle D §§ 5201 and 5205.

Chapter 4, TREE AND SLOPE PROTECTION RESIDENTIAL HOUSE ZONES – R-6 AND R-7, § 403, HEIGHT, is amended as follows:

By deleting § 403.2.

By amending §§ 403.3 and 403.4 as follows:

~~403.3~~ 403.2 The maximum permitted height of a penthouse, except as permitted in Subtitle D § ~~403.2~~ 403.3 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

~~403.4~~ 403.3 A non-residential building constructed pursuant to Subtitle D § ~~403.2~~ 207.6 shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

Chapter 5, FOREST HILLS TREE AND SLOPE RESIDENTIAL HOUSE ZONES – R-8, R-9, AND R-10, § 503, HEIGHT, is amended by deleting § 503.2, and amending §§ 503.3 and 503.4 as follows:

~~503.2~~ ~~—An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each foot of height in excess of that authorized in the zone in which it is located.~~

~~503.3~~ 503.2 The maximum permitted height of a penthouse, except as permitted in Subtitle D § ~~503.2~~ 207.6 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

~~503.4~~ **503.3** A non-residential building constructed pursuant to Subtitle D § ~~503.2~~ **207.6** shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

Chapter 6, NAVAL OBSERVATORY/TREE AND SLOPE RESIDENTIAL HOUSE ZONE – R-11, § 603, HEIGHT, is amended by deleting § 603.2, and amending §§ 603.3 and 603.4 as follows:

~~603.3~~ — An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each foot of height in excess of that authorized in the zone in which it is located.

~~603.4~~ **603.3** The maximum permitted height of a penthouse, except as permitted in Subtitle D § ~~603.3~~ **207.6** and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

~~603.5~~ **603.4** A non-residential building constructed pursuant to Subtitle D § ~~603.3~~ **207.6** shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

Chapter 7, NAVAL OBSERVATORY RESIDENTIAL HOUSE ZONES – R-12 AND R-13, is amended as follows:

Section 700, PURPOSE AND INTENT, § 700.1(d) is amended as follows:

- (d) Provide additional controls on private land to protect Federal interest concerns, including the critical scientific mission performed at the Naval Observatory and the security needs of the Vice President's Vice-President's residence; and

Section 703, HEIGHT, is amended as follows:

By deleting § 703.2.

By amending §§ 703.3 and 703.4 as follows:

~~703.4~~ **703.3** The maximum permitted height of a penthouse, except as permitted in Subtitle D § ~~703.3~~ **207.6** and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

~~703.5~~ **703.4** A non-residential building constructed pursuant to Subtitle D § ~~703.3~~ **207.6** shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

Chapter 8, WESLEY HEIGHTS RESIDENTIAL HOUSE ZONES – R-14 AND R-15, § 803, HEIGHT, is amended by deleting § 803.2, and amending §§ 803.3 and 803.4 as follows:

~~803.2~~ An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each foot of height in excess of that authorized in the zone in which it is located.

~~803.3~~ **803.2** The maximum permitted height of a penthouse, except as permitted in Subtitle D § ~~803.2~~ **207.6** and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

~~803.4~~ **803.3** A non-residential building constructed pursuant to Subtitle D § ~~803.2~~ **207.6** shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

Chapter 9, SIXTEENTH STREET HEIGHTS RESIDENTIAL HOUSE ZONE – R-16, is amended as follows:

Section 903, HEIGHT, is amended by deleting § 903.2, and amending §§ 903.3 and 903.4 as follows:

~~903.2~~ An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each foot of height in excess of that authorized in the zone in which it is located.

~~903.3~~ **903.2** The maximum permitted height of a penthouse, except as permitted in Subtitle D § ~~903.2~~ **207.6** and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

~~903.4~~ **903.3** A non-residential building constructed pursuant to Subtitle D § ~~903.2~~ **207.6** shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

Section 910, USE PERMISSIONS, is amended by adding a new § 910.2 to read as follows:

910.2 An expansion of an existing non-residential use shall not exceed ten percent (10%) of its gross floor area of the building the use occupies subject to the conditions of Subtitle U § 204. A proposed expansion of an existing non-

residential use in excess of ten percent (10%) of its gross floor area, shall be subject to the conditions of Subtitle U § 205.

Chapter 10, FOGGY BOTTOM RESIDENTIAL HOUSE ZONES – R-17, § 1003, HEIGHT, is amended by deleting § 1003.2, and amending §§ 1003.3 and 1003.4 as follows:

~~1003.2~~ ~~An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each foot of height in excess of that authorized in the zone in which it is located.~~

~~1003.3~~ 1003.2 The maximum permitted height of a penthouse, except as permitted in Subtitle D § ~~1003.2~~ 207.6 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

~~1003.4~~ 1003.3 A non-residential building constructed pursuant to Subtitle D § ~~1003.2~~ 207.6 shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

Chapter 12, GEORGETOWN RESIDENTIAL HOUSE ZONES – R-19 AND R-20, § 1203, HEIGHT, is amended as follows:

Subsection 1203.4 is amended to read as follows:

1203.4 In R-19 and R-20 zones, an addition of two (2) or more ~~story~~ stories ~~addition~~ to a principal building which has an existing second story side yard shall not exceed the vertical plane of that existing side yard for the length of the second story addition.

By deleting the existing § 1203.6 in its entirety, renumbering the existing § 1203.7 as § 1203.6, and amending it to read as follows:

~~1203.6~~ ~~An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each foot of height in excess of that authorized in the zone in which it is located.~~

~~1203.7~~ 1203.6 A non-residential building constructed pursuant to Subtitle D § ~~1102.6~~ 207.6 shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

Chapter 13, CHAIN BRIDGE ROAD/UNIVERSITY TERRACE RESIDENTIAL HOUSE ZONE – R-21, is amended as follows:

Section 1301, DEVELOPMENT STANDARDS, § 1301.1 is amended to read as follows:

1301.1 The development standards in Subtitle D §§ ~~1202~~ **1302** through ~~1209~~ **1309** modify the general development standards in Subtitle D, Chapter 2.

Section 1302, DENSITY-LOT DIMENSIONS, § 1302.1, the table name for Table D § 1302.1 is amended as follows:

TABLE D § ~~1202.1~~ **1302.1**: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS

Section 1303, HEIGHT, is amended as follows:

By deleting § 1303.2.

By amending §§ 1303.3 and 1303.4 as follows:

~~1303.3~~ **1303.2** The maximum permitted height of a penthouse, except as permitted in Subtitle D § ~~1303.2~~ **207.6** and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

~~1303.4~~ **1303.3** A non-residential building constructed pursuant to Subtitle D § ~~1303.2~~ **207.6** shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

Subtitle E, RESIDENTIAL FLAT (RF) ZONES, is amended as follows:

Chapter 1, INTRODUCTION TO RESIDENTIAL FLAT (RF) ZONES, § 101, DEVELOPMENT STANDARDS, is amended by adding a new § 101.4 to read as follows:

101.4 In addition to the development standards set forth in this subtitle, additional general regulations relevant to this subtitle can be found in Subtitle C.

Chapter 2, GENERAL DEVELOPMENT STANDARDS (RF), § 201, DENSITY – LOT DIMENSIONS, is amended as follows:

Subsection 201.1 is amended as follows:

Table E § 201.1 is amended as follows:

	Lot Width Minimum	Lot Area Minimum
Row Dwelling or Flat	18 ft.	1,800 sq. ft.
Row Dwelling or Flat Inclusionary Zoning	15 ft. 16 ft. as a special exception (IZ)	1,500 sq. ft. (IZ)

Semi-Detached Dwelling	30 ft.	3,000 sq. ft.
All Other Structures	40 ft.	4,000 sq. ft.

Chapter 3, RESIDENTIAL FLAT ZONE – RF-1, is amended as follows:

Section 302, MAXIMUM NUMBER OF DWELLING UNITS, § 302.2, is amended as follows:

302.2 A building or structure existing before May 12, 1958 in the RF-1 zone may be used for more than two (2) dwelling units pursuant to Subtitle ~~E~~ U, Chapter ~~7-3~~.

Section 303, HEIGHT, is amended as follows:

Subsection 303.1 is amended to read as follows:

303.1 Except as specified elsewhere in this ~~title~~ section, the maximum permitted ~~building height,~~ height of buildings or structures and any additions thereto, not including the penthouse, in an RF-1 zone, shall not exceed thirty-five feet (35 ft.) and three (3) stories.

New §§ 303.2 and 303.3 are added to read as follows:

303.2 New construction of three (3) or more immediately adjoining residential row dwellings or flats, built concurrently on separate record lots, shall be permitted a maximum building height of forty feet (40 ft.) and three (3) stories.

303.3 A building or other structure may be erected to a height not exceeding forty feet (40 ft.) if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, subject to Subtitle E § 5203.

Subsection 303.2 is renumbered to § 303.4.

Subsection 303.3 is renumbered to § 303.5.

Subsection 303.4 is renumbered to § 303.6.

Subsection 303.5 is renumbered to § 303.7 and amended to read as follows:

~~303.5~~ **303.7** The maximum permitted height of a penthouse, except as permitted in Subtitle E ~~§ 303.6~~ **303.8** and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

Subsection 303.6 is renumbered to § 303.8 and amended to read as follows:

~~303.6~~ **303.8** A non-residential building constructed pursuant to Subtitle E §§ ~~303.2~~ **303.4** through ~~303.4~~ **303.6** shall be permitted a mechanical penthouse of eighteen feet six inches (18 ft. 6 in.) in height maximum.

Section 304, LOT OCCUPANCY, § 304.1 is amended to read as follows:

304.1 The maximum permitted lot occupancy in the RF-1 zone shall be ~~sixty percent (60%) for detached dwellings, semi-detached dwellings, row dwellings and flats, and places of worship and forty percent (40%) for all other structures.~~ **as set forth in the following table:**

<u>STRUCTURE</u>	<u>MAXIMUM PERCENTAGE OF LOT OCCUPANCY</u>
<u>Detached dwellings;</u> <u>Semi-detached dwellings;</u> <u>Row dwellings and flats;</u> <u>Places of worship</u>	<u>60%</u>
<u>Conversion of a building or structure to an apartment house</u>	<u>Greater of 60% or the lot occupancy as of the date of conversion</u>
<u>All other structures</u>	<u>40%</u>

Chapter 4, DUPONT CIRCLE RESIDENTIAL FLAT ZONE – RF-2, is amended as follows:

Section 402, MAXIMUM NUMBER OF DWELLING UNITS, § 402.2, is amended as follows:

402.2 Conversion of an ~~existing~~ **existing** building or structure existing before May 12, 1958 in the RF-2 zone for more than two (2) dwelling units shall be subject to Subtitle U, Chapter 3.

Section 403, HEIGHT, is amended as follows:

Subsection 403.1 is amended to read as follows:

403.1 **Except as specified elsewhere in this section, The the maximum permitted building height height of buildings or structures and any additions thereto of a rowhouse building,** not including the penthouse, in an RF-2 zone shall not exceed thirty-five feet (35 ft.) and three (3) stories.

New §§ 403.2 and 403.3 are added to read as follows:

403.2 A building or other structure may be erected to a height not exceeding forty feet (40 ft.) if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, subject to Subtitle E § 5203.

403.3 New construction of three (3) or more immediately adjoining residential row dwellings or flats, built concurrently on separate record lots, shall be permitted a maximum building height of forty feet (40 ft.) and three (3) stories.

Subsection 403.2 is renumbered to § 403.4.

New §§ 403.5 and 403.6 are added to read as follows:

403.5 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse; provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the natural grade.

403.6 An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse; provided, that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each one foot (1 ft.) of height in excess of that authorized in the zone in which it is located.

Subsection 403.3 is renumbered to § 403.7 and amended to read as follows:

~~403.3~~ 403.7 The maximum permitted height of a penthouse, except as permitted in Subtitle E § ~~403.6~~ 403.8 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

Subsection 403.4 is renumbered to § 403.8 and amended to read as follows:

~~403.6~~ 403.8 A non-residential building constructed pursuant to Subtitle E §§ ~~403.2~~ 403.4 through ~~403.4~~ 403.6 shall be permitted a mechanical penthouse of eighteen feet six inches (18 ft. 6 in.) in height maximum.

Section 404, LOT OCCUPANCY, § 404.1 is amended to read as follows:

404.1 The maximum permitted lot occupancy in the RF-2 zone shall be ~~sixty percent (60%) for detached dwellings, semi-detached dwellings, row dwellings and flats, and places of worship, and forty percent (40%) for all other structures.~~ as set forth in the following table:

<u>STRUCTURE</u>	<u>MAXIMUM PERCENTAGE OF LOT OCCUPANCY</u>
------------------	--

<u>Detached dwellings;</u> <u>Semi-detached dwellings;</u> <u>Row dwellings and flats;</u> <u>Places of worship</u>	<u>60%</u>
<u>Conversion of a building or structure to an apartment house</u>	<u>Greater of 60% or the lot occupancy as of the date of conversion</u>
<u>All other structures</u>	<u>40%</u>

Chapter 5, CAPITOL PRECINCT RESIDENTIAL FLAT ZONE – RF-3, is amended as follows:

Section 503, HEIGHT, is amended as follows:

Subsection 503.1 is amended to read as follows:

503.1 In the RF-3 zone, building height, not including the penthouse, shall be measured from the existing grade at the mid-point of the building façade of the principal building that is closest to a street lot line.

Subsections 503.2 through 503.6 are deleted.

New §§ 503.2 through 503.5 are inserted to read as follows:

503.2 The maximum permitted height of buildings or structures and any additions thereto in an RF-3 zone shall not exceed thirty-five feet (35 ft.), and three (3) stories, except as specified in this section.

503.3 New construction of three (3) or more immediately adjoining residential row dwellings or flats, built concurrently on separate record lots, shall be permitted a maximum building height of forty feet (40 ft.) and three (3) stories.

503.4 A building or other structure may be erected to a height not exceeding forty feet (40 ft.) if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, subject to Subtitle E § 5203.

503.5 The height of buildings or structures as specified in Subtitle E §§ 503.2 through 503.4 may be exceeded in the following instances:

- (a) A spire, tower, dome, minaret, pinnacle, or penthouse may be erected to a height in excess of that authorized in Subtitle E §§ 503.2 through 503.4; and
- (b) The maximum permitted height of a penthouse, except as prohibited on the roof of a detached dwelling, semi-detached dwelling, row dwelling, or flat in Subtitle C § 1500.4, shall be ten feet (10 ft.) and one (1) story.

Subsection 503.7 is renumbered as § 503.6 as follows:

~~503.7~~**503.6** A non-residential building constructed pursuant to Subtitle E §§ 503.3 through 503.5 shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

Section 504, LOT OCCUPANCY, § 504.1 is amended to read as follows:

504.1 The maximum permitted lot occupancy in the RF-3 zone shall be ~~sixty percent (60%) for detached dwellings, semi-detached dwellings, row dwellings and flats, and places of worship, and forty percent (40%) for all other structures.~~ **as set forth in the following table:**

<u>STRUCTURE</u>	<u>MAXIMUM PERCENTAGE OF LOT OCCUPANCY</u>
<u>Detached dwellings; Semi-detached dwellings; Row dwellings and flats; Places of worship</u>	<u>60%</u>
<u>Conversion of a building or structure to an apartment house</u>	<u>Greater of 60% or the lot occupancy as of the date of conversion</u>
<u>All other structures</u>	<u>40%</u>

Chapter 51, ALLEY LOT REGULATIONS, is amended as follows:

Section 5101, DEVELOPMENT STANDARDS, § 5101.1 is amended to read as follows:

5101.1 The bulk of accessory buildings in the RF zones shall be controlled through the development standards in Subtitle E §§ ~~902~~ **5102** through ~~908~~ **5108**.

Section 5103, LOT OCCUPANCY, the table name for Table E § 5103.1 is amended to read as follows:

TABLE E § ~~903.1~~ **5103.1**: MAXIMUM PERMITTED LOT OCCUPANCY FOR AN ALLEY LOT

Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is amended as follows:

Chapter 1, INTRODUCTION TO RESIDENTIAL FLAT (RA) ZONES, § 101, DEVELOPMENT STANDARDS, is amended by adding a new § 101.4 to read as follows:

101.4 In addition to the development standards set forth in this subtitle, additional general regulations relevant to this subtitle can be found in Subtitle C.

Chapter 3, RESIDENTIAL APARTMENT ZONES – RA-1, RA-2, RA-3, RA-4, AND RA-5, § 306, SIDE YARD, § 306.2 is amended to read as follows:

306.2 An eight-foot (8 ft.) side yard shall be provided for a detached and semi-detached ~~dwelling~~ structure in the RA-1, RA-2, RA-3, RA-4, and RA-5 zones.

Chapter 5, CAPITOL PRECINCT RESIDENTIAL APARTMENT ZONE – RA-7, § 506, SIDE YARD, § 506.5 is amended to read as follows:

506.5 In the case of a building existing on or before the effective date of this title, with a non-conforming side yard, an extension or addition may be made to the building; provided, that the width of the existing side yard shall not be decreased; and provided further, that the width of the existing side yard shall be a minimum of two feet (2 ft.).

Subtitle G, MIXED-USE (MU) ZONES, is amended as follows:

Chapter 1, INTRODUCTION TO MIXED-USE (MU) ZONES, § 101, DEVELOPMENT STANDARDS, is amended by adding a new § 101.6 to read as follows:

101.6 In addition to the development standards set forth in this subtitle, additional general regulations relevant to this subtitle can be found in Subtitle C.

Chapter 2, GENERAL DEVELOPMENT STANDARDS FOR MU ZONES, § 201, [RESERVED], is amended by adding a new § 201, DENSITY – FLOOR AREA RATIO (FAR), to read as follows:

201 DENSITY – FLOOR AREA RATIO (FAR)

201.1 For a building or structure in existence with a valid Certificate of Occupancy prior to November 17, 1978, or for which an application for a building permit was filed prior to November 17, 1978, a conversion of non-residential GFA to residential GFA, even if in excess of otherwise permitted FAR, shall be permitted.

Chapter 7, CAPITOL INTEREST AND CAPITOL HILL COMMERCIAL MIXED-USE ZONES – MU-23, MU-24, MU-25, AND MU-26, § 702, DENSITY – FLOOR AREA RATIO (FAR), Table G § 702.1 is amended to read as follows:

TABLE G § ~~603.1702.1~~ 702.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Zone	Maximum FAR	
	Total Permitted	Maximum Non-Residential Use
MU-23	1.8	N/A
	2.16 (IZ)	
MU-24	1.8	1.5
	2.16 (IZ)	
MU-25	2.5	3.0
	3.0 (IZ)	
MU-26	1.8	1.5 <u>2.5</u>
	2.16 (IZ)	

Chapter 8, NAVAL OBSERVATORY MIXED-USE ZONE – MU-27, is amended as follows:

Section 802, DENSITY – FLOOR AREA RATIO (FAR), § 802.1 is amended to read as follows:

802.1 The maximum permitted FAR in the MU-27 zone shall be 2.5 FAR (~~3.0 with IZ~~) with a maximum density of 1.5 FAR for non-residential use.

Section 803, HEIGHT, is amended as follows:

803 HEIGHT

803.1 The maximum permitted building height, not including the penthouse, in the MU-27 zone shall be forty feet (40 ft.), measured as follows:-

(a) The height of a building shall be the vertical distance measured from the level of the curb opposite the middle of the front of the building to the highest point of the roof or parapet; and

(b) The curb elevation opposite the middle of the front of the building shall be determined as the average elevation of the lot from its front line to its rear lot line.

...

803.3 A penthouse permitted by this section shall contain no form of habitable space, other than ancillary space associated with a rooftop deck, to a maximum area of twenty percent (20%) of the building roof area dedicated to rooftop deck, terrace, or recreation space.

Section 804, LOT OCCUPANCY, § 804.1 is amended as follows:

804.1 The maximum permitted lot occupancy for residential use in the MU-27 zone shall be sixty percent (60%) ~~one hundred percent (100%)~~.

Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES, is amended as follows:

Chapter 1, NEIGHBORHOOD MIXED-USE (NC) ZONES, § 101, DEVELOPMENT STANDARDS, is amended by adding a new § 101.6 to read as follows:

101.6 **In addition to the development standards set forth in this subtitle, additional general regulations relevant to this subtitle can be found in Subtitle C.**

Chapter 2, GENERAL DEVELOPMENT STANDARDS, § 201, DENSITY – FLOOR AREA RATIO (FAR), is amended by adding a new § 201.4 to read as follows:

201.4 **For a building or structure in existence with a valid Certificate of Occupancy prior to November 17, 1978, or for which an application for a building permit was filed prior to November 17, 1978, a conversion of non-residential GFA to residential GFA, even if in excess of otherwise permitted FAR, shall be permitted, provided that requirements for ground floor designated uses of Subtitle U §1101 are provided.**

Chapter 9, H STREET NORTHEAST NEIGHBORHOOD MIXED-USE ZONES — NC-9 THROUGH NC-17, is amended as follows:

Section 902, DENSITY – FLOOR AREA RATIO (FAR) is amended as follows:

902.1 The maximum permitted FAR in the NC-9 through NC-17 zones shall be as set forth in the following table:

...

902.2 In the NC-9, NC-10, NC-11, NC-12, **and** NC-13, ~~NC-14, and NC-15~~ zones, new construction that preserves a building façade constructed before 1958 is permitted a maximum non-residential FAR of 1.5, provided that at least 1.0 FAR shall be occupied by uses in the following categories:

- (a) Office, provided that the office use shall not be on the ground story;
- (b) Retail;
- (c) Service; or
- (d) Eating and drinking establishments.

902.3 In the ~~NC-9~~**NC-14** through NC-17 zones, new construction that preserves an existing façade constructed before 1958 is entitled to an increase of 0.5 FAR to the maximum permitted non-residential density.

902.4 **New construction that preserves an existing façade constructed before 1958 is permitted to use, for residential uses, an additional 0.5 FAR to the maximum permitted residential density.**

~~902.4~~ 902.5 On Square 776, a maximum non-residential density of 1.5 FAR shall be permitted in the event that a grocery store is constructed in Square 776.

~~902.5~~ 902.6 A planned unit development (PUD) in the H Street Northeast Neighborhood Mixed-Use zones shall be subject to the following provisions in addition to those of Subtitle X, Chapter ~~2~~ 3:

- (a) Any additional height and floor area above that permitted as a matter of right shall be used only for housing or the designated uses;
- (b) The PUD process shall not be used to reduce requirements in this chapter for designated uses, specifically retail, service, entertainment, and arts uses;
- (c) The minimum area included within the proposed PUD, including the area of public streets or alleys proposed to be closed, shall be ten thousand square feet (10,000 sq. ft.);
- (d) Development properties subject to the set-aside requirements of Inclusionary Zoning (IZ) pursuant to Subtitle C, Chapter 10 may use the height and lot occupancy and bonus density as the basis of calculating the set-aside requirements for IZ units;
- (e) The use of bonus FAR by a property also eligible to use the bonus provided for in Subtitle H § 902.2 shall be deemed to first utilize the bonus authorized for IZ units;
- (f) Use of the bonus density authorized in Subtitle H § 902.2 shall not count towards the IZ set-aside requirements of Subtitle C, Chapter 10; and
- (g) Bonus density achieved through Subtitle H § 902.2 that is in addition to the IZ requirements shall not count toward the IZ set-aside requirements of Subtitle C, Chapter 10.

Section 904, LOT OCCUPANCY, the table name for Table H § 904.1, is amended to read as follows:

TABLE H § 904.1: MAXIMUM PERMITTED ~~FLOOR AREA RATIO~~ LOT OCCUPANCY

Chapter 11, USE PERMISSIONS FOR NC ZONES, § 1101, DESIGNATED AND RESTRICTED USES, is amended as follows:

Subsection 1101.3(b)(1), is amended to read as follows:

1101.3 The designated uses shall occupy no less than fifty percent (50%) of the gross floor area of the ground floor level of the building within a designated use area, subject to the following requirements:

- (a) ...;

(b) Except in the NC-6 and NC-9 through NC-17 zones, eating and drinking establishments, and fast food establishments where permitted, shall be subject to the following limitations:

(1) These uses shall occupy no more than twenty-five percent (25%) of the linear street frontage within a particular NC zone, as measured along the lots that face designated roadways in the designated use area in the particular district; and

...

Subsection § 1101.3(e) is amended to read as follows:

(e) For the purposes of this section the designated use areas of NC-4 and NC-5 shall be treated as a single use-area zone.

Subtitle I, DOWNTOWN (D) ZONES, is amended as follows:

Chapter 2, GENERAL DEVELOPMENT STANDARDS FOR DOWNTOWN (D) ZONES, is amended as follows:

Section 200, DENSITY – FLOOR AREA RATIO (FAR), is amended by adding a new § 200.7 to read as follows:

200.7 Within the D-3 through D-8 zones, for a building or structure in existence with a valid Certificate of Occupancy prior to November 17, 1978, or for which an application for a building permit was filed prior to November 17, 1978, a conversion of non-residential GFA to residential GFA, even if in excess of otherwise permitted FAR, shall be permitted, provided that requirements for ground floor designated uses of Subtitle I §601 are provided.

Section 205, REAR YARD, § 205.1, is amended as follows:

205.1 Except as provided Subtitle B §§ ~~318~~ **317** and ~~319.6~~ **318.6** and in Subtitle I § 205.2, a rear yard shall be provided for each structure located in a D zone, the minimum depth of which yard shall be two and one-half inches (2.5 in.) per one foot (1 ft.) of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet, but not less than twelve feet (12 ft.).

Section 206, SIDE YARD, § 206.1, is amended as follows:

206.1 No side yard is required for a principal structure in a D zone; however, if a side setback is provided on any portion of the principal building, it shall comply with Subtitle B §§~~321~~ 319 and ~~322~~ 320, and shall be at least four feet (4 ft.) wide.

Section 207, COURT REQUIREMENTS, is amended as follows:

TABLE I § 207.1: MINIMUM COURT DIMENSIONS, is amended as follows:

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
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Subsection 207.3 is amended as follows:

207.3 Any setback required by this section shall be located on the PDR-zoned lot and shall be extendeded as a vertical plane, parallel to the PDR-zoned lot line.

Section 210, ALLEY LOTS, § 210.1(c) is amended by deleting the hyphen in the word “setback” so the section reads as follows:

- (c) A building or structure on an alley lot shall be setback at least seven and one-half feet (7.5 ft.) from the centerline of all alleys the alley lot abuts.

Section 212, PARKING REQUIREMENTS AND STANDARDS, § 212.6(b) is amended as follows:

- (b) The parking facility shall be permitted as a ~~matter of right~~ matter of right if:

Chapter 3, GENERAL ZONE-BASED USE REQUIREMENTS AND CONDITIONS, is amended as follows:

Section 304, USES NOT PERMITTED, § 304.1 is amended as follows:

304.1 The following uses shall not be permitted as a ~~matter of right~~ matter of right or as a special exception in the D-1-R zone:

Section 305, GENERAL RESIDENTIAL USE REQUIREMENTS, § 305.8 is amended as follows:

305.8 Subtitle I, Chapters 8 and 9 ~~of this subtitle~~ contain the regulations for the credit system that applies to residential uses.

Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, is amended as follows:

Section 503, HEIGHT (D-1-R), is amended by adding a new § 503.5 to read as follows:

503.5 **The maximum permitted building height, not including the penthouse, of a building without frontage on a street with a right-of-way width of at least ninety feet (90 ft.), and not subject to Subtitle I § 503.3, shall be the width of the street right of way, plus twenty feet (20 ft.).**

Section 509, DENSITY – FLOOR AREA RATIO (FAR) (D-2), § 509.2 is amended as follows:

509.2 The maximum permitted FAR for a building in the D-2 zone shall be 6.0 for a building not subject to Inclusionary Zoning and ~~7.8~~**7.2** FAR for a building that is subject to Inclusionary Zoning.

Section 510, HEIGHT (D-2), is amended as follows:

Subsection 510.2 is amended as follows:

510.2 The maximum permitted building height, not including the penthouse, in the D-3 zone shall be limited to ninety feet (90 ft.) on the portion of the site occupied by a historic landmark or a contributing building within a historic district.

By adding a new § 510.4 to read as follows:

510.4 **The maximum permitted building height, not including the penthouse, of a building without frontage on a street with a right-of-way width of at least ninety feet (90 ft.), and not subject to Subtitle I § 510.2, shall be the width of the street right of way, plus twenty feet (20 ft.).**

Section 517, HEIGHT (D-3), is amended by adding a new § 517.4 to read as follows:

517.4 **The maximum permitted building height, not including the penthouse, of a building without frontage on a street with a right-of-way width of at least ninety feet (90 ft.), and not subject to Subtitle I § 510.2, shall be the width of the street right of way, plus twenty feet (20 ft.).**

Section 525, HEIGHT (D-4), § 525.1 is amended as follows:

525.1 With the exception of a building meeting the requirements of Subtitle I § 525.2, the maximum permitted building height, not including the penthouse, for a building in the D-4 zone shall be ninety feet (90 ft.) **unless the building does not have frontage on a street with a right-of-way width of at least ninety feet (90 ft.), in which case the maximum permitted building height, not including the penthouse, shall be the width of the street right of way, plus twenty feet (20 ft.).**

Section 532, HEIGHT (D-4-R), § 532.1 is amended as follows:

532.1 The maximum permitted building height, not including the penthouse, in the D-4-R zone shall be as follows:

- (a) ~~One hundred thirty feet (130 ft.) for a building with frontage on a street with a right of way width of at least one hundred ten feet (110 ft.);~~
- (b) ~~One hundred twenty feet (120 ft.) for a building with frontage on a street with a right of way width of at least one hundred feet (100 ft.), but less one hundred thirty feet (130 ft.); and~~
- (c) ~~One hundred ten feet (110 ft.) for a building with frontage on a street with a right of way width of at least ninety feet (90 ft.), but less one hundred twenty feet (120 ft.).~~

<u>Street Right of Way Width</u>	<u>Maximum Permitted Building Height, Not Including Penthouse</u>
<u>Greater than or equal to 110 ft.</u>	<u>130 feet</u>
<u>Less than one 110 ft. but greater than or equal to 100 ft.</u>	<u>120 feet</u>
<u>Less than 100 ft. but greater than or equal to 90 ft.</u>	<u>110 feet</u>
<u>Less than 90 ft.</u>	<u>No taller than the width of the street right of way, plus 20 feet</u>

Section 539, DENSITY – FLOOR AREA RATIO (FAR) (D-5), § 539.4 is deleted.

Section 540, HEIGHT (D-5), § 540.1 is amended as follows:

540.1 The maximum permitted building height, not including the penthouse, in the D-5 zone shall be:

- (a) ~~One hundred thirty feet (130 ft.) for a building with frontage on a street with a right of way width of at least one hundred ten feet (110 ft.);~~
- (b) ~~One hundred twenty feet (120 ft.) for a building with frontage on a street with a right of way width of at least one hundred feet (100 ft.), but less one hundred thirty feet (130 ft.); and~~
- (c) ~~One hundred ten feet (110 ft.) for a building with frontage on a street with a right of way width of at least ninety feet (90 ft.), but less one hundred twenty feet (120 ft.).~~

<u>Street Right of Way Width</u>	<u>Maximum Permitted Building Height, Not Including Penthouse</u>
<u>Greater than or equal to 110 ft.</u>	<u>130 feet</u>
<u>Less than 110 ft. but greater than or equal to one 100 ft.</u>	<u>120 feet</u>
<u>Less than 100 ft. but greater than or equal to 90 ft.</u>	<u>110 feet</u>
<u>Less than 90 ft.</u>	<u>No taller than the width of the street</u>

	<u>right of way, plus 20 feet</u>
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Section 548, HEIGHT (D-5-R), § 548.1 is amended as follows:

548.1 The maximum permitted building height, not including the penthouse, in the D-5-R zone shall be:

- (a) ~~One hundred thirty feet (130 ft.) for a building with frontage on a street with a right of way width of at least one hundred ten feet (110 ft.);~~
- (b) ~~One hundred twenty feet (120 ft.) for a building with frontage on a street with a right of way width of at least one hundred feet (100 ft.), but less one hundred thirty feet (130 ft.); and~~
- (c) ~~One hundred ten feet (110 ft.) for a building with frontage on a street with a right of way width of at least ninety feet (90 ft.), but less one hundred twenty feet (120 ft.).~~

<u>Street Right of Way Width</u>	<u>Maximum Permitted Building Height, Not Including Penthouse</u>
<u>Greater than or equal to 110 ft.</u>	<u>130 feet</u>
<u>Less than 110 ft. but greater than or equal to 100 ft.</u>	<u>120 feet</u>
<u>Less than 100 ft. but greater than or equal to 90 ft.</u>	<u>110 feet</u>
<u>Less than 90 ft.</u>	<u>No taller than the width of the street right of way, plus 20 feet</u>

Section 555, DENSITY – FLOOR AREA RATIO (FAR) (D-6), § 555.1(c) is amended as follows:

- (c) If conditions (a) or (b) are not satisfied, through the use of credits provided for by Subtitle I, Chapters 8 and 9 **enable**.

Section 556, HEIGHT (D-6), § 556.1 is amended as follows:

556.1 The maximum permitted building height, not including the penthouse, in the D-6 zone shall be:

- (a) ~~One hundred thirty feet (130 ft.) for a building with frontage on a street with a right of way width of at least one hundred ten feet (110 ft.);~~
- (b) ~~One hundred twenty feet (120 ft.) for a building with frontage on a street with a right of way width of at least one hundred feet (100 ft.), but less one hundred thirty feet (130 ft.); and~~
- (c) ~~One hundred ten feet (110 ft.) for a building with frontage on a street with a right of way width of at least ninety feet (90 ft.), but less one hundred twenty feet (120 ft.).~~

<u>Street Right of Way Width</u>	<u>Maximum Permitted Building Height, Not Including Penthouse</u>
<u>Greater than or equal to 110 ft.</u>	<u>130 feet</u>
<u>Less than 110 ft. but greater than or equal to 100 ft.</u>	<u>120 feet</u>
<u>Less than 100 ft. but greater than or equal to 90 ft.</u>	<u>110 feet</u>
<u>Less than 90 ft.</u>	<u>No taller than the width of the street right of way, plus 20 feet</u>

Section 563, HEIGHT (D-6-R), § 563.1 is amended as follows:

563.1 The maximum permitted building height, not including the penthouse, in the D-6-R zone shall be:

- (a) ~~One hundred thirty feet (130 ft.) for a building with frontage on a street with a right of way width of at least one hundred ten feet (110 ft.);~~
- (b) ~~One hundred twenty feet (120 ft.) for a building with frontage on a street with a right of way width of at least one hundred feet (100 ft.), but less one hundred thirty feet (130 ft.); and~~
- (c) ~~One hundred ten feet (110 ft.) for a building with frontage on a street with a right of way width of at least ninety feet (90 ft.), but less one hundred twenty feet (120 ft.).~~

<u>Street Right of Way Width</u>	<u>Maximum Permitted Building Height, Not Including Penthouse</u>
<u>Greater than or equal to 110 ft.</u>	<u>130 feet</u>
<u>Less than 110 ft. but greater than or equal to 100 ft.</u>	<u>120 feet</u>
<u>Less than 100 ft. but greater than or equal to 90 ft.</u>	<u>110 feet</u>
<u>Less than 90 ft.</u>	<u>No taller than the width of the street right of way, plus 20 feet</u>

Section 577, HEIGHT (D-8), § 577.1 is amended as follows:

577.1 The maximum permitted building height, not including the penthouse, in the D-8 zone shall be:

- (a) ~~One hundred thirty feet (130 ft.) for a building with frontage on a street with a right of way width of at least one hundred ten feet (110 ft.);~~
- (b) ~~One hundred twenty feet (120 ft.) for a building with frontage on a street with a right of way width of at least one hundred feet (100 ft.), but less one hundred thirty feet (130 ft.); and~~
- (c) ~~One hundred ten feet (110 ft.) for a building with frontage on a street with a right of way width of at least ninety feet (90 ft.), but less one hundred twenty feet (120 ft.).~~

<u>Street Right of Way Width</u>	<u>Maximum Permitted Building Height, Not Including Penthouse</u>
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<u>Greater than or equal to 110 ft.</u>	<u>130 feet</u>
<u>Less than 110 ft. but greater than or equal to 100 ft.</u>	<u>120 feet</u>
<u>Less than 100 ft. but greater than or equal to 90 ft.</u>	<u>110 feet</u>
<u>Less than 90 ft.</u>	<u>No taller than the width of the street right of way, plus 20 feet</u>

Chapter 6, LOCATION-BASED REGULATIONS FOR DOWNTOWN SUB-AREAS AND DESIGNATED STREET SEGMENTS, is amended as follows:

Section 601, GENERAL USE REQUIREMENTS FOR BUILDINGS ON PRIMARY AND SECONDARY DESIGNATED STREET SEGMENTS, §§ 601.2(b) and (c) are amended as follows:

601.2 ...

- (b) Devote no more than twenty percent (20%) of the ground floor gross floor area uses required in Subtitle I § ~~601.2~~ **601.2(a)** to services (financial), fast food establishment, travel, or ticket offices; and
- (c) Devote one hundred percent (100%) of the building's street frontage along the primary designated street segment to required uses identified in Subtitle I § ~~602.2~~, **601.2(a)** except for space required for fire control or devoted to building entrances for pedestrians, or for vehicular parking and loading entrances that are:

Section 607, DOWNTOWN ARTS SUB-AREA, § 607.4, TABLE I § 607.4: DOWNTOWN ARTS SUB-AREA DESIGNATED STREET SEGMENTS AND ADJACENT ZONING, is amended as follows (and all other entries are unchanged):

Designated Street	Side of Street	Adjacent Zone	Segment Boundary 1 (northern or eastern)	Segment Boundary 2 (southern or western)	Segment Classification
...					
9th St., N.W.	West	D-7	F St. N.W.	Pennsylvania Ave., N.W. E Street N.W.	Secondary
...					
Pennsylvania Ave., N.W.	North	D-6 D-6-R D-7	6th St., N.W. 9 th St., N.W.	14th 9 th St., N.W. 14 th St., N.W.	Primary

Section 608, PENNSYLVANIA AVENUE SUB-AREA, § 608.4, TABLE I § 608.4: PENNSYLVANIA AVENUE SUB-AREA DESIGNATED STREET SEGMENTS AND ADJACENT ZONING, is amended as by deleting a duplicate and erroneous entry for the west side of 9th Street N.W. (all other entries are unchanged):

Designated Street	Side of Street	Adjacent Zone	Segment Boundary 1	Segment Boundary 2	Segment Classification
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			(northern or eastern)	(southern or western)	
9th St., N.W.	West	D-6	E St., N.W.	Pennsylvania Ave., N.W.	Secondary; (Also in Downtown Arts Sub-Area)

Section 616, M AND SOUTH CAPITOL STREETS SUB-AREA, § 616.7(b) is amended as follows:

616.7 ...

- (b) There shall be a setback of seventy-three and one-half feet (73.5 ft.) from the centerline of South Capitol Street on its west side in Square 648 between ~~I-K~~ and ~~K-L~~ Streets, S.W.;

Section 617, NORTH CAPITOL STREET CORRIDOR SUB-AREA, is amended as follows:

By amending § 617.2 as follows:

617.2 The general location of the North Capitol Street Corridor Sub-Area is one (1) or both sides of the designated primary street segments North Capitol Street between Louisiana Avenue, N.W. and K Streets, N.W. and N.E., indicated with green lines in Figure I § 617: Illustration of the North Capitol Street Corridor Sub-Area and Designated Street Segments, and detailed in Subtitle I § 617.3 and including all or parts of Squares: 624, 625, 626, 628, 630, 675, 676, and 677, ~~161, 162, 163, and 164.~~

By adding a new § 617.7 to read as follows:

617.7 All proposed buildings, and structures, or any proposed exterior renovation to any existing buildings or structures that would result in an alteration of the exterior designs facing the street segments noted in Subtitle I § 618.4 shall be subject to review and approval by the Zoning Commission in accordance with the provisions in Subtitle I, Chapter 7.

Chapter 7, DESIGN REVIEW, § 701, ZONING COMMISSION REVIEW OF BUILDINGS, STRUCTURES, AND USES, § 701.1 is amended as follows:

701.1 The provisions of Subtitle I, Chapter 7 apply to a new building or structure or building addition **that has frontage on a designated street segment** ~~is~~ within the M and South Capitol Streets Sub-Area, the Independence Avenue Sub-Area, the North Capitol Street Sub-Area, or ~~to~~ **within a D zone and with frontage** on North Capitol Street south of M Street, N.W., and to buildings seeking additional height pursuant to Subtitle I § 525.2.

Chapter 8, GENERATION AND CERTIFICATION OF CREDITS, amended as follows:

Section 802, GENERATION OF CREDITS BY RESIDENTIAL DEVELOPMENT, § 802.1, is amended as follows:

802.1 Except as provided in Subtitle I § 802.3, credits may be generated by a residential use in a building for which construction began after January 18, 1991 located in a D-4-R, D-5-R, or D-6-R zone if the residential use did not generate Unallocated or Allocated TDR or CLD Rights as described in Subtitle I §§ ~~800.2 and 800.3~~ **and 800.4**, respectively; or by a residential use developed on or after the effective date of this title in a new or existing buildings all other I zones **except D-1-R or D-2 zones where properties may not generate credits.**

Section 805, ACKNOWLEDGMENT OF RESIDENTIAL, ARTS, AND PREFERRED USE CREDITS, § 805.10, is amended as follows:

805.10 The covenant shall, at a minimum, contain the following information or attachments:

- (a) Name and contact information for the person or entity that will own the generated credits;
- (b) Name and contact information for ~~and signature of~~, the person or entity owning the property upon which the project that generated the credits is located, if different than in Subtitle I § 805.9(a);
- (c) ~~If requested by a non-owner of the property,~~ **the credits are claimed to be owned by a person who does not also own the property that generated the credits,** proof that the person or entity owns the credits and a provisions indemnifying the District of Columbia against any and all claims by persons or entities claiming to own the credits;
- (d) ~~A map of the trade area in which the lot is located and a map and plat of the lot;~~
- (e) Legal description and street address of the lot;
- (f) Surveyed area of the lot;
- (g) Gross floor area calculations for the entire building **and for each portion of each use in the building that will be occupied by the residential, arts, or preferred uses that generate the credits;**
- (h) ~~Zoning requirement on the lot including total~~ **The FAR limits applicable to the lot** including FAR limits for non-residential uses **and minimum FAR requirements for residential uses and for arts uses;**
- (i) Calculation of and basis for credits generated;

- (j) A form Certificate of Credit Transfer as described in Subtitle I § 901.3(e) to be used for any transfer of credits under the covenant;
- (k) ~~A form Certificate of Credit Retransfer as described in Subtitle I § 902.3(d) to be used for any retransfer of credits under any Certificate of Credit Transfer;~~

Section 806, GENERATION AND CERTIFICATION OF CREDITS FOR TDR OR CLD CONVERSION, § 806.1, is amended as follows:

806.1 Any Unallocated TDR or CLD Rights as described in Subtitle I § ~~800.2~~ **800.3** shall convert to credits at a rate of one-to-one (1:1).

Chapter 9, USE OF CREDITS, § 900, GENERAL REQUIREMENTS AND RESTRICTIONS, § 900.3, TABLE I § 900.3 is amended by revising its title and its first row to read as follows:

TABLE I § 900.3: CREDIT-GENERATION, PURPOSES, AND AREAS OF USE

Action Generating Credit	Section in Subtitle I, Chapter 8 Governing the Generation of the Credit	Purpose for which Credit May be Used	Area(s) in which Credit may be used (see Figure I § 900.92)
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Subtitle J, PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, Chapter 1, INTRODUCTION TO PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, § 101, DEVELOPMENT STANDARDS, is amended by inserting a new § 101.4 to read as follows:

101.4 In addition to the development standards set forth in this subtitle, additional general regulations relevant to this subtitle can be found in Subtitle C.

Subtitle K, SPECIAL PURPOSE ZONES, is amended as follows:

Chapter 2, SOUTHEAST FEDERAL CENTER ZONES – SEFC-1 THROUGH SEFC-4, is amended as follows:

Section 201, DEVELOPMENT STANDARDS (SEFC-1), is amended by inserting a new § 201.2 to read as follows:

201.2 **In addition to the development standards set forth in this subtitle, additional general regulations relevant to this subtitle can be found in Subtitle C.**

Section 202, DENSITY – FLOOR AREA RATIO (FAR) (SEFC-1), § 202.1 is amended to read as follows:

202.1 The maximum permitted floor area ratio (FAR) for building in the SEFC-1 zone shall be 6.0 with a maximum of 3.0 FAR for non-residential uses; **except that a building within Parcels A, F, G, H, and I shall be permitted a maximum density of 7.0 FAR, provided that:**

- (a) **The additional 1.0 FAR is devoted solely to residential uses, which for the purposes of this subsection does not include a hotel; and**
- (b) **A minimum of ten percent (10%) of the additional density gained pursuant to this section shall be devoted to three (3) bedroom units, provided that such units may be located anywhere within the residential building. The reduction or elimination of this requirement may be permitted by the Commission upon a showing by the applicant that exceptional circumstances affecting the property make compliance with this requirement difficult or impossible.**

Section 203, HEIGHT (SEFC-1), Subsection 203.1 is amended to read as follows, and the subsequent subsections are renumbered to reflect that the existing § 203.2 will be incorporated into § 203.1:

203.1 The maximum permitted building height, not including the penthouse, in the SEFC-1 zone shall be one hundred and ten feet (110 ft.), **except as set forth below:**

- ~~203.2~~ (a) A site that has frontage on any portion of New Jersey Avenue, S.E., that is south of and within three hundred twenty-two feet (322 ft.) of M Street, S.E., is permitted a maximum height of one hundred thirty feet (130 ft.); **and**
- (b) **For a site within Parcels A, F, G, or H utilizing the bonus density permitted pursuant to § 1803.7(b), the maximum permitted building height shall be that permitted by the Act to Regulate the Height Act.**

Section 237, USE PERMISSIONS (SEFC-1), §§ 237.4, 237.5, and 237.6 are amended as follows:

By amending § 237.4 as follows, and by renumbering all subsequent sections after § 237.4(c) (previously § 237.5(a)) to reflect insertion of §§ (a) and (b),:

237.4 Within the SEFC-1 zone, the following buildings, structures, and uses are permitted only if reviewed and approved by the Zoning Commission, in accordance with the standards specified in Subtitle K § 241 and procedures specified in Subtitle K § 242:

~~237.5~~ (a) All buildings and structures that have frontage along M Street, S.E.; subject also to the applicant proving that the architectural design, site plan, landscaping, and sidewalk treatment of the proposed building:

(1) Are of superior quality;

(2) Accommodate the design of the public entrance to the Navy Yard Metrorail Station on Parcel A. The applicant shall demonstrate proactive engagement with the Washington Metrorail Area Transit Authority (WMATA) in the planning and design of Parcel A as a part of the above design review as set for the below:

(A) If the applicant moves forward with the construction of the third entrance before the applicant is ready to develop Parcel A, the applicant shall demonstrate that it has coordinated with WMATA to integrate the entrance into the design of Parcel A; and

(B) If WMATA moves forward with the construction of the third entrance before the applicant is ready to develop Parcel A, the applicant shall demonstrate that it has coordinated with WMATA to integrate the entrance into the design of Parcel A;

(3) Ensure the provision of 1½ Street, S.E. and N Street, S.E. as open and uncovered multimodal circulation routes; and

(4) Provide three (3) bedroom dwelling units as required pursuant to Subtitle K § 202.1;

(b) Automobile rental agency, provided the use has no exterior automobile storage area;

~~(a)~~ (c) Dental lab;

...

By renumbering § 237.6 as § 237.5 as follows:

~~237.6~~ 237.5 Preferred uses listed in Subtitle K § 236 shall be permitted in accordance with the following criteria:

...

By amending the newly renumbered § 237.5 by amending paragraph (g) and adding a new paragraph (h) to read as follows:

~~237.6~~ 237.5 Preferred uses listed in Subtitle K § 236 shall be permitted in accordance with the following criteria:

...

(g) The minimum floor-to-ceiling height for portions of the ground floor level devoted to preferred uses shall be fourteen feet (14 ft.); and

(h) Changes to the type, amount, and location of preferred uses required under Subtitle K § 237.5(a) shall be permitted if reviewed and approved by the Zoning Commission in accordance with the standards specified in Subtitle K § 241 and procedures specified in Subtitle K § 242.

Chapter 3, UNION STATION NORTH ZONE - USN, § 301 is amended by amending the title as follows:

301 INCLUSIONARY ~~ZOING~~-ZONING

Chapter 4, HILL EAST ZONES - HE-1 THROUGH HE-4, is amended as follows:

Section 401, DEVELOPMENT STANDARDS (HE), is amended by inserting a new § 401.2 to read as follows:

401.2 In addition to the development standards set forth in this subtitle, additional general regulations relevant to this subtitle can be found in Subtitle C.

Section 410, USE PERMISSIONS (HE), § 410.3(c)(3) is amended to read as follows:

(3) A community based residence facility not meeting these criteria may be approved by special exception in accordance with Subtitle K § ~~414.3~~ 412.1;

Chapter 5, CAPITOL GATEWAY ZONES – CG-1 THROUGH CG-7, is amended as follows:

Section 500, GENERAL PROVISIONS (CG), § 500.2 is amended as follows:

500.2 The CG zones shall constitute the Zoning Regulations for the geographic area referred to in Subtitle W § 101.1 ~~400.1~~. Where there are conflicts between this chapter and other chapters or subtitles of this title, the provisions of the CG Zone shall govern.

Section 502, DEVELOPMENT STANDARDS (CG-2), is amended as follows:

Subsection 502.2 is amended as follows:

502.2 The development standards in Subtitle K §§ 502.3 through ~~502.10~~ 502.11 shall control the bulk of buildings in CG-2 zone.

Subsection 502.4 is amended as follows:

502.4 The maximum permitted building height, not including the penthouse, in the CG-2 zone shall be ninety feet (90 ft.), or one hundred and ten feet (110 ft.) if permitted by the Inclusionary Zoning regulations set forth in Subtitle C, Chapter 10. Subtitle K § 510 contains design-related conditions on height and upper story setbacks for South Capitol Street, a designated street of Subtitle K § 508.

By adding a new § 502.6 to read as follows:

502.6 The maximum permitted lot occupancy for residential use in the CG-2 zone shall be eighty percent (80%), or ninety percent (90%) if permitted by the Inclusionary Zoning regulations set forth in Subtitle C, Chapter 10.

By renumbering of former § 502.6 as §502.7; § 502.7 as §502.8; § 502.8 as §502.9; § 502.9 as §502.10; and § 502.10 as § 502.11.

By amending the renumbered § 502.10 as follows:

~~502.9~~ 502.10 In the case of an alteration affecting the amount of light and ventilation required in an existing building in an R, RF, or RA zone by other municipal law or regulation, no legally required window shall be permitted to open onto a court that does not comply with the dimensions given in Subtitle K § ~~502.8~~ 502.9.

Section 504, DEVELOPMENT STANDARDS (CG-4), is amended as follows:

By inserting new §§ 504.6 and 504.9 to read as follows:

504.6 The maximum permitted lot occupancy for residential use in the CG-4 zone shall be seventy-five percent (75%), or one hundred percent (100%) if permitted by the Inclusionary Zoning regulations set forth in Subtitle C, Chapter 10.

...

504.9 No side yard is required for the principal building; however, any side yard provided on any portion of the principal building shall be at least two inches (2 in.) per one foot (1 ft.) of height, and no less than five feet (5 ft.).

By renumbering the existing §§ 504.6 through 504.11 to reflect the insertion of the two new subsections.

Section 507, USE PERMISSIONS (CG), is amended by adding a new § 507.4 to read as follows:

507.4 A commercial or industrial use that is first permitted in Subtitle U, Chapter 8 (PDR Uses) and that was in existence with a valid Certificate of Occupancy as of January 7, 2005 shall be deemed a conforming use, but shall not be entitled to expand.

Section 510, DESIGN REQUIREMENTS FOR DESIGNATED STREETS (CG), is amended by amending §§ 510.1(a)(2), 510.1(c)(2), and 510.1(d)(1) as follows:

510.1(a) M Street, S.E. or S.W:

...

(2) The ground floor shall have a minimum clear **floor-to-ceiling** height of fourteen feet (14 ft.), ~~as measured from the point used for the building's height measurement,~~ for a continuous depth of at least thirty-six feet (36 ft.) from the building line on the primary street.

...

510.1(c) Half Street, S.E.:

...

(2) The ground floor shall have a minimum clear **floor-to-ceiling** height of fourteen feet (14 ft.), ~~as measured from the point used for the building's height measurement,~~ for a continuous depth of at least thirty-six feet (36 ft.) from the building line on the primary street.

...

510.1(d) First Street, S.E.:

(1) The ground floor shall have a minimum clear **floor-to-ceiling** height of fourteen feet (14 ft.), ~~as measured from the point used for the building's height measurement,~~ for a continuous depth of at least thirty-six feet (36 ft.) from the building line on the primary street.

...

Chapter 6, SAINT ELIZABETHS EAST CAMPUS ZONES – STE-1 THROUGH STE-19, is amended as follows:

Section 601, DEVELOPMENT STANDARDS (STE), is amended by inserting a new § 601.4 to read as follows:

601.4 In addition to the development standards set forth in this subtitle, additional general regulations relevant to this subtitle can be found in Subtitle C.

Section 606, REAR YARD (STE), § 606.2, is amended to read as follows:

606.2 No part of a building within the StE-6, StE-13, and StE-16 zones shall project above plane drawn at a forty-five degree ~~(45°)~~ (45°) angle from a line located seventy-five feet (75 ft.) directly above the eastern property line that abuts the ravine.

Section 607, INCLUSIONARY ZONING (STE), § 607.1, is amended to read as follows:

607.1 All residential development is subject to Inclusionary Zoning and shall be constructed according to the provisions set forth in Subtitle C, Chapter 10 except for Subtitle C § ~~4004~~ 1002.

Section 619, PREFERRED USE REQUIREMENTS (STE), § 619.1, is amended to read as follows:

619.1 Preferred uses shall include any use within the arts, design and creation; eating and drinking establishments; retail; general service; or financial service use categories described in ~~Subtitle K § 614.1~~ Subtitle B, Chapter 2.

Chapter 7, REED-COOKE ZONES - RC-1 THROUGH RC-3, is amended as follows:**Section 712, MATTER-OF-RIGHT USES (RC), §§ 712.1, 712.2, and 712.3, are amended to read as follows:**

712.1 In the RC-1 zone, uses permitted as a matter of right in the RA-2 zone listed in Subtitle U, Chapter 4 shall be permitted as a matter of right in the RC-1 zone, unless otherwise not permitted in Subtitle K § 715.

712.2 In the RC-2 zone, uses permitted as a matter of right in the MU-4 zone listed in Subtitle U § ~~528~~ 512 shall be permitted as a matter of right in the RC-2 zone, unless otherwise not permitted in Subtitle K § 715.

712.3 In the RC-3 zone, uses permitted as a matter of right in the MU-5 zone listed in Subtitle U § ~~528~~ 513 shall be permitted as a matter of right in the RC-3 zone, unless otherwise not permitted in Subtitle K § 715.

Section 713, USES PERMITTED BY SPECIAL EXCEPTION (RC), §§ 713.1, 713.2, and 713.3, are amended as follows:

- 713.1 In the RC-1 zone, uses listed as special exceptions in the RA-2 zone in Subtitle U, Chapter 4 shall be permitted by special exception in the RC-1 zone if approved by the Board of Zoning Adjustment under Subtitle X and subject to the conditions of each section unless otherwise not permitted in Subtitle K § 715.
- 713.2 In the RC-2 zone, uses listed as special exceptions in Subtitle U § ~~529~~ 512 shall be permitted by special exception in the RC-2 zone if approved by the Board of Zoning Adjustment under Subtitle X and subject to the conditions of each section, unless otherwise not permitted in Subtitle K § 715.
- 713.3 In the RC-3 zone, uses listed as special exceptions in Subtitle U § ~~529~~ 513 shall be permitted by special exception in the RC-3 zone if approved by the Board of Zoning Adjustment under Subtitle X and subject to the conditions of each section, unless otherwise not permitted in Subtitle K § 715.

Section 715, USES NOT PERMITTED IN REED-COOKE ZONES (RC), § 715.1(r), is amended to read as follows:

- (r) Off-premises alcoholic beverage sales, except that the off-premises beer and wine sales accessory use in the grocery store located in Square 2572, Lot 36 may continue as a matter of right provided that it shall not occupy more than 2,078 square feet of the store’s gross floor area;

By adding a new § 717, PARKING, LOADING, AND VEHICLE ACCESS (RC), to read as follows:

717 PARKING, LOADING, AND VEHICLE ACCESS (RC)

717.1 Parking requirements for the RC zones are as specified in Subtitle C, Chapter 7.

717.2 Bicycle parking requirements for the RC zones are as specified in Subtitle C, Chapter 8.

717.3 Loading requirements for the RC zones are as specified in Subtitle C, Chapter 9.

Chapter 8, MIXED-USE UPTOWN ARTS ZONES - ARTS-1 THROUGH ARTS-4, is amended as follows:

Section 811, USE PERMISSIONS (ARTS), § 811.6 is amended as follows:

- 811.6 Arts use groups listed in Subtitle U § ~~700.5~~ 700.6 subject to the restriction on eating and drinking establishments of Subtitle K § 811.9, retail, service, general, and service, financial uses shall occupy no less than fifty percent (50%) of the ground floor level of each building on a lot that fronts on 14th Street, U Street, 7th Street, or Florida Avenue between 7th and 9th Streets; provided, this requirement

shall not apply to a building located on a lot less than fifty feet (50 ft.) in width, measured along the property line that abuts the public street, if the building is used as an apartment house, multiple dwelling, or hotel.

By adding a new § 814, PARKING, LOADING, AND VEHICLE ACCESS (RC), to read as follows:

814 PARKING, LOADING, AND VEHICLE ACCESS (ARTS)

814.1 Parking requirements for the ARTS zones are as specified in Subtitle C, Chapter 7.

814.2 Bicycle parking requirements for the ARTS zones are as specified in Subtitle C, Chapter 8.

814.3 Loading requirements for the ARTS zones are as specified in Subtitle C, Chapter 9.

Subtitle U, USE PERMISSIONS, is amended as follows:

Chapter 1, USE PERMISSIONS, is amended by adding a new § 101, SPECIAL EXCEPTIONS USE PROVISIONS to read as follows:

101 SPECIAL EXCEPTIONS USE PROVISIONS

101.1 When special exception relief is permitted for a use not meeting the matter-of-right requirements for its use group, that special exception relief shall not be used to relieve a condition that prohibits a use or activity or places a limitation on a use or to permit a prohibited use or a use that is specifically identified as not permitted.

Chapter 2, USE PERMISSIONS RESIDENTIAL HOUSE (R) ZONES, is amended as follows:

Section 254, CORNER STORES, is amended as follows:

By deleting §§ 254.3 and 254.4, and replacing them with [RESERVED] as follows:

~~254.3 Only a corner store compliant with all the conditions of Subtitle U § 254.13 shall be permitted as a matter of right use. [RESERVED]~~

~~254.4 Any corner store that is not compliant with all the conditions of Subtitle U § 254.13 shall only be permitted as a special exception if approved by the Board of Zoning Adjustment subject to the conditions of Subtitle U § 254.14. [RESERVED]~~

Subsection 254.5 is amended as follows:

254.5 The allowable total area for a corner store shall be one thousand-two hundred square feet (1,200 sq. ft.), not including cellar space, and shall be limited to the ground story and cellar or basement.

Chapter 3, USE PERMISSIONS RESIDENTIAL FLATS (RF) ZONES, § 320, SPECIAL EXCEPTION USES (RF), is amended as follows:

Subsection 320.2(g)(5) is amended to read as follows:

- (5) Any addition, including a roof structure or penthouse, shall not interfere with the operation of an existing or permitted solar energy system on an adjacent property, as evidenced through a shadow or shade study, or other reputable study acceptable to the ~~Zoning Administrator~~ **Board of Zoning Adjustment**;

Subsection 320.3(c) is amended as follows:

- (c) In demonstrating compliance with Subtitle U § 320.3**(b)**, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways; and

Chapter 5, USE PERMISSIONS MIXED-USE (MU) ZONES, is amended as follows:

Section 502, MATTER-OF-RIGHT USES (MU-USE GROUP A), § 502.1(f) is amended as follows:

- (f) ~~General~~ Office use, including chancery, shall be permitted as a matter of right as a replacement for office use authorized by a validly issued certificate of occupancy prior to January 29, 1999;

Section 506, SPECIAL EXCEPTION USES (MU-USE GROUP B), § 506.1(f) is amended as follows:

- (f) Retail-~~(general)~~;

Section 510, MATTER-OF-RIGHT USES (MU-USE GROUP D), § 510.1(w) is amended as follows:

- (w) Service uses, both financial and general subject to the following limitations:
- (1) The uses ~~does~~ do not involve installation of automobile accessories; and

- (2) A laundry or dry cleaning facility shall not exceed twenty-five hundred square feet (2,500 sq. ft.) of gross floor area; ~~and~~
- (3) A indoor storage facility not exceeding twenty-five hundred square feet (2,500 sq. ft.) of gross floor area; and**

Section 512, MATTER-OF-RIGHT USES (MU-USE GROUP E), § 512.1 is amended by inserting a new paragraph (e) to read as follows, and re-lettering the subsequent paragraphs accordingly:

- (e) **Education uses, private;**

Section 518, SPECIAL EXCEPTION USES (MU-USE GROUP G), § 518.1(f) is amended to read as follows:

- (f) Emergency shelter for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the standards and conditions of Subtitle U § ~~203.1(j)~~ **203.1(h)**;

Chapter 7, USE PERMISSIONS MIXED-USE UPTOWN ARTS (ARTS) AND DOWNTOWN (D) ZONES, § 700, MATTER-OF-RIGHT USES (ARTS AND D), is amended as follows:

Subsections 700.2, 700.3, and 700.4 are amended as follows:

- 700.2 In the ARTS-1 and ARTS-2 zones, arts use of this chapter shall be permitted as a matter of right in addition to the MU-Use Group E standards of Subtitle U, Chapter 5, subject to the limitations and conditions of ~~Subtitle U, Chapter 8~~ **this chapter.**
- 700.3 In the ARTS-3 zone, the arts uses of this chapter shall be permitted as a matter of right in addition to the MU-Use Group F standards of Subtitle U, Chapter 5, subject to the limitations and conditions of ~~Subtitle U, Chapter 8~~ **this chapter.**
- 700.4 In the ARTS-4 zone, the arts uses in this chapter shall be permitted as a matter of right in addition to the MU-Use Group G standards of Subtitle U, Chapter 5, subject to the limitations and conditions of ~~Subtitle U, Chapter 8~~ **this chapter.**

Subsection 700.6(a)(1) is amended as follows:

- (1) The area accounts for no more than five percent (5%) of the 0.5 FAR or 0.5 FAR ~~requirement~~ **equivalent;**

Chapter 8, USE PERMISSIONS PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, § 801, MATTER-OF-RIGHT USES (PDR), is amended as follows:

Section 801.1(b) is amended as follows:

- (b) ~~Animal Shelter subject to the following conditions:~~ **Animal Sales, Care, and Boarding uses subject to the following conditions:**

(1) Veterinary hospital, which may also include the incidental boarding of animals as necessary for convalescence, pet grooming, and the sale of pet supplies, but not as an independent line of business; or

(2) Animal Shelter subject to the following conditions:

- (A) ~~(1)~~—The use shall utilize industry standard sound-absorbing materials, such as acoustical floor and ceiling panels, concrete and masonry, and acoustical landscaping;
- (B) ~~(2)~~—The use shall not be located within twenty-five feet (25 ft.) of a lot within an R, RA, RF, RC-1, CG-1, or D-1 zone. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the animal shelter use and any portion of a street or alley that separate the use from a lot within an R, RF, or RA zone. Shared facilities that are not under the sole control of the animal shelter, such as hallways and trash rooms shall not be considered as part of the animal shelter use; and
- (C) ~~(3)~~—Outdoor runs and external yards for the exercise of animals shall be permitted, subject to the following requirements:
- (1) ~~(A)~~—No animals shall be permitted in outdoor runs or external yards between the hours of 8:00 p.m. and 7:00 a.m.;
- (2) ~~(B)~~—External yards and outdoor runs shall be enclosed with fencing or walls for the safe confinement of animals and the absorption of noise. Fencing and/or walls shall be a minimum of eight feet (8 ft.) in height and constructed of solid or opaque materials with maximal noise-absorbing characteristics;
- (3) ~~(C)~~—No more than three (3) animals shall be permitted within any exterior yard or outdoor run at a time; and
- (4) ~~(D)~~—No part of an outdoor run or exercise yard shall be located within two hundred feet (200 ft.) of an existing residential use or residence zone;

- (D) ~~(4)~~—All animal waste shall be kept in closed waste disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly;
- (E) ~~(5)~~—Odors shall be controlled by means of an air filtration system (for example, High Efficiency Particulate Air [HEPA] filtration) or an equivalently effective odor control system; and
- (F) ~~(6)~~—The use shall meet the Standards of External Effects in Subtitle U § 804;

...

Subsection 801.1(i) is amended as follows:

- (i) Education uses, private and public;

By amending Subsections 801.1(z) and (aa) as follows:

- (z) Utilities (basic) uses are permitted as a matter-of-right; however, if the use is an electronic equipment facility that exceeds twenty-five percent (25%) of the gross floor area of a building located on site:
 - (1) The building shall not be located within eight hundred feet (800 ft.) of an established or planned Metrorail station; and
 - (2) The building shall not be located within one thousand two hundred fifty feet (1,250 ft.) of the edge of a river as measured at mean high tide; ~~and~~
- (aa) Waste incineration, including for conversion to energy subject to the Standards of External Effects in Subtitle U § 804, and the use shall not be permitted on any lot located in whole or in part within one hundred feet (100 ft.) of a residential zone-; and

By adding a new § 801.1(bb) to read as follows:

(bb) Wholesale or storage establishment, including open storage, except a junk yard.

Subtitle W, SPECIFIC ZONE BOUNDARIES, Chapter 1, BOUNDARIES, is amended as follows:

Section 101, CAPITOL GATEWAY ZONES, § 101.1 is amended as follows:

101.1 The Capitol Gateway zones (CG-1 through CG-7 and D-5) are applied to the Buzzard Point and Capitol Gateway areas, which are designated for mixed-use development in the Comprehensive Plan for the National Capital. The following Squares and portions of Squares in the southwest and southeast quadrants of the District of Columbia are included in the CG zones: 601, 602, 603, 605, 607, 609, 611, 612, 613, 656, 657, 658, 660, 661, 662, E662, 664, E664, 665, 666, E667, S667, ES667, ~~698, 699~~, 700, 701, 702, 703, 704, 705, 706, 707, 708, E708, S708, ~~742, N743~~, S744, 769, 771, and 800, as well as ~~Square 649, Lot 48~~; Square 651, Lots 147 and 148; ~~and~~ Square 653, Lots 14, 15, 52-54, 60-66, 68-70, 75, 111, 810, 811, 827, and 828; and Square 655, Lots 124-140.

Section 105, DUPONT CIRCLE ZONES, § 105.1 is amended as follows:

105.1 The Dupont Circle zones (RF-2, RA-8, RA-9, RA-10, and MU-15 through MU-22) include the following Squares: 23, 35, 48, 49, 65, 66, 67, 68, 69, 70, 90, 91, 92, 93, 94, 95, 96, 97, 98, N99, 109, 110, 111, 112, 113, 114, 115, ~~116~~, 131, 132, 133, 134, 135, 136, 137, N137, 138, 139, 153, S153, 154, 155, 156, 157, 158, 159, 160, 178, 179, 180, 181, S181, 182, N182, 192, 193, 194, 195, S195, 196, and N196. The Dupont Circle zones also include the following lots: Square 176, Lots 43-45, 64-73, 2076-2128; Square 177, Lots 2, 36-40, 87-92, 104, 108, 118-123, 126, 127, 801, 802, 2009-2019, 2020-2025; Square N177, Lots 4-9, 17, 23-25, 26, 27, 87-92, 801-804, 807, 810-811, 2001-2009, 2010-2012, 2013, 2022; Square 190, Lots 22-42, 51-62, 88-99, 101-116, 119-120, 123, 129, 809, 2001-2018, 2019-2028, 2029-2049, 2050-2056; Square 191, Lots 3-6, 8-16, 40-49, 51-59, 63-65, 66-69, 71-76, 79-87, 90-92, 93-95, 96-98, 99, 100, 104, 107-108, 800, 801, 803-804, 812, 814, 816, 817, 2001-2012, 2014-2027, 2028-2031, 2032, 2034-2058, 2059-2067, 2068-2077, Square 206, Lots 17-25, 62-65, 113-122, 128-133, 138-162, 166-176, 177-198, 219, 220, 800-805, 807, 809, 811, 812, 813, 814, 2001-2013; and Square 207, Lots 48-65, 94-95, 810.

Subtitle X, GENERAL PROCEDURES, is amended as follows:

Chapter 3, PLANNED UNIT DEVELOPMENTS, is amended as follows:

Section 300, PLANNED UNIT DEVELOPMENTS, § 300.9 is deleted and §§ 300.10 through 300.12 are renumbered 300.9 through 300.11.

Section 301, MINIMUM LAND AREA (PUD), § 301.2 is amended as follows:

301.2 The Zoning Commission may waive the minimum area requirement of Subtitle X § 301.1 for applications in Zone Groups 1, 2, ~~5~~, and 6, provided that the Zoning Commission shall find after the public hearing that the development is of exceptional merit and is in the best interests of the District of Columbia or the country and one (1) of the following:

...

Section 302, PLANNED UNIT DEVELOPMENT APPLICATION TYPES, § 302.2 is amended as follows:

302.3 A consolidated application shall incorporate all information and material for both a first- and second-stage application as required by Subtitle A ~~§§ 309.9 and 309.10~~ **Z §§ 300.11 and 300.12** into one (1) application, and all information shall be submitted at the time of initial filing.

Section 303, PLANNED UNIT DEVELOPMENT FLEXIBILITY, is amended as follows:

Subsection 303.7, Table X § 303.7: MINIMUM NUMBER OF BICYCLE PARKING SPACES is amended by adding the following entries after the entry for “MU-27” and before the entries for the “D zones” (all other entries on are unchanged):

Zone	Maximum PUD Height (feet)
MU-28 (C-3-A/FT)	<u>90</u>
MU-29 (CR/FT)	<u>110</u>
PDR-7 (M/FT)	<u>90</u>

Subsection 303.14 is amended as follows:

303.14 As part of any PUD, the applicant may request the Zoning Commission to grant an area variance to permit additional height and density beyond that permitted by this ~~subsection~~. The Zoning Commission shall apply and not deviate from the variance standard stated at Subtitle X, Chapter 10.

Chapter 7, AIRSPACE DEVELOPMENT, § 702, APPLICATION REQUIREMENTS, § 702.1 is amended as follows:

702.1 An application for an **airspace** development shall meet the requirements of Subtitle Z § 303.

Chapter 9, SPECIAL EXCEPTIONS, § 901, SPECIAL EXCEPTION REVIEW STANDARDS, § 901.2(c) is amended as follows:

(c) **Will meet such** ~~Subject in specific cases to the special conditions~~ **as may be** specified in this title.

Chapter 10, VARIANCES, § 1001, VARIANCE TYPES, § 101.3(a) is amended as follows:

- (a) Requirements that affect the size, location, and placement of buildings and other structures such as height and, FAR, lot occupancy, setback width and depth, and minimum court size;

...

By adding a new Chapter 13, TEXT AMENDMENTS, to read as follows:

CHAPTER 13 TEXT AMENDMENTS

1300 TEXT AMENDMENTS

1300.1 The Zoning Commission will evaluate and approve, disapprove, or modify a text amendment petition according to the standards of this section.

1300.2 The Zoning Commission shall find that the petition is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject text.

1301 PETITION REQUIREMENTS

1301.1 A A petition for a text amendment shall meet the requirements of Subtitle Z § 305.

Subtitle Y, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, is amended as follows:

Chapter 2, PUBLIC PARTICIPATION, § 206, SUBMITTING COMMENTS OR FILING DOCUMENTS ELECTRONICALLY OR BY E-MAIL, §§ 206.8(b) and (d), are amended as follows.

...

- (b) Contain the case number assigned by the Office of Zoning; ~~or a statement that a case number has not yet been assigned~~

...

- (d) ~~The file size of any document submitted electronically through IZIS may~~ **Not exceed the maximum allowable size of eight (8) megabytes.**

Chapter 4, PRE-HEARING AND HEARING PROCEDURES: APPLICATIONS, is amended as follows:

Section 401, EXPEDITED REVIEW, § 401.6(a) is amended as follows.

- (a) The procedure for requesting the removal of the application from the expedited review calendar is as described in Subtitle Y §§ 401.97 and 401.~~108~~; and

Section 402, NOTICE OF PUBLIC HEARINGS, is amended by revising its title as follows:

402 ~~NOTICE OF PUBLIC HEARINGS~~ NOTICE REQUIREMENTS

Section 404, REQUESTING PARTY STATUS, § 404.1(a) is amended as follows:

- (a) Name, mailing address, telephone number, ~~facsimile number~~, and e-mail address;

Section 406, ADVISORY NEIGHBORHOOD COMMISSION (ANC) REPORT, is amended as follows:

Subsection 406.1 is amended as follows:

- 406.1 This section applies to an affected ANC ~~within which the property that is the subject of an application is located; except that if the subject property is located on a street that serves as a boundary line between two (2) ANCs, the section applies to both ANCs.~~

Subsection 406.3 is amended as follows:

- 406.3 If an ANC wishes to participate ~~as a party~~ in the hearing, it must file its written report with the Board at least seven (7) days in advance of the public hearing and provide the name of the person who is authorized by the ANC to represent it at the hearing.

Chapter 5, PRE-HEARING AND HEARING PROCEDURES: ZONING APPEALS, § 502, REQUESTING INTERVENOR STATUS, is amended as follows:

Subsection 502.13(c) is deleted.

By renumbering the existing text of Subtitle Y §§ 502.14 through 502.16 as §§ 502.15 through 502.17 and inserting a new § 502.14 to read as follows:

- 502.14 In granting intervener status, the Board may specify whether the person will be permitted to intervene in the appeal for general or limited purposes.

Chapter 7, APPROVALS AND ORDERS, § 703, CONSENT CALENDAR - TECHNICAL CORRECTIONS, MINOR MODIFICATION, AND MODIFICATION OF CONSEQUENCE, TO ORDERS AND PLANS, is amended by adding a new § 703.15 to read as follows:

- 703.15 A request for minor modification of plans shall be filed with the Board not later than two (2) years after the date of the final order approving the application, or the circumstances of Subtitle Y § 702.3 apply, two (2) years after the date the decision date of the court's final determination of the appeal.

Chapter 16, FEES, § 1600, FILING FEES FOR APPLICATIONS AND APPEALS, § 1600.1(b)(3) is amended as follows:

...

(b) Application for a special exception:

...

(3) ~~Chancery~~ **For an application for permission to locate, replace, or expand a chancery not meeting the conditions for a matter of right use, either:**

(A) Sixty-five dollars (\$65) for each one hundred square feet (100 sq. ft.) or part thereof of gross floor area; or

(B) Five hundred dollars (\$500) when the expansion does not result in an increase to gross floor area, such as the erection or enlargement of a fence.

Subtitle Z, ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE, is amended as follows:

Chapter 2, PUBLIC PARTICIPATION, § 206, SUBMITTING COMMENTS OR FILING DOCUMENTS ELECTRONICALLY OR BY E-MAIL, is amended as follows:

Subsections 206.8(b) and (d), are amended as follows.

206.8 All documents filed electronically through IZIS shall:

...

(b) Contain the case number assigned by the Office of Zoning, ~~or a statement that a case number has not yet been assigned;~~

...

(d) ~~The file size of any document submitted electronically through IZIS may~~ **Not exceed the maximum allowable size of eight (8) megabytes.**

By renumbering the existing text of Subtitle Z §§ 2016.10 through 206.16 as §§ 206.11 through 206.17 and inserting a new § 206.10 to read as follows:

206.10 **All filings submitted through IZIS on or before 11:59 p.m. shall be recorded as being received on the same day.**

Chapter 3, APPLICATION REQUIREMENTS § 302 is amended by revising its title as follows:

302 PLAN/~~FURTHUR~~ FURTHER PROCESSING AND MEDICAL CAMPUS PLAN APPLICATION REQUIREMENTS

Chapter 4, PRE-HEARING AND HEARING PROCEDURES: CONTESTED CASES, is amended as follows:

Section 402, PUBLIC NOTICE REQUIREMENTS, § 402.1(c) is amended as follows:

402.1 Not less than forty (40) days before the public hearing on an application, the Director shall give notice of public hearing by:

...

- (c) Providing a copy of the notice of public hearing to the affected ANC ~~or~~ and to ~~for~~ any other ANC that is within two hundred feet (200 ft.) of the property involved in the application;

Section 404, REQUESTING PARTY STATUS, § 404.1(a) is amended as follows:

- (a) Name, mailing address, telephone number, ~~facsimile number~~, and e-mail address;

Section 405, REFERRALS TO AND REPORTS OF PUBLIC AGENCIES, §§ 405.2(a)(2) and (b) are amended as follows:

- (a) The National Capital Planning Commission of:

...

- (2) Those applications for approval pursuant to Subtitle K §§ ~~513~~512.1(a) and (d);

...

- (b) The Capitol Police Board for those applications for approval pursuant to Subtitle K § ~~516~~515.4; and

Section 406, ADVISORY NEIGHBORHOOD COMMISSION (ANC) REPORT, is amended as follows:

Subsection 406.1 is amended as follows:

406.1 This section applies to an affected ANC ~~within which the property that is the subject of an application is located; except that if the subject property is located on a street that serves as a boundary line between two (2) ANCs, the section applies to both ANCs.~~

Subsection 406.3 is amended as follows:

406.3 If an ANC wishes to participate ~~as a party~~ in the hearing, it must file its written report with the Board at least seven (7) days in advance of the public hearing and provide the name of the person who is authorized by the ANC to represent it at the hearing.

Chapter 5, PRE-HEARING AND HEARING PROCEDURES: RULEMAKING CASES, § 500, SETDOWN PROCEDURES: SCHEDULING RULEMAKING CASE PETITIONS FOR HEARING, § 500.12 is amended as follows:

500.12 If the Commission ~~denies or~~ dismisses a petition without prejudice because of the need to modify the petition, the order shall also state the type of modification the Commission considers appropriate.

Chapter 6, POST-HEARING PROCEDURES, is amended as follows:

Section 604, FINAL ACTION AND FINAL ORDERS, is amended by renumbering the existing text of §§ 604.8 through 604.13 as §§ 604.9 through 604.14 and inserting a new § 604.8 as follow:

604.8 In a contested case, unless specifically stated otherwise, the term "applicant" in any condition of an order approving an application (including a modification) shall mean the person or entity then holding title to the subject property. If there is more than one (1) owner, the obligations under the order shall be joint and several. If a person or entity no longer holds title to the subject property, that party shall have no further obligations under the order; however, that party remains liable for any violation of any condition that occurred while an owner.

By adding a new § 605, PROPOSED ACTION, to read as follow:

605 PROOF OF COMPLIANCE

605.1 If an application in a contested case is approved, the Applicant shall file with the Zoning Administrator a letter identifying how it is in compliance with the conditions of the order approving the application at such time as the Zoning Administrator requests and shall simultaneously file that letter with the Office of Zoning.

Chapter 16, FEES, § 1602, WAIVER OF HEARING FEES, § 1602.3 is amended as follows:

1602.3 The Application must be filed prior to the Commission's decision to setdown the application for a hearing. The Commission shall rule upon the request for waiver of fees at the time the matter is set down for public hearing.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning

Commission, Office of Zoning, through the Interactive Zoning Information System (IZIS) at <http://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Ms. Schellin may be contacted by telephone at (202) 727-6311 or by email at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

DISTRICT OF COLUMBIA COMMISSION ON THE ARTS AND HUMANITIES**NOTICE OF PUBLIC MEETING****Board of Commissioners**

The Board of Commissioners of the District of Columbia Commission on the Arts and Humanities (DCCAHA) will be holding a meeting on Thursday, July 28, 2016 at 3:30 p.m. The meeting will be held in the DCCAHA Large Conference Room at 200 I Street, SE, Suite 1400, Washington, DC. Below is the draft agenda for this meeting. A final agenda will be posted to the DCCAHA website at <http://dcarts.dc.gov/page/commissioner-meetings>.

For further information, please contact the front desk at (202) 724-5613.

DRAFT AGENDA

- | | | |
|-----|--------------------------------|---------------------------|
| 1. | Public Comment Period | |
| 2. | Call to Order | Chairperson |
| 3. | Adoption of the Agenda | All Commissioners Present |
| 4. | Adoption of Minutes | All Commissioners Present |
| 5. | Chairperson's Report | Chairperson |
| 6. | Executive Director's Report | Executive Director |
| 7. | Office of the Poet Laureate | Poet Laureate |
| 8. | Committee Reports | Respective Committees |
| 9. | Panel Recommendations | |
| 10. | Unfinished Business | All Commissioners Present |
| 11. | New Business and Announcements | All Commissioners Present |
| 12. | Adjournment | Chairperson |

BREAKTHROUGH MONTESSORI PUBLIC CHARTER SCHOOL**INTENT TO ENTER A SOLE SOURCE CONTRACT****Montessori Services**

Breakthrough Montessori Public Charter School is seeking a sole source procurement contract with vendor, Montessori Services. The contractor will provide Breakthrough Montessori Public Charter School with materials necessary to complete the Practical Life and Language areas of each classroom, which are integral portions of the curriculum, with five sets of classroom materials for \$28,000.00. The decision to offer sole source is based on Montessori Services' reputation for providing quality Montessori materials which include but are not limited to child sized classroom tools that complete the full complement of the defined Montessori classroom materials.

BREAKTHROUGH MONTESSORI PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS**

Breakthrough Montessori seeks proposals for janitorial services including a day porter. 10,00 SqFt Building is located at 1244 Taylor St. NW Washington D.C. 20011. Please contact Dillon Clark at dillon.clark@breakthroughmontessori.org to schedule a building walkthrough or to obtain a copy of the full RFP.

CENTER CITY PUBLIC CHARTER SCHOOLS

INTENT TO AWARD SOLE SOURCE CONTRACTS

Center City Public Charter Schools states it's Intent to Award a Sole Source Contracts for the following:

Center City PCS intends to award a sole source contracts for curriculum and online learning subscriptions for the 2016-2017 School Year.

To obtain copies of full Notice of Intent, please visit our website:

<http://www.centercitypcs.org/contact/requests-for-proposal>

Contact Person:

Scott Burns

sburns@centercitypcs.org

DC SCHOLARS PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Financial and Human Resources Services

DC Scholars seeks requests for proposal for financial and HR services.

Please email jbarrweiss@scholaracademies.org with an intent to submit and to receive application guidelines by 7/15/2016.

All proposals will be due by 5pm on 8/1/16. All communication related to the RFP should be delivered by email only.

E.L. HAYNES PUBLIC CHARTER SCHOOL**NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT****Capital Teaching Residency (CTR) Program**

E.L. Haynes Public Charter School and KIPP DC have successfully partnered since November 2012 in support of the Capital Teaching Residency (CTR) Program. The mission of the CTR Program is to close the achievement gap by 1) creating a talent pipeline of highly effective teachers in the District of Columbia; 2) retaining highly effective teachers in D.C. public and charter schools; and 3) shaping high-quality teacher preparation programs nationally.

In support of the existing partnership and in order to meet the deliverables of existing grant agreements, E.L. Haynes Public Charter School will provide funding to KIPP DC in the amount of \$75,000 to support professional development of our next cohort of teacher residents and continue managing the CTR program.

If you have questions or concerns regarding this notice, please contact our Procurement Officer:

Kristin Yochum
E.L. Haynes Public Charter School

E.L. HAYNES PUBLIC CHARTER SCHOOL**NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT****Developmental Designs**

E.L. Haynes Public Charter School has successfully adopted a model from the Origins Program in our elementary school using the Responsive Classroom teaching practice to help our staff work together in order to achieve education equity and excellence in our classrooms.

In order to achieve continuity and consistency in teaching practices across grade levels, E.L. Haynes Public Charter School is now expanding the Origins Program to our middle and high schools using the Developmental Designs approach. The research-based practices of the Developmental Designs approach are currently being used effectively in thousands of classrooms in 42 states and 8 countries. The Developmental Designs approach will help our schools create and maintain a positive school environment, to promote self-management, and to increase academic achievement among adolescents.

To this end, E.L. Haynes Public Charter School will contract with the Origins Program in the amount of \$39,000 per school for professional development and implementation of the Developmental Designs program.

If you have questions or concerns regarding this notice, please contact our Procurement Officer:

Kristin Yochum
E.L. Haynes Public Charter School

E.L. HAYNES PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****After School Tutoring Services**

E.L. Haynes Public Charter School is accepting proposals to provide after-school tutoring services for literacy and mathematics to students in grades 5-8. There will be 2 days of tutoring in mathematics, and two days of tutoring in literacy each week for the 35 weeks during the school year. We would require a minimum of four tutors each day, not to exceed 8 tutors on any given day.

Proposals are due via email to Kristin Yochum no later than 5:00 PM on Friday, July 8, 2016. We will notify the final vendor of selection following the review process. The full RFP with bidding requirements can be obtained by contacting:

Kristin Yochum
E.L. Haynes Public Charter School
Phone: 202.667-4446 ext 3504
Email: kyochum@elhaynes.org

EAGLE ACADEMY PUBLIC CHARTER SCHOOL
REQUEST FOR QUALIFICATIONS

Professional Educational Consulting Services

Project Summary

Your firm is invited to submit qualifications to provide professional educational consulting services to support Eagle Academy Public Charter School's Classroom Assessment Scoring System (CLASS) performance for the 2016-2017 school year as specified in the section of this RFQ, under the OSSE SOAR Early Childhood grant.

Criteria for Selecting a Firm

The following criteria will be used to rate the submittals:

- Expertise in conducting CLASS evaluations, providing on-site mentoring/coaching and supports, developing supplemental CLASS resources, and aligning CLASS with early childhood curricula needed for teachers in order to increase performance on end-of-year CLASS assessments.
- A high-quality mentoring/coaching team that: 1) is trained/certified in the CLASS assessment, 2) has 10+ years of experience in early childhood education, 3) has prior teaching and mentoring/coaching experience
- Experience and expertise in providing on-site mentoring to teachers (i.e., direct observation, demonstration, feedback, collaborative consulting, planning, classroom-based coaching).
- Experience developing or adapting curricula to align with assessments such as CLASS.
- Experience conducting CLASS professional development presentations in early childhood settings.
- Experience and expertise in developing online content packages or learning modules.

Date and Location Submittal is Due: Friday, July 22, 2016 by 5:00 p.m.

Submittal Terms

1. Submittal Requirements – Please limit your submittal to less than 50 pages, and submit your submittal by the time and place specified in electronic form. No late submittals will be accepted. **Submittals should be directed to the attention of Mayra Martinez-Fernandez, mmartinez@eagleacademypcs.org.**
2. Award of Contract – If the results of this RFQ warrant the awarding of a contract, Eagle Academy PCS anticipates the decision to be made by Wednesday, July 27, 2016. Eagle Academy will negotiate terms and fees with the top selected firm. Eagle Academy PCS reserves the right to reject any and all bids at its sole discretion.

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS****Certification of Filling a Vacancy
In Advisory Neighborhood Commission**

Pursuant to D.C. Official Code §1-309.06(d)(6)(D), If there is only one person qualified to fill the vacancy within the affected single-member district, the vacancy shall be deemed filled by the qualified person, the Board hereby certifies that the vacancy has been filled in the following single-member district by the individual listed below:

Horacio Sierra
Single-Member District 5E08

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

Office of Government Ethics

BEGA – Advisory Opinion – 1009-010

June 14, 2016

Beverly Perry
Senior Advisor to the Mayor, Office of Federal and Regional Affairs
1350 Pennsylvania Avenue, N.W., Suite 324
Washington, D.C. 20004

Betsy Cavendish
General Counsel, Executive Office of the Mayor
1350 Pennsylvania Avenue, N.W., Suite 327
Washington, D.C. 20004

Dear Ms. Perry and Ms. Cavendish:

This responds to your June 3, 2016 memorandum, attached hereto, in which you request an advisory opinion from the Board of Ethics and Government Accountability (Ethics Board) “on Hatch Act and ethics laws,” in connection with “statehood-related activities” leading up to an advisory referendum to be held in November of this year.¹ While your request is addressed to the Ethics Board, I view it as invoking my authority as the Director of Government Ethics under section 219(a) of the Ethics Act.²

Based on the information in your memorandum, I conclude that the activities outlined in it would not violate section 1801 of the Merit Personnel Act,³ 6B DCMR § 1808, or the Local Hatch Act,⁴

¹ Your memorandum, a copy of which is attached, also requests advice from the Office of Campaign Finance (OCF) and the Board of Elections (BOE) “on expenditures” related to these same activities.

² Section 219(a) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.19(a)). The section provides that “[u]pon application made by an employee or public official subject to the Code of Conduct, the Director of Government Ethics shall, within a reasonable period of time, provide an advisory opinion as to whether a specific transaction or activity inquired of would constitute a violation of a provision of the Code of Conduct over which the Ethics Board has primary jurisdiction.”

³ Section 1801 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-618.01) (“Section 618.01”).

⁴ The Prohibition on Government Employee Engagement in Political Activity Act of 2010, effective March 31, 2011 (D.C. Law 18-335; D.C. Official Code § 1-1171.01 *et seq.*).

all of which are elements of the Code of Conduct.⁵ I also conclude that the activities would not violate any other relevant provision of the Code of Conduct.

Section 618.01 of the Merit Personnel Act

Section 618.01(a) of the Merit Personnel Act provides as follows:

Each employee, member of a board or commission, or a public official of the District government must at all times maintain a high level of ethical conduct in connection with the performance of official duties, and shall refrain from taking, ordering, or participating in any official action which would adversely affect the confidence of the public in the integrity of the District government.

On its face, section 618.01(a) sets a high bar – “a high level of ethical conduct” – for the wide range of individuals who are engaged in the various functions of the District government as they carry out their “official duties.” In terms of those individuals whose conduct would be called into question for purposes of this opinion, I look to the members and employees of the Office of the Statehood Delegation,⁶ the Statehood Delegation itself,⁷ and the New Columbia Statehood Commission.⁸ Also, inasmuch as the Mayor or her alternate is a voting member of the Commission,⁹ I include here any employees who may be delegated her duties and responsibilities as a Commission member, as well as any Executive Branch employees whose official duties include those activities outlined in your memorandum or otherwise would directly support the Mayor’s statehood policy agenda.

Section 618.01(a) also clearly envisions, as a consequence of the failure to adhere to a high standard of ethical conduct, the adverse effect on the public’s confidence in the integrity of the government. What the section does not do, however, is attempt to list any of the many ways in which that failure can occur. Fortunately, there is interpretive guidance that I find particularly relevant here, in light of your request for advice from OCF and BOE on expenditures.

⁵ Respectively, *see* section 101(7)(B), (E), and (E-i) of the Ethics Act (D.C. Official Code § 1-1161.01(7)(B), (E), and (E-i)).

⁶ Established by section 21(a) of the District of Columbia Statehood Constitutional Convention Initiative of 1979 (Initiative), effective May 2, 2015 (D.C. Law 20-271; D.C. Official Code § 1-129.22(a)). The Office “provide[s] support to the Statehood Delegation in promoting statehood and voting rights for the citizens of the District of Columbia.” *Id.* at section 21(b) (D.C. Official Code § 1-129.22(b)).

⁷ *See* section 4 of the Initiative (D.C. Official Code § 1-123).

⁸ Established by section 31(a) of the Initiative (D.C. Official Code § 1-129.31(a)). Among other things, the Commission is to “[e]ducate regarding, advocate for, promote, and advance the proposition of statehood and voting rights for the District of Columbia to District residents and citizens of the 50 states.” *Id.* at section 31(b)(1) (D.C. Official Code § 1-129.31(b)(1)).

⁹ *See* section 31(c)(1) of the Initiative (D.C. Official Code § 1-129.31(c)(1)).

In 2000, the Board of Elections and Ethics (BOEE) considered an appeal by then Mayor Anthony Williams from an OCF Order finding that the Mayor's use of District government resources in connection with a press conference in support of a Charter amendment created the appearance of adversely affecting the confidence of the public in the integrity of government, thereby violating a standard of conduct now codified in substantively similar form in section 618.01(a).¹⁰ The BOEE affirmed the OCF Order, finding as follows:

The Mayor is, of course, *permitted* and *encouraged* to express his views on any policies or programs that meet the needs of the citizenry. The Mayor may use the assistance of the Press Secretary or any other resources properly appropriated to assist the Mayor in his relationship with the media, and to ensure timely and accurate communication of the Mayor's views and position. The Mayor can also freely campaign for any candidate or ballot measure; however, he cannot, in this respect, use government resources...[H]e can only use government resources for authorized government business – which campaigning is not.¹¹

The BOEE's conclusion is also worth noting:

[W]e submit public officials may properly express their views on ballot measures placed before the electorate, engage in activities which encourage citizens to vote on ballot measures, and take steps to educate and inform the electorate of the proposed measures. Such public officials may use to this end *whatever government resources and employees are authorized by program and budget to assist with these activities*.¹²

In sum, based on the BOEE opinion, I conclude that the individuals identified in the discussion above may engage in the statehood-related activities outlined in your memorandum without violating section 618.01(a), as long as they do so by using funds and other District government resources that are authorized for that purpose. However, while the BOEE opinion supports this conclusion, I do note that the opinion is, nevertheless, to be distinguished in a very significant regard. The Charter amendment referendum central to the Williams case, conducted as it was pursuant to District Charter section 303 (codified at D.C. Official Code § 1-203.03), involved a very different type of vote – a binding, approval or rejection type of vote – than the advisory referendum here. As described more fully in the text below, the advisory referendum would be held pursuant to District Charter section 412(b) (codified at D.C. Official Code § 1-204.12(b)), and its nonbinding result would operate as nothing more than a public opinion poll. In short, I view the BOEE opinion as distinguishable on its facts, and, to that extent, it represents no

¹⁰ See *Williams v. D.C. Office of Campaign Finance*, Admin. Hearing No. 00-025, memo op. at 1 (Sept. 22, 2000).

¹¹ *Id.* at 7 (emphasis in original).

¹² *Id.* at 8 (emphasis added).

authority on which to prohibit the statehood-related activities leading up to the advisory referendum this November.

6B DCMR § 1808

A District government employee “has a duty to protect and conserve government property and shall not use such property, or allow its use, for other than authorized purposes.”¹³ Further, given the wide-ranging nature of the statehood-related activities, the definition of “government property” is equally as broad, covering everything from paperclips to intangible property interests.¹⁴

Therefore, considerations very similar to those discussed above in the context of CMPA section 618.01(a) lead me to the same conclusion of permissibility regarding participation in the statehood-related activities, when viewing the activities (along with associated resources) in light of 6B DCMR § 1808.¹⁵

The Local Hatch Act

The Local Hatch Act governs the political activities of District government employees. While the Mayor, among others, is exempt from the Act,¹⁶ it is important to note that, generally, an employee is defined as “[a]ny individual paid by the District government from grant or appropriated funds for his or her services or holding office in the District of Columbia.”¹⁷ That definition would, then, capture most, if not all, of the individuals discussed above in the context of CMPA section 618.01(a). Also important, especially with regard to the activities leading up to the advisory referendum, is the definition of “political activity.” The Local Hatch Act defines the term as “any activity that is regulated by the District *directed toward the success or failure of*

¹³ 6B DCMR § 1808.1. The term “authorized purposes” is defined by 6B DCMR § 1808.2(b) as meaning “those purposes for which government property is made available to members of the public or those purposes authorized by an agency head in accordance with law or regulation.”

¹⁴ See 6B DCMR § 1808.2(a) (defining “government property” as including “any form of real or personal property in which a federal, District, state, or local government agency or entity has an ownership, leasehold, or other property interest as well as any right or other intangible interest that is purchased with government funds, including the services of contractor personnel. The term includes office supplies, telephone and other telecommunications equipment and services, the government mails, automated data processing capabilities, printing and reproduction facilities, government records, and government vehicles.”).

¹⁵ On a related note, I see no issue here concerning the prohibition against using government resources or office for a private purpose or for private gain. The purpose of the statehood-related activities is entirely a public and governmental purpose, not a private one. Further, insofar as the Mayor is vested with the executive power of the District, there is nothing improper about her engaging in, or publically advocating for, such a governmental purpose. Indeed, under section 422(8) of the District Charter (codified at D.C. Official Code § 1-204.22(8)), the Mayor has express authority to “propose to the executive or legislative branch of the United States government legislation or other action dealing with any subject, whether or not falling within the authority of the District government.”

¹⁶ See section 2(3)(A) (D.C. Official Code § 1-1171.01(3)(A)).

¹⁷ *Id.*

a political party, candidate for partisan political office, partisan political group, ballot initiative, or referendum.”¹⁸

From the several references to the advisory referendum in your memorandum, it appears that you mean the type of vote authorized by section 412(b) of the District Charter, that is, a special election “called by resolution of the Council to present for an advisory referendum vote of the people any proposition upon which the Council desires to take action.” Unfortunately, the legislative history of the Charter fails to shed any meaningful light on what Congress intended by the provision for an advisory referendum in section 412(b). What is clear, however, is that on at least one occasion since Home Rule, an advisory referendum was held in the District pursuant to section 412(b). In 2002, Advisory Referendum A was placed on the general election ballot “[t]o ask the voters ... if the Home Rule Act should be amended to establish an Office of the District Attorney for the District of Columbia, headed by a locally elected, independent District Attorney.”¹⁹ That experience is quite consistent with the description of an advisory referendum in the secondary literature as “a government-administered advisory poll on a certain issue.”²⁰

Given the nonbinding nature of an advisory referendum, I view it as being very different from the type of referendum contemplated in the Local Hatch Act definition of “political activity.” In other words, because an advisory referendum functions essentially as nothing more than a public survey or opinion poll, considerations of “success or failure” – the only possible results that can flow from, for example, an election for partisan political office or a referendum to suspend an act of the Council²¹ – are absent.

¹⁸ Section 2(8)(A) (D.C. Official Code § 1-1171.01(8)(A)) (emphasis added). *See also* Report of the Committee on Government Operations and the Environment on Bill 18-460, the Prohibition on Government Employee Engagement in Political Activity Act of 2010, at 5-6 (Council of the District of Columbia, November 16, 2010) (discussing definitions in bill) (“Political activity means conduct whose goal is the success or failure of a partisan candidate or political group, ballot initiative, or referendum.”).

¹⁹ *See* section 2(b) of the Establishment of an Office of the District Attorney Advisory Referendum Approval Resolution of 2002, effective July 19, 2002 (Res. 14-494; 49 DCR 6722).

²⁰ Thomas E. Cronin, *Direct Democracy* 176 (1989); *see also* Nicholas R. Theodore, Comment, *We the People: A Needed Reform of State Initiative and Referendum Procedures*, 78 Mo. L. Rev. 1401, 1410 (2013) (“The results of [an advisory referendum] are non-binding on the legislature and serve only as a survey tool.”). *Cf. Kimble v. Swackhamer*, 439 U.S. 1385, 1387 (Rehnquist, Circuit Justice 1978) (rejecting contention that Nevada statute providing for advisory referendum for benefit of the legislature violates U.S. Const. art. V) (applicants’ contention “is in my opinion not substantial because of the nonbinding character of the referendum”).

²¹ *See* section 2(b) of the Initiative, Referendum, and Recall Charter Amendments Act of 1977, effective March 10, 1978 (D.C. Law 2-46; D.C. Official Code § 1-204.101(b)) (“The term ‘referendum’ means the process by which the registered qualified electors of the District of Columbia may suspend acts of the Council of the District of Columbia (except emergency acts, acts levying taxes, or acts appropriating funds for the general operation budget) until such acts have been presented to the registered qualified electors of the District of Columbia for their approval or rejection.”). A substantively similar definition is contained in section 2(11) of the Initiative, Referendum and Recall Procedures Act of 1979, effective June 7, 1979 (D.C. Law 3-1; D.C. Official Code § 1-1001.02(11)).

All this said, I conclude that the statehood-related activities leading up to the advisory referendum in November, as well as participation in the vote itself, are not forms of political activity as defined in the Local Hatch Act and are, therefore, permissible.

Because this advisory opinion is provided to you pursuant to section 219 of the Ethics Act, be advised that the opinion must be published in the *D.C. Register* within 30 days of its issuance, but your identity will not be disclosed unless you consent to such disclosure in writing.²² We encourage individuals to so consent in the interest of greater government transparency. Please, then, let me know your wishes about disclosure.

Please let me know if you have any questions or wish to discuss this matter. I may be reached at 202-481-3411, or by email at darrin.sobin@dc.gov.

Sincerely,

/s/

DARRIN P. SOBIN
Director of Government Ethics
Board of Ethics and Government Accountability

Attachment (1) June 3, 2016 memorandum

Copies to: Brian Moore, Chief of Staff to Council Chairman Phil Mendelson
Janet Robins, Deputy, Legal Counsel Division, Office of the Attorney General

#1009-010

²² See section 219(b) (D.C. Official Code § 1-1162.19(b)). Also, in terms of the safe harbor against enforcement of a violation of the Code of Conduct afforded by section 219(d) (D.C. Official Code § 1-1162.19(d)), be advised that this opinion is limited in scope to the statehood-related activities outlined in your memorandum and is intended to operate prospectively from June 14, 2016.

Attachment (1) June 3, 2016 Memorandum**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR**

Office of the General Counsel to the Mayor

TO: Office of Campaign Finance
Board of Elections
Board of Ethics and Government Accountability

FROM: Beverly Perry, Senior Advisory to the Mayor,
Office of Federal and Regional Affairs

Betsy Cavendish, General Counsel
Executive Office of the Mayor

DATE: June 3, 2016

RE: Request for Expedited Formal Advisory Opinion from BEGA on Activities
Relating to Advisory Ballot Referendum and Expedited Interpretive Opinion from
OCF and BOE, on Activities Relating to Advisory Ballot Referendum

The Executive Office of the Mayor requests your guidance as we embark on statehood-related activities, so that we can assure compliance with law. From BEGA, we seek guidance on Hatch Act and ethics laws, and from OCF and BOE, we seek advice on expenditures.

Background:

The Mayor is co-chair of the New Columbia Statehood Commission, as added May 2, 2015, D.C. Law 20-271, §101(b), 62 DCR 1884, codified at D.C. Code §1-129.31 (2016), whose charter is to “educate regarding, advocate for, promote, and advance the proposition of statehood and voting rights for the District of Columbia to District residents and citizens of the 50 states.” The enabling statute also authorizes the solicitation of financial and in-kind contributions, allocations from public and private sources and the use of pro bono services.

The Commission is re-invigorating efforts for statehood in the District of Columbia.

Activities include:

- Drafting a constitution
- Encouraging public comment and engagement around it

- Working with the Office of Planning to define the boundaries of a new state, while maintaining the seat of the federal government as an enclave apart from the state as provided in the U.S. Constitution
- Outlining the advantages of statehood and the injustices associated with lack of statehood and communicating those messages to constituents in all eight wards
- Conducting historical research regarding the process other jurisdictions followed on their paths towards becoming states
- Securing support from the Council for statehood and the draft constitution
- Building public support from around the country for statehood.

Based on its research, the Commission has determined that the most promising strategy for achieving statehood is through the Tennessee Plan.

Under the Tennessee Plan, as applied to the District of Columbia, what needs to happen is the following (as has previously been discussed with your offices):

Following a robust agenda of public engagement that has already begun, the Council plans to ask the Board of Elections in July to put four questions on the ballot this fall as part of an advisory referendum: Do the people agree to the borders of the proposed new state? Do the people agree to have a republican, representative form of government? Do the people approve this Constitution? Do the people desire to become a state? (As this is just a plan, we do not have exact language.)

If the advisory referendum is approved by the Board of Elections and conducted in November, and if the people indicate that they want statehood, preferably by a resounding margin, the Council would again meet and the next step would be to adopt legislation to send a petition to Congress, seeking to become a state. Thereafter, Congress would need to enact an Admissions Act granting the District statehood. Presumably, numerous other negotiations of a transition nature would also ensue, to work out aspects of statehood and the transition from the Home Rule Act, as amended, to the new Constitution. Obviously, there are many, many steps towards statehood, and the advisory referendum is just that, advisory to the Council as it considers whether to advance a statehood petition to Congress.

Questions:

We recognize that not every question involves the jurisdiction of each of your offices, but we seek confirmation that the Mayor's Office – assisted by counsel from the Attorney General's office – would not be in violation of the Hatch Act, ethics law, or elections expenditures law if we do the following:

- A. Host public engagement events at local schools, recreation centers and other public venues, to make presentations on statehood and the draft constitution, and to take public comment on the draft constitution and statehood generally.
- B. Host a constitutional convention on statehood with speeches from local and national notables, and at which public commenters (in favor or not) will have an equal time to speak, pursuant to rules established by the Commission. These first events would all be

before Council sends any language to the Board of Elections for its consideration for an advisory referendum.

- C. Send delegates to Cleveland and Philadelphia, to the two major political conventions, at which District employees and members of the public would educate delegates about the case for statehood and seek allies. These activities would take place at state delegation breakfasts or other workshops. The presentations would not be partisan. We assume that these events will be roughly contemporaneous with transmittal to BOE, but before it has ruled on putting the four-part question on the ballot in November.
- D. Under the aegis of the statehood commission, which has authority to raise money, raise funds, pursuant to and consistent with the duly-established donations process, to advance statehood efforts generally, including educational efforts surrounding the advisory referendum's questions on statehood. These activities might take place both before and after the referendum is sent or certified by BOE, depending on your answers.
- E. Relatedly, EOM's expenditure of District funds to advance its policy agenda, which includes statehood, but would not use "vote for" messages.
- F. Compile lists of persons who have indicated they are interested in statehood and communicate to them, from government email servers, on upcoming community engagement fora and other events relating to statehood.
- G. Produce doodads like pens, buttons, posters, and bumper stickers using phrases or taglines such as #AddaStar, #51st State, or, simply, Statehood. Could EOM employees use and wear such doodads while doing official work? Only before such questions have been referred to the Elections Commission, or afterwards, too?
- H. Send administration representatives to ANC meetings, law school classes, law firm lunches or other civic meetings, upon invitation or *sua sponte*, to talk about statehood and the process for achieving it.
- I. Post tweets or Facebook messages or use other social media from official accounts and administration officials' personal accounts during the work day supporting statehood generally, re-broadcasting articles about statehood, and building crowds for the community engagement forums.
- J. Indicating support for statehood at work, or while on work assignments, as at community forums.
- K. Encourage participation in the referendum at work, or while on work assignments, such as at community meetings, not using "vote for" messages.
- L. We have assumed that – other than elected officials – employees cannot use public dollars or public equipment to transmit "vote for" messages for any advisory ballot referendum, but we would appreciate knowing if we are being too cautious in this regard.
- M. While we do not intend to mobilize agency officials whose day to day responsibilities are remote from statehood, we do believe a number of persons at EOM are critical to working on the constitution and education efforts. Please let us know if there are restrictions on which EOM administration officials can conduct any of the above activities. We believe that the above activities are squarely within the province of those who work in the Office of Federal and Regional Affairs, the Office of Policy and Legislative Affairs, the Office of Communications, the Office of Community Relations and Services and other Office of Community Affairs Offices, the Office of General Counsel and the Mayor's Office of Legal Counsel.

We believe that the efforts to advance statehood are authorized by statute, and that the advisory ballot referendum is an integral and necessary part of advancing statehood effectively, but it is not an end in itself, in contrast to elections and binding referenda. This advisory referendum to us seems distinguishable from the political activities that are clearly prohibited: it's not a campaign for a particular person or a narrow initiative to change one element of the charter backed by the Mayor; rather, the advisory referendum is part of a comprehensive effort to advance the interests of the District, as recognized by Council in restructuring and reinvigorating the Statehood Commission. We are mindful of D.C. Code 1-1163.36 and are concerned about its applicability here. We have read the Board of Elections and Ethics Opinion in *Anthony Williams v. D.C. Office of Campaign Finance and Dorothy Brizill*, Administrative Hearing No 00-025 No. MUR-00-01 (Sept. 22, 2000), and are uncertain as to whether it applies to an advisory referendum, when an advisory referendum is simply the Council and the Mayor's question to the citizens as to whether they wish to proceed with a matter. Taking a cautious approach as to this, we plan to ground our activities in the areas the Board said were proper for the Mayor to engage in, namely, "express[ing] their views on ballot measures placed before the electorate; engag[ing] in activities which encourage citizens to vote on ballot measures, and take steps to educate and inform the electorate of the proposed measures," when of course such resources and employees are authorized by delegated authority from the Mayor, and program and budget authorizations to assist in such advocacy, education, legal analysis and drafting, and communications. We are concerned that statehood activities generally (which seem to be authorized expenditures under the Statehood Commission legislation and within the general authority of the Mayor's close staff) may be confused with activities connected with the anticipated advisory ballot referendum at some point in the process towards statehood.

Thank you for your advice. If you have further questions, feel free to call either one of us: Beverly Perry at 202.724.5391 or Betsy Cavendish at 202.727.8555.

Cc:

Brian Moore, Chief of Staff to Chairman Mendelson

Janet Robins, Legal Counsel Division, Office of the Attorney General

EXCEL ACADEMY PUBLIC CHARTER SCHOOL
REQUEST FOR PROPOSALS

Multiple Services

Excel Academy Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 solicits proposals for the following services:

- Finance & Accounting Services
- Data Management Services
- Special Education Related Services

Please email bids@excelpcs.org to have a full RFP offering emailed to you, with more detail on scope of work and bidder requirements.

Proposals shall be received no later than 5:00 P.M., Friday, July 1, 2016.

No phone submissions or in person submissions please. Interviews, samples, demonstrations and school visits will be scheduled at our request after the review of the proposals only. Prospective Firms shall submit one electronic submission via e-mail to the following address:

Bid Administrator
bids@excelpcs.org

Please include the bid category for which you are submitting as the subject line in your e-mail (e.g. Staffing Services). Respondents should specify in their proposal whether the services they are proposing are only for a single year or will include a renewal option.

DEPARTMENT OF HEALTH**STATE HEALTH PLANNING AND DEVELOPMENT AGENCY****NOTICE OF INFORMATION HEARING**

Pursuant to D.C. Official Code § 44-406(b) (4), the District of Columbia State Health Planning and Development Agency ("SHPDA") will hold an information hearing on the application of LHC Group, Inc. to acquire Professional Healthcare Resources of Washington, D.C., Inc. Certificate of Need Registration No. 16-2-9. The hearing will be held on Friday, July 15, 2016, at 10:00 a.m., at 899 North Capitol Street, N.E., 2nd Floor, Room 216, Washington, D.C. 20002.

The hearing shall include a presentation by the Applicant, describing its plans and addressing the certifications required pursuant to D.C. Official Code § 44-406(b) (1). The hearing includes an opportunity for affected persons to testify. Persons who wish to testify should contact the SHPDA at (202) 442-5875 before 4:45 p.m. on Thursday, July 14, 2016. Each member of the public who wishes to testify will be allowed a maximum of five (5) minutes. Written statements may be submitted to:

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

Written statements must be received before the record closes at 4:45 p.m. on Friday, July 22, 2016. Persons who would like to review the Certificate of Need application or who have questions relative to the hearing may contact the SHPDA on (202) 442-5875.

DEPARTMENT OF HUMAN SERVICES (DHS)
NOTICE OF FUNDING AVAILABILITY (NOFA)
RFA # DHS-THS-FY17
TRANSPORTATION AND HOTLINE PROGRAM

Purpose/Description of Project

The Department of Human Services (DHS) (the “District”) is soliciting applications from eligible and qualified District-based organizations to provide hotline management, outreach, and transportation services to homeless single adults and families. The Transportation and Hotline Program shall operate on a scheduled basis to serve shelter providers and District residents who are experiencing homelessness. The scheduled transportation is designed to provide general transportation in the mornings and evenings to and from specific, designated locations. In the winter, the District also provides unscheduled (on-demand) transportation during non-regular business hours. On-demand transportation is only provided when a hypothermia alert is in effect.

Eligibility

The following are eligible to apply:

1. A qualified nonprofit organization, including those with IRS 501(c)(3) or 501(c)(4) determinations;
2. A qualified faith-based organization; or
3. A qualified private enterprise.

Review Factors

All applications will be objectively reviewed and scored against the criteria specified in the Request for Applications (RFA).

Length of Award

Grant award(s) will be based on a period of performance from October 1, 2016 to September 30, 2017. The grant(s) may be continued up to four (4) additional option years based on documented project success and availability of funding. Grant recipient(s) will be expected to begin project implementation on October 1, 2016, or after the applicant’s program plan and budget narrative has been approved by DHS.

Available Funding

In FY 2017, approximately up to three million dollars (\$3,000,000.00) in DHS funds will be available to fund services specified in the RFA. Grant(s) will be funded using FY 2017 appropriated funds. All award(s) are contingent upon the availability of funds.

Anticipated Number of Awards

A total of up to five (5) awards are available.

Request for Application (RFA) Release

The RFA will be released on Tuesday, July 5, 2016. The RFA will be posted on the Office of Partnerships and Grant Services website (<http://opgs.dc.gov/page/opgs-district-grants-clearinghouse>) under the District Grants Clearinghouse.

Pre-Application Conference

A pre-application conference will be held at DHS, 64 New York Avenue NE, Washington, DC 20002, 6th Floor Conference Room on Tuesday, July 19, 2016 from 3:00 p.m. - 4:30 p.m. Please contact William Miller at William.miller2@dc.gov or (202) 645-5335 for additional information.

Deadline for Applications

The deadline for submission is Tuesday, August 2, 2016 at 3:00 p.m., Eastern Time (ET). Late or incomplete applications will not be forwarded for review.

**DISTRICT OF COLUMBIA COMMISSION ON
JUDICIAL DISABILITIES AND TENURE**

**Judicial Tenure Commission Begins Reviews Of
Judges Rhonda Reid Winston, Stephen F. Eilperin,
Ronald P. Wertheim, And Peter H. Wolf**

This is to notify members of the bar and the general public that the Commission is reviewing the qualifications of **Judge Rhonda Reid Winston**, of the Superior Court of the District of Columbia, who is retiring and has requested a recommendation for an initial appointment as a Senior Judge. In addition, the Commission is reviewing the qualifications of **Judges Stephen F. Eilperin, Ronald P. Wertheim, and Peter H. Wolf** of the Superior Court of the District of Columbia, who have requested recommendations for reappointment as Senior Judges.

The District of Columbia Retired Judge Service Act P.L. 98-598, 98 Stat. 3142, as amended by the District of Columbia Judicial Efficiency and Improvement Act, P.L. 99-573, 100 Stat. 3233, §13(1) provides in part as follows:

"...A retired judge willing to perform judicial duties may request a recommendation as a senior judge from the Commission. Such judge shall submit to the Commission such information as the Commission considers necessary to a recommendation under this subsection.

(2) The Commission shall submit a written report of its recommendations and findings to the appropriate chief judge of the judge requesting appointment within 180 days of the date of the request for recommendation. The Commission, under such criteria as it considers appropriate, shall make a favorable or unfavorable recommendation to the appropriate chief judge regarding an appointment as senior judge. The recommendation of the Commission shall be final.

(3) The appropriate chief judge shall notify the Commission and the judge requesting appointment of such chief judge's decision regarding appointment within 30 days after receipt of the Commission's recommendation and findings. The decision of such chief judge regarding such appointment shall be final."

The Commission hereby requests members of the bar, litigants, former jurors, interested organizations, and members of the public to submit any information bearing on the qualifications of Judges Winston, Eilperin, Wertheim, and Wolf which it is believed will aid the Commission. The cooperation of the community at an early stage will greatly aid the Commission in fulfilling its responsibilities. The identity of any person submitting materials will be kept confidential unless expressly authorized by the person submitting the information.

All communications should be mailed, faxed, or e-mailed by **August 5, 2016**, and addressed to:

District of Columbia Commission on Judicial Disabilities and Tenure
Building A, Room 246
515 Fifth Street, N.W.
Washington, D.C. 20001
Telephone: (202) 727-1363
FAX: (202) 727-9718
E-Mail: dc.cjdt@dc.gov

The members of the Commission are:

Hon. Gladys Kessler, Chairperson
Jeannine C. Sanford, Esq., Vice Chairperson
Michael K. Fauntroy, Ph.D.
Hon. Joan L. Goldfrank
William P. Lightfoot, Esq.
David P. Milzman, M.D.
Anthony T. Pierce, Esq.

BY: /s/ Gladys Kessler
Chairperson

LAYC CAREER ACADEMY PUBLIC CHARTER SCHOOL**INVITATION FOR BID****Food Service Management Services**

LAYC Career Academy is advertising the opportunity to bid on the delivery of breakfast, lunch, snack and/or CACFP supper meals to students enrolled at the school for the 2016-2017 school year with a possible extension of (4) one year renewals. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast, Lunch, Afterschool Snack and At Risk Supper meal pattern requirements. Additional specifications outlined in the Invitation for Bid (IFB) such as; student data, days of service, meal quality, etc. may be obtained beginning on **July 01, 2016** from **Jeremy Vera at (202) 319-2228 or jeremy@laycca.org**

Proposals will be accepted at 3047 15th Street NW Washington, DC 20009 on **July 25, 2016** not later than **3 PM**.

All bids not addressing all areas as outlined in the IFB will not be considered.

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, July 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.dewater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dewater.com.

DRAFT AGENDA

- | | |
|--|-----------------------|
| 1. Call to Order | Board Chairman |
| 2. Roll Call | Board Secretary |
| 3. Approval of June 2, 2016 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. 18895-A¹ of James Walker, as amended², pursuant to 11 DCMR § 3103.2, for variances from the lot occupancy requirements under § 403.2, the rear yard requirements under § 404.1, the open court width requirements under § 406.1, and the nonconforming structure requirements under § 2001.3, to construct a two-story rear deck addition to a four-unit apartment house in the R-4 District at premises 1107 Penn Street N.E. (Square 4059, Lot 800).

HEARING DATES: May 24, and June 14, 2016³
DECISION DATE: June 14, 2016

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by two memoranda, dated October 15, 2015 and March 11, 2016, from the Zoning Administrator, certifying the required relief. (Exhibits 7 (original) and 28 (revised).)

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 5D and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5D, which is automatically a party to this application. The ANC did not submit a report or participate in the hearing of this case. The Applicant testified that he had presented the application before the ANC and that the ANC voted to recommend approval.

The Office of Planning (“OP”) submitted a timely report and testified in support of the application as amended. (Exhibit 25.) The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 24.)

¹ A prior application, Case No. 18895, for the same property was withdrawn. (Exhibit 28 in Case No. 18895.)

² The application was accompanied by a Zoning Administrator’s referral letter that cited the relief as special exception relief under § 223, not meeting the lot occupancy requirements under § 403.2 and the rear yard requirements under § 404.1. (Exhibit 7.) The Zoning Administrator issued a revised referral letter certifying that the required relief was variances from §§ 403.2, 404.1, 406.1, and 2001.3(b) (Exhibit 28) and the application and caption have been amended accordingly.

³ The case was postponed from the hearing dates of January 26, February 2, March 15, and April 12, 2016 at the Applicant’s request. (Exhibits 26 and 29.) The case was heard on May 24, 2016, and that hearing was continued to June 14, 2016, to allow time for the Applicant to post notice on the property. An affidavit of posting was submitted to the record. (Exhibit 33.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2 for an area variance from the lot occupancy requirements under § 403.2, the rear yard requirements under § 404.1, the open court width requirements under § 406.1, and the nonconforming structure requirements under § 2001.3, to construct a two-story rear deck addition to a four-unit apartment house in the R-4 District. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be 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 11 DCMR §§ 403.2, 404.1, 406.1, and 2001.3, the Applicant has met the burden of proof under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 23.**

VOTE: **5-0-0** (Marnique Y. Heath, Anita Butani D'Souza, Frederick L. Hill, Jeffrey L. Hinkle, and Marcie I. Cohen to APPROVE.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: June 21, 2016

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

BZA APPLICATION NO. 18895-A
PAGE NO. 2

EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. 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. 19205 of William Magrath and Susan Shen, as amended¹, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the rear yard requirements under § 404, and the nonconforming structure requirements under § 2001.3, to construct a rear deck to an existing one-family dwelling in the R-3 District at premises 1541 44th Street N.W. (Square 1327, Lot 40).

HEARING DATE: June 14, 2016²

DECISION DATE: June 14, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits ("Ex.") 6 (original) and 43 (revised).) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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") 3D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3D, which is automatically a party to this application. ANC 3D filed a report, dated June 7, 2016, which indicated that at a properly noticed, regularly scheduled public meeting held on June 1, 2016, with a quorum of Commissioners present, the ANC voted 6-0-1 to support the application based on the revised plans. (Ex. 39-41.) In a prior report, the ANC recommended removal of the case from the Expedited Review calendar and for the application to be denied based on the original plans. (Ex. 23.)

The Office of Planning ("OP") submitted a report indicating its support of the application. In its report OP recommended adding relief from §§ 406.1 (Courts) and 2001.3 (Nonconforming structures). (Ex. 25.) At the hearing on June 14, 2016, OP testified in support of the application at the public hearing and also testified that it no longer believed that relief for open courts is

¹ The Applicant amended the application to add special exception relief from the nonconforming structure requirements under § 2001.3 at the Office of Planning's recommendation. The caption has been changed accordingly.

² This case was removed from the Expedited Review calendar of February 23, 2016 due to party status applications in opposition being filed. The hearing was scheduled and then postponed from the hearing dates of March 22, April 5, April 19, and May 24, 2016, at the request of the Applicant and the neighbors in opposition. (Exhibits 27, 28, and 34.) The case was heard on June 14, 2016.

necessary based on the revised plans, but stated that it continued to believe that relief for nonconforming structures should be added. The District Department of Transportation ("DDOT") submitted a timely report of no objection to the application. (Ex. 26.)

Two requests for party status in opposition were submitted to the record from the Applicant's adjacent neighbors, the Szymkowiczs and the Schaumbers. (Ex. 21 and 29.) Based on testimony at the June 14, 2016 hearing from JP Szymkowicz and a filing from Alexandra Schaumber that they now support the application based on the revised plans, the Board denied both party status requests.

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception under 11 DCMR §§ 223, 404, and 2001.3. 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 and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 223, 404, 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 the accordance with the Zoning Regulations and Map. Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirements 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, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBITS 36-37.**

VOTE: **5-0-0** (Marnique Y. Heath, Anita Butani D'Souza, Frederick L. Hill, Jeffrey L. Hinkle, Marcie I. Cohen to APPROVE.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: June 23, 2016

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-

BZA APPLICATION NO. 19205

PAGE NO. 2

YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. 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. 19261 of Ryland Memorial Church., as amended¹, pursuant to 11 DCMR § 3104.1, for a special exception from the child development center requirements under § 205, to allow the expansion of a child development center in the R-1-B District at premises 3200 S Street S.E. (PAR 207, Lot 80).

HEARING DATES: May 17, 2016 and June 7, 2016²
DECISION DATE: June 7, 2016

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated February 2, 2016, from the Zoning Administrator, certifying the required relief.³ (Exhibit 4.)

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”) 7B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 7B, which is automatically a party to this application. The ANC submitted a report of support to the record that indicated that at a regularly scheduled and properly noticed public meeting on May 19, 2016, at which a quorum was present, the ANC voted to approve the application, with conditions, by a vote of 5:1:1. In its report, the ANC noted that the Applicant made concessions regarding concerns raised by community members regarding trash and traffic during drop off. (Exhibit 27.) The Applicant testified that it accepted those terms.

¹ The Applicant originally filed an application for a variance from § 2002.3 based on a referral letter from the Zoning Administrator certifying the required relief as a variance from the nonconforming use requirements under § 2002.3. However, in its report, the Office of Planning (“OP”) noted that a childcare center is a permissible use in the R-1-B zone, and its establishment or expansion would require special exception approval pursuant to § 205. (Exhibit 21.) At the public hearing on June 7, 2016, the Applicant indicated that it wanted to amend its application to request special exception relief from § 205, per OP’s recommendation. The caption has been changed accordingly.

² The case was postponed at the request of ANC 7B and the child development center operating at the Applicant’s property from the hearing date of May 17, 2016. (Exhibits 20 and 23.) The Board heard the merits of the case at the June 7, 2016 public hearing.

³ The Board accepted the Applicant’s amendment of its application based on the Office of Planning’s recommendation without a revised Zoning Administrator’s letter on the advice of the Office of the Attorney General.

The Office of Planning (“OP”) submitted a report of support for the application with conditions. (Exhibit 21.) As noted herein, OP recommended that the application be evaluated as a special exception under § 205 rather than as a use variance. At the hearing on June 7, 2016, OP testified to amend Condition No. 1 to increase the maximum student enrollment to 78 and to add “pick up” to Condition No. 5 regarding student drop-off. In addition to accepting OP’s recommendation of the relief required, the Applicant testified that it accepted OP’s conditions, as amended.

The District Department of Transportation (“DDOT”) submitted a report that indicated that it had no objection to the grant of the application. (Exhibit 22.) The Office of the State Superintendent of Education (“OSSE”) submitted a letter to the record recommending approval of the application. (Exhibit 32.)

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 § 205. 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 ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, 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. Student enrollment shall not exceed 78.
2. The permitted age range of students shall be from three months up to and including 12 years old.
3. The number of staff shall not exceed 18.
4. The hours of operation shall be between 7:00 AM and 6:00 PM, Monday through Friday.
5. Vehicular drop-off and pick-up of students shall only be from S Street, S.E.

6. The Applicant shall keep the premises of the church and the adjacent public space area cleaned of litter on a daily basis.

7. The Applicant shall inform parents dropping off children to not block traffic in the vicinity of the church.

VOTE: **4-0-1** (Marnique Y. Heath, Anita Butani D'Souza, Frederick L. Hill, and Michael G. Turnbull, to APPROVE; Jeffrey L. Hinkle, not participating.)

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: June 20, 2016

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.

BZA APPLICATION NO. 19261

PAGE NO. 3

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19265 of Marc Ross, as amended,¹ pursuant to 11 DCMR §§ 3103.2, 3104.1, and 411, for a variance from the penthouse use requirements under § 411.5(b), and a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, and special exceptions from the rooftop structure requirements under § 400.24, the rooftop mechanical equipment requirements under § 411.5, the penthouse enclosing wall requirements under § 411.10, and the penthouse screening requirements under § 411.18, to construct a rear addition to an existing two-story, one-family dwelling in the R-4 District at premises 1018 9th Street, N.E. (Square 909, Lot 21).

HEARING DATES: May 24, 2016 and June 14, 2016

DECISION DATE: June 14, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 6 (original), 23 (1st revised), and 33 (2nd revised).) In granting the certified relief, the Board of Zoning Adjustment ("Board") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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. ANC 6A

¹ The Applicant originally requested special exception relief under § 223 not meeting the lot occupancy requirements of § 403.2 and submitted a waiver of public hearing for Expedited Review. (Exhibit 6 - original self-certification and Exhibit 2 – Waiver of Public Hearing for Expedited Review.) The application was placed on the Expedited Review Calendar of the Public Meeting of May 24, 2016. On April 14, 2016, the Applicant amended the application, and, as a result of the amendment, the application was removed from the Expedited Review Calendar and scheduled for a public hearing on May 24, 2016. The Applicant added special exceptions under §§ 400.24 (rooftop structure), 411.5 (rooftop mechanical equipment), and 411.18 (penthouse screening). (See Exhibit 23 – revised self-certification.) The Applicant posted the property with the amended relief on April 28, 2016. (See Exhibit 28, affidavit of posting, dated April 28, 2016.) At the May 24th hearing, the Applicant further amended the application with additional relief recommended by the Office of Planning. The Board continued the hearing to June 14, 2016 to afford the Applicant an opportunity to submit a revised self-certification form and post the property with the revised relief for the required 15-day period. Per the Board's instruction, the Applicant filed a final revised self-certification form (Exhibit 33) and posted the property with the relief being requested. (Exhibit 34 - affidavit of posting). The caption has been amended accordingly.

submitted a report noting that at a regularly scheduled and properly noticed meeting on May 12, 2016, with a quorum present, it voted 8 to 0 in support of the application “on the condition that the materials used on the front of the design be extended to all areas on the addition that are visible from the street.” (Exhibit 29.) At the hearing on June 14, 2016, the Board inquired about the Applicant’s view of the ANC’s condition, and the Applicant’s architect testified that the Applicant plans to meet the ANC’s condition.

The Office of Planning (“OP”) submitted a report on May 17, 2016 recommending approval of the application as first amended by the Applicant and noted that additional relief may be required in the form of a variance from § 411.5(b) for penthouse use and a special exception under § 411.10 related to penthouse enclosing walls. OP expressed its support for the application should it be further amended. (Exhibit 31.) As noted in footnote 1 herein, the Applicant amended the application to include the relief suggested by OP.

The D.C. Department of Transportation submitted a report expressing no objection to the application. (Exhibit 27.)

At the time of the hearing, there were no letters filed in support of the application. However, the Applicant’s representative testified that he had several support letters, and the Board left the record open to allow submission of the letters in support. However, at the time of this written order, no letters had been filed.

Variance Relief:

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for a variance from § 411.5(b). The only parties to this case were the Applicant and ANC 6A which supported the application. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be averse 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 § 411.5(b), 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.

Special Exception Relief:

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1 and 411, for special exception relief under §§ 223, 403.2, 400.24, 411.5, 411.10, and 411.18. 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 ANC and the OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 411, 223, 403.2, 400.24, 411.5, 411.10, and 411.18, 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, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 30 – REVISED ARCHITECTURAL PLANS.**

VOTE: 5-0-0 (Marnique Y. Heath, Anita Butani D’Souza, Frederick L. Hill, Jeffrey L. Hinkle, and Marcie I. Cohen to APPROVE).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this summary order.

FINAL DATE OF ORDER: June 17, 2016

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

BZA APPLICATION NO. 19265

PAGE NO. 3

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19272 of Alejandro Rosenberg, pursuant to 11 DCMR § 3103.2, for variances from the lot occupancy requirements under § 403, the rear yard requirements under § 404, the open court requirements under § 406, the nonconforming structure requirements under § 2001.3, and the parking space size requirements under § 2115, to allow the construction of a deck addition to an existing one-family dwelling in the R-1-B District at premises 3522 Davenport Street, N.W. (Square 1978, Lot 37).

HEARING DATE: June 14, 2016

DECISION DATE: June 14, 2016

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated March 4, 2016, from the Zoning Administrator certifying the required relief. (Exhibit 6.)

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission (“ANC”) 3F and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3F, which is automatically a party to this application. The ANC submitted a report indicating that at a duly noticed and scheduled public meeting on March 15, 2016, at which a quorum was in attendance ANC 3F voted 6-0-0 in support of the application. (Exhibit 13.)

The Office of Planning (“OP”) submitted a timely report (Exhibit 27) and testified in support of the application. The District Department of Transportation (“DDOT”) filed a report expressing no objection to the application. (Exhibit 28.)

Letters from the two abutting neighbors were submitted in support of the application. (Exhibits 15 and 25.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for variances from the lot occupancy requirements under § 403, the rear yard requirements under § 404, the open court requirements under § 406, the nonconforming structure requirements under § 2001.3, and the parking space size requirements under § 2115, to allow construction of a deck addition in the R-1-B District. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking variances from §§ 403, 404, 406, 2001.3, and 2115, the Applicant has met the burden of proof under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case. It is therefore **ORDERED** that the application is hereby **GRANTED, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 8.**

VOTE: 5-0-0 (Anita Butani D'Souza, Marcie I. Cohen, Marnique Y. Heath, Frederick H. Hill, and Jeffrey L. Hinkle to APPROVE.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: June 20, 2016

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

BZA APPLICATION NO. 19272
PAGE NO. 2

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. 19273 of John and Theresa Mongan, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, to construct a rear addition to an existing one-family dwelling in the R-3 District at premises 3015 P Street, N.W. (Square 1269, Lot 801).

HEARING DATE: Applicant waived right to a public hearing

DECISION DATE: June 14, 2016

SUMMARY ORDER

SELF CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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 its right to a hearing.

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") 2E, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2E, which is automatically a party to this application. The ANC submitted a report indicating that at a regularly scheduled and properly noticed meeting on May 2, 2016, at which a quorum was in attendance, ANC 2E voted 8-0-0 to support the application. (Exhibit 24.)

The Office of Planning ("OP") submitted a timely report in support of the application. (Exhibit 26.) The District Department of Transportation ("DDOT") submitted a report of 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 and 403.2. No parties appeared at the public meeting in opposition to this application. Accordingly, a decision by the Board to grant this application would not be averse 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 403.2, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 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 AND, PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 9.**

VOTE: **5-0-0** (Marnique Y. Heath, Anita Butani D'Souza, Frederick L. Hill, Jeffrey L. Hinkle, and Marcie I. Cohen to APPROVE).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: June 16, 2016

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

BZA APPLICATION NO. 19273

PAGE NO. 2

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. 19276 of James and Erika Hunter, as amended,¹ pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, the court width requirements under § 406.1, and the nonconforming structure requirements under § 2001.3, and special exceptions from the height requirements under §§ 400.23, 400.24 and 400.25, to construct a third-floor addition to an existing two-story, one-family dwelling in the R-4 District at premises 1234 Duncan Place, N.E. (Square 1008, Lot 78).

HEARING DATE: June 14, 2016

DECISION DATE: June 14, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 8 – original self-certification and 30 – revised self-certification.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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 located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A, which is automatically a party to this application. ANC 6A submitted a report dated May 13, 2016, noting that at a regularly scheduled and properly noticed meeting on May 12, 2016, with a quorum present, it voted 8 to 0 in support of the application with "the condition that the materials used on the front of the design be extended to all areas on the addition that are visible from the street." (Exhibit 27.) At the hearing, when questioned by the Board about the ANC's proposed condition, the Applicant's representative testified that the ANC's condition would be met.

The Office of Planning ("OP") submitted a timely report recommending approval of the amended relief, including approval under § 400.24 to alter the existing mansard and bay gable. (Exhibit 33.)

¹ The Applicant originally requested special exception relief under § 223, not meeting the lot occupancy requirements under § 403.2, the nonconforming structure requirements under § 2001.3, and alteration of roof top architectural elements under §§ 400.23 and 400.24. (Exhibit 8 – original self-certification). On May 27, 2016, the Applicant filed a revised self-certification adding special exception relief under §§ 406.1 and 400.25 as indicated in the caption. (Exhibit 30 – revised self-certification).

D.C. Department of Transportation submitted a timely report indicating that it had no objection to the application. (Exhibit 34.)

Four letters in support were submitted to the record from neighbors residing in proximity to the subject property. One letter was from Ian Bishop residing at 1232 Duncan Place, N.E. (Exhibit 9) and a second letter from Ian Bishop also included Claire Watkins as signatory (Exhibit 13). Two letters were received from Michael O'Neal, the adjacent property owner residing at 1236 Duncan Place, N.E. (Exhibits 10 and 28). A nearby property owner, Neavelle Coles, residing at 1215 E Street, N.E. testified at the hearing in support of 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 special exception relief under §§ 223, 403.2, 406.1, 2001.3, 400.23, 400.24, and 400.25. The only parties to the case were the Applicant and the ANC which expressed support for the application. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be averse 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, for special exception relief under §§ 223, 403.2, 406.1, 2001.3, 400.23, 400.24, and 400.25, that the requested relief can be granted, being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

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, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 31 – REVISED ARCHITECTURAL PLANS AND ELEVATIONS.**

VOTE: 5-0-0 (Marnique Y. Heath, Frederick L. Hill, Anita Butani D'Souza, Jeffrey L. Hinkle, and Marcie I. Cohen to APPROVE).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: June 20, 2016

BZA APPLICATION NO. 19276
PAGE NO. 2

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. 19291 of Geoffrey Earle and Cecilia Cortes-Earle, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, and the rear structure requirements under § 404.1, to construct a back deck to an existing one-family dwelling in the R-4 District at premises 1632 Hobart Street N.W. (Square 2591, Lot 790).

HEARING DATE: June 21, 2016

DECISION DATE: June 21, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 3.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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") 1D and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1D, which is automatically a party to this application. The ANC submitted a report to the record that indicated that at a regularly scheduled and properly noticed public meeting on May 24, 2016, at which a quorum was present, the ANC voted to approve the application by a vote of 3:0:0. (Exhibit 27.)

The Office of Planning ("OP") submitted a timely report of support for the application. (Exhibit 29.) The District Department of Transportation ("DDOT") submitted a report that indicated that it had no objection to the grant of the application. (Exhibit 28.)

Letters in support from two adjacent neighbors were submitted to the record. (Exhibits 25 and 26.)

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, not meeting the lot occupancy requirements under § 403.2, and the rear structure requirements under § 404.1, to construct a back deck to an existing one-family dwelling in the R-4 District. 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 ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 223, 403.2, and 404.1, 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, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED PLANS AT EXHIBITS 10 AND 11.**

VOTE: **5-0-0** (Marnique Y. Heath, Frederick L. Hill, Anita Butani D'Souza, Jeffrey L. Hinkle, and Peter G. May, to APPROVE.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: June 22, 2016

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE

BZA APPLICATION NO. 19291

PAGE NO. 2

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. 19296 of James Little and William Colwell, pursuant to 11 DCMR § 3104.1, for a special exception from the rooftop structure requirements under § 400.24, to construct a third-story addition to an existing flat in the R-4 District at premises 26 Adams Street, N.W. (Square 3123, Lot 50).

HEARING DATE: June 21, 2016¹

DECISION DATE: June 21, 2016

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief. (Exhibit 9.)

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”) 5E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5E, which is automatically a party to this application. ANC 5E submitted a report, dated June 20, 2016, indicating that at a duly noticed and scheduled public meeting on May 17, 2016, at which a quorum was in attendance, the ANC voted unanimously (8-0-0) in support of the application. (Exhibit 39.)

The Office of Planning (“OP”) submitted a timely report on June 14, 2016, recommending approval of the application (Exhibit 35) and testified in support of the application at the hearing.

The D.C. Department of Transportation submitted a timely report on June 7, 2016 indicating that it had no objection to the application. (Exhibit 33.)

The Meeting Minutes of the Bloomingdale Civic Association’s May 16, 2016 meeting were submitted to the record for this case. Item #12 in the minutes indicates that the Applicants presented the application to the association which voted 17-0 to support the application. (Exhibit 36.) One letter in support was submitted to the record from an adjacent property owner. (Exhibit 34.)

¹ The Applicant in this case originally requested a waiver of the public hearing for expedited review. (See Exhibit 2.) However, by letter dated April 27, 2016, the Applicant requested to be removed from the Expedited Review Calendar and to be reviewed at a public hearing instead. (Exhibit 13.)

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 § 400.24. The only parties to the application were the Applicant and the ANC which expressed support for the application. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be averse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 400.24, that the requested relief can be granted, being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

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, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 7 - ARCHITECTURAL PLANS AND ELEVATIONS.**

VOTE: 5-0-0 (Frederick L. Hill, Marnique Y. Heath, Anita Butani D'Souza, Jeffrey L. Hinkle, and Peter G. May to Approve.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: June 22, 2016

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

BZA APPLICATION NO. 19296

PAGE NO. 2

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.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 08-30C**

Z.C. Case No. 08-30C

25 M Street Holdings, LLC

**(Modification to an Approved Project within the CG Overlay Zone @
Square 700, Lots 33, 802, 840, 841, 850, 864, 865, 868, 871, 872, 873, 874, and 875)**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on March 31, 2016 to consider an application from 25 M Street Holdings, LLC (“Applicant”) for modification to the previously approved plans for Lots 33, 802, 840, 841, 850, 864, 865, 868, 871, 872, 873, 874, and 875 in Square 700 (“Property”) pursuant to §§ 1604, 1607, and 1610 of the Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR” or “Zoning Regulations”). The modification application sought continued relief from: the setback requirements along M Street, S.E. (§ 1604.3); and the setback requirements along Half Street, S.E. (§ 1607.2).¹

FINDINGS OF FACT

1. On January 11, 2016, the Applicant filed an application for modification of the office building portion of the mixed-use project that was approved in Z.C. Order Nos. 08-30 and 08-30A. The Applicant noted that this application only applies to a portion of the building on Lot 873 that was approved in Z.C. Case Nos. 08-30 and 08-30A.²
2. Prior to the public hearing, the Applicant supplemented its application with additional information on March 11, 2016. In that supplemental statement, the Applicant requested relief from the penthouse setback requirements along the Via. At the March 31, 2016 public hearing in this case, the Applicant withdrew that request for relief. (Exhibit [“Ex.”] 15.)
3. A public hearing was held on March 31, 2016. Parties to the case included the Applicant and Advisory Neighborhood Commission (“ANC”) 6D, the ANC in which the Property is located. Proper notice of the hearing was provided by the Office of Zoning pursuant to 11 DCMR § 3015.
4. Testimony was presented by the Applicant’s project team which included Adam Gooch on behalf of the Applicant and William Hellmuth of HOK Architects. Mr. Hellmuth was qualified by the Commission as an expert in the area of architecture.

¹ The original application noted that relief from the ground-floor preferred retail requirements of §1607.3 was also required. At the public hearing, the Applicant noted that such relief was no longer necessary.

² The Applicant noted that a separate application (Z.C. Case No. 08-30B) was filed to modify the portion of the building that will be located on Lots 33, 802, 840 841, 850, 864, 865, 868, 871, 872, 874, and 875 in Square 700. Although part of the same building, these modification applications should be viewed as separate and distinct applications.

5. ANC 6D submitted a resolution in support of the application, dated March 22, 2016, into the record. (Ex. 19.)
6. At the conclusion of the public hearing, the Commission indicated support for the proposed modification of the office building component of the project as an overall improvement of the previously approved design, and requested that the Applicant: revise the treatment of the proposed architectural embellishment on the roof of the building and provide fully dimensioned sections and plans for the roof; provide additional details on the operable windows for the retail use on the second floor; and provide additional information on the digital signage proposed for the building.
7. The Applicant submitted a post-hearing submission on April 21, 2016 which addressed the comments raised at the March 31, 2016 public hearing. The Applicant submitted its proposed Findings of Fact and Conclusions of Law, pursuant to 11 DCMR § 3026 on April 28, 2016. (Ex. 23-23C2, 24.)
8. At a regularly scheduled public meeting on May 9, 2016, the Commission reviewed the Applicant's post hearing submission. The Commission stated that it did not think the design of the proposed rooftop embellishment was appropriate. The Commission further stated that it did not approve of the Applicant's proposed digital signage. The Commission requested that the Applicant consider a revised rooftop design and remove the references in the plans to the signage.
9. The Applicant submitted a second post-hearing submission on May 26, 2016 that addressed the comments raised by the Commission at its May 9, 2016 public meeting. The Applicant attached revised plans showing a revised rooftop design and stating that it was no longer requesting the Commission's approval for the size and location of the digital signage. (Ex. 25, 25A.)
10. At a regularly scheduled public meeting on June 13, 2016, the Commission took Final Action to approve the application. The Commission determined that the project satisfies all applicable requirements of the CG Overlay District and that the Applicant met its burden of proof regarding the requested variance relief.

Background

11. The Property is located in the CG/CR Zone District. Pursuant to Chapter 16 of the Zoning Regulations, the Commission originally approved a mixed-use project on the Property that included approximately 260-300 residential units, approximately 370,019 square feet of office space along M and Half Streets, S.E., approximately 53,840 square feet of ground-floor retail throughout the entirety of the building, and a maximum building height of 110 feet. The original approval became effective on April 10, 2009 with the issuance of Z.C. Order No. 08-30. In 2011, the Commission approved a minor modification of the approved plans (Z.C. Order No. 08-30A), which resulted in a project that consisted of approximately 288,242 square feet of residential use, approximately

369,292 square feet of office space, and approximately 51,624 square feet of retail space. The maximum height of the building remained 110 feet.

Proposed Modification Application

12. The Applicant requested modifications to the office building along M Street, S.E. in order to better respond to current office market demand and further refine and enhance the architectural treatment of the building. The Applicant noted that the modifications respond to the office market's demand for more column free spaces and more natural light flowing into the interior offices. The distance between the interior core of the building and the exterior windows will be reduced from 62 feet to 45 feet. The ground-floor lobby space has been slightly altered and new outdoor terraces at the third, fourth, and ninth levels of the building along Half Street, S.E. and M Street, S.E. have been introduced into the building. No changes are proposed to the height of the building, which remains 110 feet. (Ex. 15.)
13. The Applicant noted that these changes result in a decrease in the amount of office space gross floor area of approximately 23,030 square feet. The Applicant believes that this new design is a significant and necessary change that will result in a higher quality building and allow this portion of the project to move forward in an expeditious manner. (Ex. 15.)
14. The Applicant presented written statements and testimony that the proposed modifications still allow for a strong three story presence at the corner of Half Street, S.E. and M Street, S.E. to allow the building to "hold" that important corner. The ground-floor retail spaces will have a floor-to-floor height of up to 20 feet and the second floor will have a floor-to-floor height of up to 15 feet, which will allow for retail or office uses on the second floor. The new outdoor terraces will help further the vitality and dynamism of the building which is created by the active retail spaces at the street level. The exterior materials of the building continue to be of a very high quality and reflect a uniqueness that has not been previously constructed along M Street. (Ex. 15.)
15. The Applicant removed the previously approved third level of below-grade parking for this site. This will result in the provision of 157 parking spaces for the office and retail uses. The Zoning Regulations require 149 parking spaces for these proposed uses. (Ex. 15.)
16. The proposed building also includes modifications to the previously approved architectural embellishment on the roof. In response to the Commission's comments at the March 31, 2016 public hearing and at the May 9, 2016 public meeting, the Applicant revised the proposed embellishment and noted that the embellishment returns to the previously approved concept of more pronounced tower elements at the northern and southern ends of the embellishment. (Ex. 25, 25A.)

17. The Applicant noted that the modifications to the office building are entirely consistent with the intent of the CG Overlay and the original approvals of this project. These changes do not create any new areas of relief needed from the requirements of Chapter 16 of the Zoning Regulations. The areas of relief that were previously granted for this building, setbacks along M Street and Half Street are not exacerbated by this modification as follows:
- a. Subsection 1604.3 requires the streetwall of each new building shall be set back for its entire height and frontage along M Street not less than 15 feet measured from the face of the adjacent curb along M Street. The modified building continues to provide a 15-foot setback from the streetwall of the building to the face of the curb along M Street at the ground floor of the building. The modified building continues to propose a projection into this 15-foot setback area above the ground floor for the portion of the façade which is located above the office lobby entrance.

The Commission previously noted that the granting of this relief:

[w]ill not have an adverse impact on the streetscape. The required setback is provided at the ground floor to allow for wide sidewalks to promote the pedestrian experience. Pedestrians will be able to patronize the retail spaces with ease, but will also be able to experience the punctuations the proposed projection creates along the streetscape... The projection occurs above twenty feet and helps create the dynamic streetscape that the CG overlay regulations intended to create.” (See Z.C. Order No. 08-30, p. 16.)

The Applicant stated that all of the same reasons and rationale for the proposed projection into the 15-foot setback area along M Street are applicable in this modification application; and (Ex. 15.)

- b. Subsection 1607.2 requires a building to step-back a minimum of 20 feet along Half Street above a height of 65 feet. In Z.C. Case No. 08-30, the project architects noted that the purpose of this requirement was to encourage buildings with articulated façades rather than a uniform streetwall to help ensure a pedestrian environment. The approved project included projections and recessions throughout the building wall, starting at ground level to enhance the pedestrian experience and to create interesting focal points along Half Street. The Commission determined that granting relief from the Half Street setbacks is not detrimental to the public good, that the projections will not diminish views of surrounding landmarks and will not have a negative effect on the light and air for neighboring uses, and the building will create a more exciting and interactive experience for pedestrians along Half and M Streets. (See Z.C. Order No. 08-30, p. 15.)

The proposed modifications to the approved building actually reduce the amount of building area which is located in the required Half Street setback. Almost all of the 23,030 square feet of office space that has been removed from the building was located in this Half Street setback area, above the 2nd floor of the building. Any impact on neighboring uses or buildings as a result of the previous relief has been reduced. The Applicant noted that this removal of office gross floor area does not diminish the exciting and interactive experience of the building along Half Street which was noted in Z.C Order No. 08-30. (Ex. 15.)

18. The Applicant stated that its representatives had discussions with representatives of DDOT regarding the proposed vehicular entrances to the loading dock and parking garage from Van Street, S.E. DDOT requested that the Applicant provide information as to why the proposed curb cuts could not be separated by at least 24 feet, rather than the seven feet, six inches proposed by the Applicant. The Applicant noted that several factors require the clustering of the curb cuts, including: the prohibition of curb cuts on M and Half Streets and the lack of public alley access to the site; building code requirements related to the location of the garage exhaust vents; and the desire of the Applicant to create active and vibrant retail spaces along Van Street adjacent to the Via and closer to the intersection of M Street and Van Street. The Applicant also noted that if it is required by DDOT to re-locate the curb cuts so that they are 24 feet apart, it would result in the loss of approximately 1,500 square feet of ground-floor retail space and approximately 10 parking spaces. The loss of these additional parking spaces would require the Applicant to excavate the third parking level. The construction of a third parking level will trigger significant additional costs related to remediation of environmental issues and water removal. (Ex. 15.)
19. The Applicant proposed Transportation Demand Management (“TDM”) and Loading Management Plans that were similar to the plans that have been proposed and adopted by the other projects in the immediate area that will also be utilizing Van Street for vehicular access. The Applicant’s TDM plan included the following elements:
 - The Applicant will comply with zoning requirements to provide bicycle parking/storage facilities. This includes secure parking located in the garage for tenants;
 - The Applicant will provide a bicycle maintenance facility within the building;
 - The Applicant will identify a TDM Leader (for planning, construction, and operations). The TDM Leader will work with goDCgo staff to create free customized marketing materials and a TDM outreach plan for tenants;
 - The building management will provide updated contact information for the TDM Leader and report TDM efforts and amenities to goDCgo staff once per year;

- The building management will stock Metrorail, Metrobus, DC Circulator, Capital Bikeshare, Guaranteed Ride Home, DC Commuter Benefits Law, and other brochures;
 - The Applicant will provide shower and locker facilities to tenants of the building to encourage cycling as a mode of transportation;
 - The Applicant will place an electronic message board in the lobby that provides real-time information on nearby transit services; and
 - The Applicant will install two electric car charging stations within the parking garage. (Ex. 15B.)
20. Due to the need for back-in loading from Van Street, a loading management plan was proposed by the Applicant. The loading management plan included the following components:
- Deliveries will be permitted between 7:00 a.m. and 4:00 p.m., seven days a week, except for when events occur at Nationals Park. Deliveries cannot be scheduled for the period between two hours when an event begins and one hour after an event is completed, including during the event itself;
 - Building management will not schedule deliveries during Nationals Park events as defined above when there could be heavier than typical pedestrian traffic on Van Street;
 - Unscheduled deliveries such as FedEx, UPS, US Postal Service or courier are not subject to these restrictions;
 - A loading dock manager will supervise deliveries to the loading dock. For vehicles larger than 20 feet in length, the loading dock manager or designated representative will assist vehicles backing into the loading facilities to manage conflicts with pedestrian and vehicle traffic on Van Street;
 - Building management will post a sign in a highly visible location within the loading area that states that all loading activities must be scheduled through building management; and
 - Trucks using the loading dock will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 - Chapter 9, Section 900 (Engine Idling), the regulations set forth in DDOT's Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System. (Ex. 15B.)

Office of Planning (“OP”) Report

21. By report dated March 21, 2016, OP noted that the application generally successfully addresses the criteria of the CG Overlay and OP strongly supports the application as the project would help create a vibrant pedestrian environment and contribute to the architectural character of the area. OP requested that the Applicant address the following issues prior to the public hearing in this case:³ submission of additional detail on the look and functionality of operable windows for potential retail uses on the second floor; refinements to the roof embellishment that will lighten the feel of the embellishment or differentiate it from the diagonal element below; clarification that all guardrails at the roof level meet the setback requirements; provide an estimation of the monetary contribution to the Housing Production Trust Fund resulting from the penthouse habitable space; and provide an additional rendering looking down Half Street toward the ballpark. (Ex. 18.)
22. At the public hearing, the Applicant presented testimony that the expected contribution to the Housing Production Trust Fund, as a result of the penthouse habitable space, will be approximately \$248,000 and provided the requested additional rendering looking down Half Street toward the ballpark. The Applicant’s post-hearing submission provided the additional information requested in the OP Report. (Ex. 23, 23A, 23B.)

Department of Transportation (“DDOT”) Report

23. By report dated March 21, 2016, DDOT noted that it has no objection to the requested approval, but the separation of the two curb cuts on Van Street does not meet DDOT standards. The DDOT report stated that the Applicant is expected to continue to work with DDOT outside of the Commission process on the following matters:
 - a. Public space, including curb and gutter, street trees and landscaping, street lights, sidewalks, and other features within the public rights-of-way, are expected to be designed and built to DDOT standards. Careful attention should be paid to pedestrian and bicycle connections along the site’s perimeter and adjacent infrastructure;
 - b. DDOT expects the Applicant to coordinate with DDOT on curb cut location and design to meet DDOT standards and to apply for the appropriate public space permits; and
 - c. A unified streetscape design for the entirety of Half Street between M and N Streets as design details are coordinated between DDOT, Office of Planning, and all property owners who front on Half Street. A design must

³ The OP report also requested that the Applicant provide more detail regarding why full compliance with the penthouse setback requirements would be unduly restrictive. At the public hearing, the Applicant noted that it was not seeking penthouse setback relief.

be finalized by the time the site is ready for occupancy as a temporary streetscape is not acceptable.

ANC 6D Report

24. By report dated March 21, 2016, ANC 6D noted that at its duly noticed meeting with a quorum present, a quorum being four Commissioners, ANC 6D voted 6-0-0 to submit a letter to the Commission noting its support for the modification application. The ANC 6D letter noted that the proposed modifications do not change the height of the building but do reduce the amount of office space by over 22,000 square feet. The ANC 6D report stated a number of issues and concerns:
- a. First, ANC 6D noted that it still expects the Applicant to abide by the conditions of the Community Benefits Agreement (“CBA”) that was part of the initial Commission approval in Z.C. Case No. 08-30, including the LEED commitments;
 - b. Second, with respect to the specific relief requested in the application, the report stated that the ANC did not oppose the requests for relief, and that the ANC supports the design of the building. The ANC further stated that it expected that Applicant’s public space permit request will include extensive landscaping on the public-facing portions of the street level, and would plan for the presence of many dogs;
 - c. Third, the report stated that the ANC supported green building, noted that Z.C. Order 08-30A required the project to achieve LEED-Gold certification, and that the CBA provides the Applicant is willing to target LEED-Platinum certification. The ANC requested that the Commission not reduce the Applicant’s LEED obligation, and that it expected the Applicant to adhere to the CBA. The ANC’s report further stated the it supports reducing glazing reflectivity and/or the introduction of “visual noise” to reduce bird collisions; and
 - d. Fourth, with respect to construction and operation phases of the project, the ANC requested that the Commission include a condition in this Order related to after-hours construction of the project. The ANC further stated a number of issues and concerns related to the transportation related aspects of the project, namely, that the Applicant should include transportation management and loading management plans as conditions of the Order, that the transportation and loading management plans must include an adequate plan for situations when an emergency services are required at the building. The ANC 6D report also noted its support for the use of underground parking spaces for special event parking (including Nationals’ games). Finally, the ANC 6D letter noted its support for efforts to encourage pedestrian, bicycle, and public transit access to the site and the special treatment of the public spaces on Van and Half Streets to “increase the draw and character of the street”, to facilitate pedestrian circulation when events occur at Nationals Park”, and the use of permeable pavers for stormwater management. (Ex. 19.)

Z.C. ORDER NO. 08-30C

Z.C. CASE NO. 08-30C

PAGE 8

25. The Commission considered the ANC's issues and concerns and finds as follows:
- a. First, with respect to the CBA, the Commission did not include compliance with its terms as a condition of its approval of that application of Z.C. Order No. 08-30 because, "[the Commission's] review of the application is limited to the standards established in § 1610 of the Zoning Regulations, which do not include consideration of the benefits and amenities provided by the Applicant to the community. The Commission believed that conditioning the approval of the application on such benefits and amenities was therefore inappropriate." (Z.C. Order 08-30 at p. 21.) The Commission continues to hold that position. Nevertheless, the CBA is a private agreement between the parties and the Commission does not intend this Order to affect its terms. Z.C. Order No. 08-30 includes a requirement that the Applicant achieve a minimum number of LEED points because the building's environmental features are within the scope of the Commission's review of the application. (11 DCMR § 1610.3(f).) This Order continues to include the LEED commitment in its conditions;
 - b. Second, with respect to the ANC's comments related to the future Applicant's public space permit application, the Applicant is free to include whatever it chooses in its application before the Public Space Committee as long as it is consistent with the plans approved by the Commission;
 - c. Third, with respect to the ANC's stated environmental concerns, this Order continues to include a condition requiring the northern portion of the building to be certified at the LEED-Gold level. The Commission believes this is adequate to satisfy the standard established by 11 DCMR § 1610.3(f). As previously stated, the Commission believes the Applicant's CBA commitments are outside of the scope of its review of the application, thus declines to require compliance with all of its terms. With respect to the suggestions aimed at reducing bird collisions, the Commission does not include them as requirements of its approval because the Commission concludes the Applicant has met its burden of proof for 11 DCMR § 1610.3(f); and
 - d. Fourth, with respect to the ANC's site management concerns, the Commission finds that the request for conditions in this Order related to after-hours construction permits is outside of the scope of the Commission's review, which is limited to the standards established in § 1610 of the Zoning Regulations. The Commission has incorporated the Applicant's proposed transportation management and loading management plans as conditions of this Order. The Commission believes they are adequate to satisfy the requirements of its review pursuant to 11 DCMR § 1610. The Commission notes that the plans do not include a provision for situations when emergency services are required at the building. The Commission believes that the plans nonetheless are adequate to meet the burden of proof established by § 1610.

CONCLUSIONS OF LAW

1. The Applicant filed an application for review and approval of a modification to previously approved plans pursuant to 11 DCMR §§ 1604, 1607, and 1610. The Commission concludes that the Applicant has met its burden of proof.
2. The Commission provided proper and timely notice of the public hearing on the application by publication in the D.C. Register and by mail to ANC 6D, OP, and owners of property within 200 feet of the Property.
3. Pursuant to 11 DCMR §§ 1604.1, 1607.1, and 1610.1, the Commission required the Applicant to satisfy all applicable requirements set forth in DCMR §§ 1607.2 through 1607.8 and 11 DCMR §§ 1610.2 through 1610.5. Pursuant to 11 DCMR § 1610.7, the Commission also required the Applicant to meet the requirements for variance relief set forth in 11 DCMR §§ 3103, 1604.3, and 1607.2. The Commission concludes that the Applicant has met its burden.
4. The proposed development is within the applicable height, bulk, and density standards for the CG/CR (Capitol Gateway Overlay/Commercial Residential) Zone District and will not tend to affect adversely the use of neighboring property. The overall project is also in harmony with the general intent and purpose of the Zoning Regulations and Map.
5. The Commission concludes that the proposed project will further the objectives of the CG Overlay District as set forth in 11 DCMR § 1600.2 and will promote the desired mix of uses set forth therein. The design of the proposed building meets the purposes of the CG Overlay and meets the specific design requirements of 11 DCMR §§ 1604, 1607, and 1610, except as noted above.
6. No person or parties appeared at the public hearing in opposition to the application.
7. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and concerns raised in the written report of the affected ANC. The affected ANC in this case is ANC 6D. As discussed in finding of fact 24 above, the Commission carefully considered ANC 6D's recommendation for approval and concurs in its recommendation in support of the application, and considered the issues and concerns stated in its report.
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 (2001)), to give great weight to OP's recommendations. The Commission carefully considered the OP report and finds that the Applicant's post-hearing submission adequately addressed the outstanding issues noted in the OP report. The Commission agrees with OP's support for the proposed design modifications, the project's satisfaction of the CG Overlay criteria, and that the project will create a vibrant pedestrian

environment and will contribute to the architectural character of the area. The Commission finds that the proposed revisions to the architectural embellishment address the previous concerns that the embellishment looked like an extension of the building's façade. The Commission finds that the additional information presented by the Applicant regarding the appearance and operation of the potential retail windows on the second floor of the building and the removal of the proposed digital signage adequately addressed the Commission's concerns.

9. The Commission notes that DDOT had no objection to the application, but determined that the proposed curb cuts for the loading docks and access to the parking spaces are not separated by 24 feet. While this is ultimately an issue for the District of Columbia Public Space Committee, the Commission notes the negative implications to the ground-level streetscape, and in particular the impact on the retail experience at the corner of the Via and Van Street, that would exist if the Applicant is required to create a 24-foot separation between the two curb cuts on Van Street.
10. Based upon the record before the Commission, including witness testimony, the reports submitted by OP, DDOT, and ANC 6D, and the Applicant's submissions, the Commission concludes that the Applicant has met the burden of satisfying the applicable standards under 11 DCMR §§ 1604, 1607, and 1610 of the Zoning Regulations and for special exception and variance relief pursuant to 11 DCMR §§ 3103 and 3104.

DECISION

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application consistent with this Order. The term "Applicant" shall mean the person or entity then holding title to the Property. If there is more than one owner, the obligations under this Order shall be joint and several. If a person or entity no longer holds title to the Property, that party shall have no further obligations under this Order; however, that party remains liable for any violation of any condition that occurred while an owner.

This approval is subject to the following guidelines, standards, and conditions, which impact the development of the office building on Lot 873 in Square 700, and supersede those guidelines, standards, and conditions that were listed in Z.C. Order Nos. 08-30, 08-30A, and 08-30A1:

1. The approval of the proposed development shall apply to Lots 33, 802, 840, 841, 850, 864, 865, 868, 871, 872, 873, 874, and 875 in Square 700.
2. The project shall be built in accordance with the final architectural drawings, dated April 21, 2016 and submitted as Exhibits 23C1 and 23C2, as modified by the drawings dated May 26, 2016 and submitted as Exhibit 25A showing the revised rooftop design and removal of the digital signage.
3. The overall density on the Property shall not exceed 9.5 FAR as permitted pursuant to 11 DCMR § 1602, and pursuant to the Commission's approval of this modification

Z.C. ORDER NO. 08-30C

Z.C. CASE NO. 08-30C

PAGE 11

application. In order to achieve the maximum permitted density, the Applicant shall transfer non-residential density from other lots within the CG Overlay District and shall transfer residential density to those same lots by the process set forth in accordance with the limitations of §§ 1602.1(a) and 1602.1(e).

4. The Applicant shall implement the following loading management plan for the life of the project:
 - a. Deliveries will be permitted between 7:00 a.m. and 4:00 p.m., seven days a week, except for when events occur at Nationals Park. Deliveries cannot be scheduled for the period between two hours when an event begins and one hour after an event is completed, including during the event itself;
 - b. Building management will not schedule deliveries during Nationals Park events as defined above when there could be heavier than typical pedestrian traffic on Van Street;
 - c. Unscheduled deliveries such as FedEx, UPS, US Postal Service or courier are not subject to these restrictions;
 - d. A loading dock manager will supervise deliveries to the loading dock. For vehicles larger than 20 feet in length, the loading dock manager or designated representative will assist vehicles backing into the loading facilities to manage conflicts with pedestrian and vehicle traffic on Van Street;
 - e. Building management will post a sign in a highly visible location within the loading area that states that all loading activities must be scheduled through building management; and
 - f. Trucks using the loading dock will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 - Chapter 9, Section 900 (Engine Idling), the regulations set forth in DDOT's Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System.
5. The Applicant shall implement the following TDM measures for the life of the project:
 - a. The Applicant will comply with zoning requirements to provide bicycle parking/storage facilities. This includes secure parking located in the garage for tenants;
 - b. The Applicant will provide a bicycle maintenance facility within the building;
 - c. The Applicant will identify a TDM Leader (for planning, construction, and operations). The TDM Leader will work with goDCgo staff to create free customized marketing materials and a TDM outreach plan for tenants;

- d. The building management will provide updated contact information for the TDM Leader and report TDM efforts and amenities to goDCgo staff once per year;
 - e. The building management will stock Metrorail, Metrobus, DC Circulator, Capital Bikeshare, Guaranteed Ride Home, DC Commuter Benefits Law, and other brochures;
 - f. The Applicant will provide shower and locker facilities to tenants of the building to encourage cycling as a mode of transportation;
 - g. The Applicant will place an electronic message board in the lobby that provides real-time information on nearby transit services; and
 - h. The Applicant will install two electric car charging stations within the parking garage.
6. The office building/northern portion of the project shall be certified at the LEED-Gold level or higher.
 7. The Applicant shall have flexibility with the design of the project 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 materially change the exterior configuration of the buildings;
 - b. To vary the selection of exterior materials within the color ranges provided (maintaining or exceeding the same general level of quality) as proposed, based on availability at the time of construction;
 - c. To make 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
 - d. To have retail or office uses on the second floor of the building.
 8. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity 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 also prohibited by the Act. In

addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On June 13, 2016, upon motion of Chairman Hood, as seconded by Vice Chairperson Cohen, the Zoning Commission **APPROVED** this application and **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve and adopt).

In accordance with the provisions of 11 DCMR Section 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on July 1, 2016.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

AND

Z.C. ORDER NO. 14-13C

Z.C. Case No. 14-13C

(Text Amendment – 11 DCMR)

Technical Correction to Z.C. Order No. 14-13 (Penthouse Regulations

June 13, 2016

The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 16-03**

Z.C. Case No. 16-03

DB Residential Hill East, LLC

(Hill East District Design Review @ Square 1112E, Lots 802, 803, and 804)

May 12, 2016

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on April 7, 2016, to consider an application filed by DB Residential Hill East, LLC (“Applicant”) for design review of a new development pursuant to Chapter 28 of the Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”) or (“Zoning Regulations”), which applies to new construction in the Hill East District, and includes requests for special exception relief from the requirement of § 2815.6, which regards the location of garage entrances, as well as variance relief from the requirements of §§ 2101.1, 2115.2, 2115.4, 2201.1, 2807.1, 2808.1, and 2815.1-2815.4, which regard maximum height, parking, loading, percentage and grouping of compact spaces, and Inclusionary Zoning. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

FINDINGS OF FACT

The Application, Parties, Hearings, and Post-Hearing Filings

1. On January 21, 2016, the Applicant, with the consent of the District of Columbia, the owner of the subject property, filed an application for design review of the development proposed for Lots 802, 803, and 804 in Square 1112E (the “Property”) pursuant to Chapter 28 of the Zoning Regulations, which applies to new construction in the Hill East District.
2. The application also includes requests for special exception approval from the parking access requirements of 11 DCMR § 2815.6 and relief from the requirements for height, off-street parking, compact parking spaces, loading, and inclusionary zoning.
3. The Property consists of two parcels – Parcel F-1 and Parcel G-1, totaling approximately 2.6 acres in the Hill East District. The proposed development includes approximately 27,200 square feet of retail and 349 residential units (the “Project”). Of the 349 residential units, 15% will be reserved for households earning up to or at 30% of the area median income (“AMI”) and 15% will be reserved for households earning up to or at 60% of AMI, in accordance with the affordable housing requirements contained in the “National Capital Revitalization Corps and Anacostia Water Corporation Reorganization Act of 2008” (D.C. Official Code §§ 2-1226.01 et seq. (2008)) (the “AWI Act”). (*See* D.C. Official Code § 2-1226.02 (2012 Repl.).)
4. A description of the proposed development and the notice of the public hearing in this matter were published in the *D.C. Register* on February 19, 2016. (Exhibit [“Ex.”] 11.) The notice of the public hearing was mailed to all owners of property located within 200 feet of the Property and to Advisory Neighborhood Commission (“ANC”) 7F on

- February 18, 2016. (Ex. 12.) On February 11, 2016, notice of the public hearing was mailed to ANC 6B, the boundary for which is across the street from the Property. (Ex. 13.)
5. On March 15, 2016, ANC 7F conducted a public meeting to consider the application, for which notice was properly given and a quorum was present, and voted unanimously to support the design review application and zoning relief requested by the Applicant. (Ex. 32.) In its letter of support to the Commission, ANC 7F requested that at least 30% of the units be two- to three-bedroom units that would also be included in the affordable housing portions.
 6. The Applicant also presented the application to ANC 6B, which, at its regularly scheduled meeting on March 8, 2016, for which proper notice was properly given and a quorum was present, voted unanimously in support of the application.
 7. On March 28, 2016, the District Department of Transportation (“DDOT”) submitted a report finding no objection to the Project subject to the mitigations listed on pages two and three of the report. (Ex. 21.)
 8. On March 28, 2016, the Office of Planning (“OP”) submitted a report to the Commission recommending approval of the application and the necessary areas of relief. (Ex. 22.)
 9. The parties to the case were the Applicant and ANC 7F.
 10. The Commission held a hearing on the application on April 7, 2016. At the hearing, Christopher Donatelli of Donatelli Development, Colline Hernandez of GTM Architects, Sharon Bradley of Bradley Site Design, and Jami Milanovich of Wells + Associates testified on behalf of the Applicant.
 11. OP and DDOT testified in support of the application at the public hearing.
 12. No persons testified in support of the application at the public hearing. The record includes letters of support from Councilmember Yvette M. Alexander, the Office of the Deputy Mayor for Planning and Economic Development, and Colleen Garibaldi. (Ex. 17, 23, 24.)
 13. No persons testified in opposition to the application at the public hearing. The Capitol Hill Restoration Society’s Zoning Committee submitted a letter to the Commission requesting that the Commission’s ruling be postponed to allow additional time to determine the suitability of the design and materials. The letter expressed opposition to any waiver of the design criteria in § 2813.17. (Ex. 28.)
 14. The record was closed at the conclusion of the public hearing, except to receive additional submissions from the Applicant, as requested by the Commission, and responses thereto from ANC 7F.

15. On April 21 2016, the Applicant submitted its post-hearing submission responding to the Commission's comments and included revised architectural sheets. (Ex. 35-35A2.) The Applicant requested permission to submit a consolidated set of the updated architectural drawings at the public meeting on May 12, 2016. The comprehensive set of architectural designs submitted following the hearing contained a revised façade for the C Street elevation located in Parcel G-1. (Ex. 37A1-37A8.)
16. At its public meeting on May 12, 2016, the Commission accepted the consolidated set of the updated architectural drawings and voted to approve the application. As part of its approval, the Commission granted the Applicant the flexibility to choose between the façades presented in its revised drawings (Ex. 30B, Sheet 51) and the drawings submitted after the hearing (Ex. 37A6, Sheet 51; 37A7, Sheet 64) for the C Street elevation in Parcel G-1.

Description of the Site and Surrounding Area

17. The Property consists of two parcels in the Hill East neighborhood – Parcel F-1 and Parcel G-1. These two parcels total approximately 2.6 acres and are the first parcels in the 67-acre area formerly known as Reservation 13, to be developed implementing the vision and objectives of the Hill East Waterfront Master Plan. The Property is currently used as a surface parking lot for the Department of General Services, the Department of Corrections, and the Department of Health.
18. Parcel F-1 is located in the HE-1 Zone District, and consists of 60,862 square feet. It is bound on the west by 19th Street, on the north by Burke Street, and on the south by C Street, all of which are considered secondary streets under the Hill East design guidelines. Parcel G-1 is located in the HE-1 and HE-2 Zone Districts, and consists of 87,614 square feet. It is bound on the west by 19th Street, on the north by C Street, on the south by Massachusetts Avenue, and on the east by 20th Street. C Street, 20th Street, and 19th Street are secondary streets and Massachusetts Avenue is a primary street under the Hill East design guidelines.
19. The Property is located within the Anacostia Waterfront Development Zone. Therefore, the Project must comply with the affordable housing requirements contained in the AWI Act. The AWI Act requires that at least 30% of the total housing units developed must be affordable – 15% reserved for households earning up to or at 30% of the AMI and 15% reserved for households earning up to or at 60% of the AMI.

Description of the Project

20. Parcel F-1 will be redeveloped with a four-story building containing approximately 13,400 square feet of retail space and 91 residential units. Of those units, 14 will be affordable units reserved for households not exceeding 30% AMI and 14 will be affordable units reserved for households not exceeding 60% AMI. The building will have a maximum height of 52 feet, approximately 106,460 square feet of gross floor area, and a density of 1.86 floor area ratio (“FAR”). The western portion of Parcel F-1,

fronting on 19th Street, will be maintained as an open plaza area that will be maintained by the Applicant.

21. Parcel G-1 will be redeveloped with a four-story building containing approximately 13,800 square feet of retail and 258 residential units. Of those units, 39 will be affordable units reserved for households not exceeding 30% AMI and 39 will be affordable units reserved for households not exceeding 60% AMI. The building will have a maximum height of 53 feet on the portion of the parcel in the HE-1 Zone District and 69 feet on the portion of the parcel in HE-2 Zone District approximately 286,808 square feet of gross floor area, and a density of 3.27 FAR. The western portion of Parcel G-1, fronting on 19th Street, will be maintained as an open plaza area that will be maintained by the Applicant.
22. The buildings will achieve LEED-Silver certification.

Hill East Zone District Design Requirements

23. The application must satisfy the requirements of Chapter 28 of the Zoning Regulations because the new development will be located within the Hill East Zone District. The Commission finds that the project meets the requirements of Chapter 28.
24. The HE Zone District includes the following development requirements:
 - A maximum height of 50 feet and four stories in the HE-1 Zone District and 80 feet and seven stories in the HE-2 Zone District; (11 DCMR § 2801.1.)
 - A maximum density of 3.0 FAR in the HE-1 Zone District and 4.8 FAR in the HE-2 Zone District; (11 DCMR § 2808.1.)
 - A maximum non-residential density of 0.8 FAR in Square F and 1.0 FAR in Square G; (11 DCMR § 2808.2.)
 - A maximum lot occupancy of 80% in the HE-1 Zone District and 75% in the HE-2 Zone District; (11 DCMR § 2808.1.)
 - A minimum rear yard of three inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof, but not less than 12 feet; and (11 DCMR § 2810.6.)
 - If provided, a minimum side yard width of eight feet. 11 DCMR § 2810.1.
25. The building on Parcel F-1 complies with all of the foregoing requirements except for the permitted maximum height in the HE-1 Zone District. The building will have of maximum height of 52 feet where a maximum height of 50 feet is permitted. The additional two feet of height is necessary in order to achieve the minimum floor-to-

ceiling heights required for the retail use and allows for a strong architectural cornice element at the top of the building.

26. The building on Parcel G-1, which is split zoned in the HE-1 and HE-2 Zone Districts, complies with all of the foregoing requirements except for the permitted maximum height in the HE-1 Zone District. The building will have a maximum height of 53 feet for the portion of the building located in the HE-1 Zone District where 50 feet is permitted. The additional three feet of height is necessary in order to achieve the minimum floor to ceiling heights required for the retail use and allows for a strong architectural cornice element at the top of the building.

Hill East District Design Requirements

27. The HE Zone District regulations require review by the Commission of all new buildings, or additions to existing buildings for consistency with the design guidelines set forth at §§ 2812 through 2814 of the Zoning Regulations and with the general purposes of the HE Zone District as stated in § 2800.7 of the Zoning Regulations.

Purpose of Hill East District (11 DCMR § 2800.7)

28. Pursuant to § 2800.7, the purposes of the Hill East District are to:
- (a) Connect and integrate Reservation 13 with adjacent neighborhoods and the new waterfront park along the Anacostia River;
 - (b) Utilize the site to meet a diversity of public needs, including health care, education, employment, government services and administration, retail, recreation, and housing;
 - (c) Extend the existing pattern of local streets to and through the site to create simple, well-organized city blocks and appropriately-scaled development;
 - (d) Maintain a human scale of building heights that match existing neighborhood buildings and increase in height as the site slopes downward to the Anacostia waterfront;
 - (e) Connect the Hill East neighborhood and the city at large to the waterfront via tree-lined public streets, recreational trails, and increased access to waterfront parklands;
 - (f) Demonstrate environmental stewardship through environmentally-sensitive design, ample open spaces, and a waterfront park that serve as public amenities and benefit the neighborhood and the city;
 - (g) Promote the use of mass transit by introducing new uses near Metro stations, and create an environment where the pedestrian, bicycle, and auto are all welcome,

complementary, and unobtrusive, reducing the impact of traffic on adjacent neighborhood streets;

- (h) Limit the Central Detention Facility and the Correction Treatment Facility to areas south of Massachusetts Avenue; and
 - (i) Create attractive “places” of unique and complementary character including:
 - i. A new, vital neighborhood center around the Metro station at C and 19th Streets that serves the unmet neighborhood commercial needs of the community and extends to the waterfront with a new residential district;
 - ii. Massachusetts Avenue as a grand Washington ‘boulevard’ in the tradition of the L’Enfant plan;
 - iii. A district for city-wide uses and services, such as health care, education, and recreation along Independence Avenue; and
 - iv. A grand public waterfront park incorporating monumental places and quiet natural retreats accessed by a meandering park drive set back from the Anacostia River.
29. The Project is consistent with the stated purposes of the Hill East District. It is designed to be contextual to the surrounding neighborhood and the Anacostia Waterfront Park. The amenities for the Project include parks and plazas, neighborhood-scale performance and café spaces, and public art and gathering areas. In connection with the Project, the existing pattern of local streets will be extended. The residential streetscapes are designed to be quiet, tree-lined neighborhoods with subtle separation between public and private spaces and visual details consistent with the larger community context. View sheds and sight lines have been preserved for a sense of context and safety, providing inviting pedestrian routes to the Anacostia Waterfront Park.
30. A park-like environment has been created for all streetscapes, with a high ratio of planting to pavement and 51 shade trees. This will increase canopy coverage and reduce the heat island effect, creating more comfortable environments and reducing building operations costs. The retaining wall along Massachusetts Avenue will be a “green wall” to soften its appearance and create a more inviting streetscape. The plant palette is predominantly native and it has been carefully selected to suit its environment and irrigation is not necessary. Storm water will be managed using Low Impact Development measures, including streamlined, lushly planted bio-retention areas and vegetated roofs.
31. The Property is located adjacent to the Stadium Armory Metrorail Station. As a result, the Project will introduce new residential and retail uses near the Metrorail Station. At the station exit will be a sequence of dynamic spaces that bring life to the streetscape at scales appropriate to their locations. Closest to the building, the spaces will function as outdoor rooms that relate directly to the commercial uses within: semi-enclosed, more

intimate areas for dining and conversation amid lush planting. Closer to the street will be gathering areas: lawns and plazas that evoke the city park character where concerts and arts festivals occur. The pedestrian-focused spaces will continue southward in a plaza that spans the intersection of 19th Street and C Street, creating both a venue for larger-scaled events and a traffic-calming device. The plaza will link the streetscape to the south with an iconic focal point - a sculptural water feature that provides a place making element at a key location. Planters in front of the building on Parcel G1 will define areas for smaller scale gatherings, and there will be another focal area at the significant urban node at 19th Street and Massachusetts Avenue.

32. A Capital Bikeshare station has been placed in a highly visible location adjacent to the Metrorail exit for maximum convenience to cyclists and Metrorail patrons. Bike lanes are planned for all the streets surrounding the Project. On-street parking is provided along most of the streets, with pull-offs at the main entrances to the buildings on Parcel F-1 and G-1. The bike lanes and parking spaces have been designed according to current DDOT standards.
33. The Project will introduce new retail uses that will serve the needs of the surrounding residential community. A portion of the retail uses will front on Massachusetts Avenue at the corner of 19th street. Moving east along Massachusetts Avenue, the building façade incorporates architectural detailing consistent with the look and feel of rowhouse dwellings typically found to the north along Massachusetts Avenue and within the surrounding Capitol Hill neighborhood, generally. This design strategy will help establish a new portion of Massachusetts Avenue as a “grand Washington boulevard”.

Ground-Floor Use Where Required and Permitted (11 DCMR § 2811)

34. For the purposes of the HE Zone District, the term "preferred uses" means retail, entertainment, cultural, or commercial uses. (11 DCMR § 2811.) The following locations are required to devote not less than 65% of the ground-floor frontage to preferred uses and main building entrances, or lobbies to office and residential uses, and shall comply with the design requirements of §§ 2812 through 2814:
 - (a) The west face of Square F (19th Street frontage);
 - (b) The northwest corner of Square G;
 - (c) The southeast corner of Square J at Massachusetts Avenue and Water Street, facing the monumental circle;
 - (d) The northeast corner of Square M at Massachusetts Avenue and Water Street, facing the monumental circle; and
 - (e) All Independence Avenue and Massachusetts Avenue frontages;

35. The Project complies with the requirement for preferred uses on ground-floor frontage. The building on Parcel F-1 devotes 100% of the ground-floor frontage to retail use. The building on Parcel G-1 devotes 65% of the ground-floor frontage to retail use, lobbies, and main building entrances.
36. Pursuant to § 2811.3, the following locations are permitted to have ground-floor preferred uses, provided that the building shall be constructed so that not less than 65% of the ground-floor frontage will be devoted to preferred uses and main building entrances, or lobbies to office and residential uses, and shall comply with the design requirements of §§ 2812 through 2814:
- (a) All frontages on 19th Street;
 - (b) All frontages on Burke Street;
 - (c) The C Street frontage of Square H, facing the park in Square E, for a maximum length of 200 feet from Square H's northeast corner at the intersection of C Street and 21st Street;
 - (d) The 21st Street frontage of Square D;
 - (e) The southeast corner of Square D, which faces the intersection of C Street and Water Street;
 - (f) The northeast corner of Square I, which faces the intersection of C Street and Water Street; and
 - (g) All frontages on Water Street.
37. Both buildings comply with the foregoing requirement. The buildings have frontage on 19th Street and the retail uses and main building entrances occupy 100% of the frontage of both buildings on 19th Street.

Ground-Floor Preferred Uses Design Standards (11 DCMR § 2812)

38. Pursuant to § 2812.1, wherever preferred uses, as defined in §2811.1, are required or allowed pursuant to §§ 2811.2 and 2811.3, such ground-floor preferred uses shall:
- (a) If located on a corner, wrap around the corner to a minimum depth of 20 feet on the side street;
 - (b) Occupy the ground floor to a minimum depth of 30 feet;
 - (c) Have a minimum clear floor-to-ceiling height of 14 feet, measured from the finished grade, for the area of the ground floor dedicated to preferred uses;

- (d) The street-facing façades of buildings on primary streets shall devote not less than 75% per individual use or 50% of the length and 50% of the surface area of the street wall at the ground level to windows associated with preferred uses or windows associated with main building entrances; and
 - (e) The street-facing façades of mixed-use or non-residential buildings on secondary streets shall devote not less than 75% per individual use or 30% of the length and 30% of the surface area of the street wall at the ground level to windows associated with preferred uses or windows associated with main building entrances.
39. The building on Parcel F-1 complies with the foregoing requirements. The retail use wraps around the corner of 19th Street and C Street to a depth of 57 feet. Additionally, the retail use wraps around the corner of 19th Street and Burke Street to a depth of 68 feet, two inches. The retail use occupies the ground floor to a depth between 46 feet and 67 feet, two inches. The retail areas are designed with a clear floor-to-ceiling height of 14 feet measured from the finished grade. The frontage on 19th Street devotes 70% of the length and 59% of the surface area of the street wall at the ground level to windows associated with the retail uses or windows associated with main building entrances.
40. The building on Parcel G-1 complies with the foregoing requirements. The retail use wraps around the corner of Massachusetts Avenue and 19th Street to a depth of 90 feet. The retail use occupies the ground floor to a depth between 30 feet and 66 feet. The frontage on Massachusetts Avenue devotes 65% of the length and 60% of the surface area of the street wall at ground level to windows associated with retail uses or windows associated with the main building entrance. The frontage on 19th Street devotes 67% of the length and 47% of the surface area of the street wall at the ground level to windows associated with the retail uses or windows associated with main building entrances.
41. Pursuant to § 2812.2, the windows required by § 2812.1(d) shall have clear or clear/low emissivity glass allowing transparency to a depth of 20 feet into the preferred ground level space with bottom sills no more than four feet above the adjacent sidewalk grade. Subsection 2812.3 requires that the windows allow views from within the building to the street.
42. The windows on both buildings have a clear/low emissivity glass allowing transparency to a depth of 20 feet into the preferred ground level space, with bottom sills, eight inches to two feet eight inches above the adjacent sidewalk grade. Both buildings comply with this requirement. All of the windows allow views from within the building to the streets.

Design Requirements All Locations (11 DCMR § 2813)

43. Section 2813 establishes the following design requirements for all buildings and structures located in the HE Zone District:

- Except as provided in § 2814.2, the front of a building or structure shall extend to the property line(s) abutting the street right-of-way for not less than 90% of the property line and to a height of not less than 25 feet; (11 DCMR § 2813.2.)
- Whatever portion of the front of a building or structure that does not extend to the property line(s) pursuant to § 2813.2 must extend to within 25 feet of the front property line and to a height of not less than twenty-five (25) feet; (11 DCMR § 2813.3.)
- Awnings, canopies, bay windows, and balconies may extend forward of the required building line to the extent permitted by any other regulations; (11 DCMR § 2813.4.)
- For every 50 feet of uninterrupted building façade length, the building shall incorporate modulated and articulated building wall planes through the use of projections, recesses, and reveals expressing structural bays; changes in color, graphical patterns, and texture; or changes in building material of the façade; (11 DCMR § 2813.5.)
- The articulation shall have a minimum change of plane of six inches; (11 DCMR § 2813.6.)
- Façade articulation of less than two feet in depth shall qualify to meet the street frontage required building line standards of §§ 2813.2 and 2813.3; (11 DCMR § 2813.7.)
- Any single articulation feature shall not exceed 60% of the building façade width; (11 DCMR § 2813.8.)
- Buildings with ground-floor retail shall incorporate vertical elements to create a series of storefront-type bays with entrances that are no more than 50 feet apart; (11 DCMR § 2813.9.)
- Security grilles shall have no less than 70% transparency; (11 DCMR § 2813.10.)
- Street-facing façades shall not have blank walls (without doors or windows) greater than 10 feet in length; (11 DCMR § 2813.11.)
- Each use within a building shall have an individual public entrance that is clearly defined and directly accessible from the public sidewalk; (11 DCMR § 2813.12.)
- Exterior display of goods and exterior storage between the building line and the front lot line is prohibited. Outdoor seating for restaurants and pedestrian-oriented accessory uses, such as flower, food, or drink stands, or other appropriate vendors are permitted to the extent consistent with other District laws; (11 DCMR § 2813.13.)

- Windows shall cover the following minimum area of street-facing façades above the ground-floor level:

Location	Minimum Percentage	
	Non-Residential	Residential
Primary Street	35%	20%
Secondary Street	40%	20%

(11 DCMR § 2813.14.)

- Buildings and structures should clearly articulate a base, middle, and top, except for row dwellings and flats; (11 DCMR § 2813.15.)
 - High quality, durable materials which enhance the building and convey permanence shall be required; and (11 DCMR § 2813.16.)
 - The use of synthetic stucco, vinyl siding, and/or other low-grade exterior finishes is prohibited. (11 DCMR § 2813.17.)
44. The building on Parcel F-1 complies with the foregoing requirements. It extends to the property line abutting the right of way at 19th Street for 90% of the property line and to a height of 52 feet. The majority of the building façade extends to the property line abutting 19th Street. In order to provide articulation and interest at the plaza, the façade incorporates two setback areas that extend the full height of the building. These areas are setback one foot, 11 inches from the property line. The façade incorporates brick, cast stone, and metal panels on the façades fronting secondary streets. The wall planes clad in brick are articulated with brick reveals, soldier coursing, and cast stone headers and sills surrounding window openings. To further break up the façade, composite metal panel is introduced at the recessed areas between the brick planes. The façade of the ground-floor retail incorporates a series of brick pilasters between aluminum storefronts at the retail bays. Entrances to retail spaces are located less than 50 feet apart. The primary residential entrance is accessible from C Street.
45. On Parcel F-1, the design of the street-facing façades are organized to articulate a clear base, middle, and top. The base of the building is marked by the use of two rows of cast stone banding above the retail bays. The middle section of the building is articulated through the use of large two-story recessed areas in the brick façade that surround double-height windows. The top of the building incorporates a series of large punched window openings framed by cast stone headers and sills. An articulated stepped cornice element caps off the composition at all brick wall planes. The windows cover 40% of the residential street-facing façades above the ground-floor level at all secondary streets.

46. The building on Parcel G-1 complies with the foregoing requirements. It extends to the property lines abutting the right-of-way at 19th Street for 93% of the property line and to a height of 53 feet. The majority of the building façade extends to the property line abutting 19th Street. In order to provide interest and articulation at the plaza, the building has been designed as a series of individual façades that stagger along the street. Setbacks at these façade elements are less than two feet. The corner of the building, at 19th Street and C Street, is set back from the property line to create a strong architectural element at the building's main entrance. The Massachusetts Avenue façade of the building will incorporate a series of projecting bays that extend four feet beyond the existing building line. These elements will help to break up the façade and add interest and articulation at the pedestrian level along the street. The façade also incorporates brick, cast stone, and composite metal panel on the façades fronting primary and secondary streets. The 19th Street façade is designed as a series of individual building faces to break up the length of the façade, as well as add interest at the pedestrian level. The façade of the ground-floor retail will be clad in fiber cement trim to depict a "wood-like" cladding at the retail bays. These "mini-façades" will be integrated with aluminum storefronts to create individuality for retail tenants along the base of the building. Entrances to the retail spaces are located less than 50 feet apart. The primary residential entrance is accessible from the corner of 19th Street and C Street, with a secondary residential entrance located at the corner of 20th Street and Massachusetts Avenue.
47. On Parcel G-1, the design of the street-facing façade along 19th Street is also organized to articulate a clear base, middle, and top. The overall building massing has been designed to represent a streetscape that has developed naturally over time. The building massing is broken down to depict larger buildings at the corners with small scale infill structures in between. Along 19th Street at the retail plaza, the space between the large corner façades at each end of the block is completed by four individual façades each with unique retail storefronts below. These grade-level retail façades, in conjunction with the strong cornice elements found on both of the corners, serve to create a strong identifiable base for the building. The middle and top sections of this façade are articulated with double-height windows, alternating brick patterns and colors, and a strong projecting cornice element at the top of the building. The façade along C Street continues the same theme, with a large building façade wrapping the corner at 19th Street and C Streets. The massing also depicts five adjacent row dwellings. The design of the building façade along Massachusetts Avenue also incorporates a large building façade wrapping the corner at 19th Street. This is followed by a massing that depicts a series of row dwellings along the block. The streetscape is punctuated by a seven story large building façade at the corner of 20th Street. The windows on Parcel G-1 cover 24% of the residential street-facing façade above the ground-floor level at C Street, 33% at 19th Street, and 34% at Massachusetts Avenue.
48. Materials used on all street-facing façades for both buildings include brick, cast stone and composite metal panel and fiber cement trim. The security grilles on both buildings will have a minimum of 70% transparency.

49. All retail entrances on Parcel F-1 are accessible from the 19th Street public plaza. The retail entrances on Parcel G-1 are accessible from the 19th Street public plaza and Massachusetts Avenue. Plaza spaces designed for the Project will provide outdoor amenity opportunities to ground-floor tenants within the public realm. The area between buildings and the bio-retention planters will be outdoor rooms that relate directly to the commercial spaces and will be furnished with movable tables and chairs along with umbrellas and flower pots. These elements will provide intimate areas for dining and public space activation while still providing 10-foot-wide clear circulation routes past them and clear of all doors. (24 DCMR §§ 210.1, 312.2, and 312.3.) Benches will be located between the planters to provide additional seating opportunities outside of the dining seating options. Trash receptacles will be provided for public use at strategic moments and away from dining/seating areas. (24 DCMR §§ 314.9 and 314.10.). Bike racks will be located near entrances per DDOT standards.

Design Requirements for Buildings Located on Primary Streets (11 DCMR § 2814)

50. Since the building on Parcel G-1 is located on Massachusetts Avenue, which is designated as a primary street, pursuant to § 2814.1, the following design requirements apply:
- Notwithstanding §§ 2813.2 and 2813.3, the fronts of buildings located at street intersections shall be constructed to the property lines abutting each intersecting street, without any setback, for a minimum of 50 feet from the intersection, along each street frontage; (11 DMCR § 2814.2.)
 - The corner of the building at the intersection of two primary streets or a primary and secondary street shall incorporate articulation such, as but not limited to, being angled, curved, or chamfered to emphasize the corner; (11 DMCR § 2814.3.)
 - The distance from the corner shall not exceed 20 feet, measured from the corner of the lot to the end of the angled or curved wall segment; (11 DMCR § 2814.4.)
 - Entrances into a building shall be no more than 50 feet apart and recessed no more than six-feet-deep or ten-feet-wide; (11 DMCR § 2814.5.)
 - Buildings shall incorporate vertical elements in the street-facing façade to create a series of storefront-type bays where preferred uses are present; (11 DMCR § 2814.6.)
 - Residential buildings shall have at least one primary entrance directly accessible from the public sidewalk; and (11 DMCR § 2814.7.)
 - Instead of the windows required by § 2812.1(d), on primary streets, artwork and displays relating to activities occurring within the building shall be permitted as a

special exception if approved by the Commission pursuant to § 3104, provided the applicant demonstrates that:

- (a) The building has more than 50% of its ground-level space in storage, parking, or loading areas, or in uses which by their nature are not conducive to windows (such as theaters); and
- (b) The artwork or displays are consistent with the objective of providing a pleasant, rich, and diverse pedestrian experience.

(11 DMCR § 2814.8.)

51. The building on Parcel G-1 complies with this requirement. The front of the building at the corner of Massachusetts Avenue and 19th Street will be constructed to the property line. The front of the building at the intersection of 19th and C Street is set back nine feet to accommodate the electric utility vaults within Property. At the corner of Massachusetts Avenue and 19th Street the building will be constructed to the property line, emphasizing the non-parallel intersection of these two streets. The façade is articulated with a strong cornice element that wraps the corner at the base and top of the building. To further emphasize this important corner, a large circular paving pattern and fountain have been created to mark this important edge as a public gathering space. All building entrances are less than 50 feet apart, recessed three feet, and are between six and eight feet wide.

Special Exception Relief for Garage Entrance Locations

52. Subsection 2815.9 of the Zoning Regulations states that exceptions from the prohibitions and limitations of § 2815 (except those that pertain to use) shall be permitted if approved by the Commission pursuant to § 3104 of the Zoning Regulations. The Applicant must demonstrate that: (a) there is no practical alternative means of serving the parking, loading, or drop-off needs of the building to be served by the proposed driveway or garage entrance; (b) the driveway or garage entrance will not impede the flow of pedestrian traffic; and (c) the driveway or garage entrance is not inconsistent with the DDOT landscape plans for the public rights of way in the Hill East Waterfront area, to the extent that such plans exist at the time of the special exception application.
53. The garage entrances providing access to parking and loading facilities for each building are located off of private driveways that are accessible from C Street, which is a Secondary Street. Subsection 2815.6 of the Zoning Regulations states that no driveway or garage entrance providing access to parking or loading areas shall be permitted from a Primary or Secondary Street.
54. The Property is surrounded on all sides by either Primary or Secondary Street; therefore, any driveway leading to the project must be from a Primary or Secondary Street. The private driveways will not impede the flow of pedestrian traffic since they are located off C Street at the rear of the buildings and there is ample public sidewalk provided on C

Street. The Project will improve access to the Hill East District, generally; is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps; and will not adversely affect the use of neighboring property.

Variance Relief

55. Subsection 2801.3 of the Zoning Regulations states that the Commission may hear and decide any additional requests for variance relief needed for the Property. Such requests shall be advertised, heard, and decided together with the application for review and approval. Pursuant to 11 DCMR § 2801.3, the Applicant requests the following variances: (a) an area variance from the maximum height requirements of 11 DCMR § 2808.1; (b) an area variance from the parking requirements of 11 DCMR §§ 2815.1, 2815.2, and 2101.1; (c) an area variance from the loading requirements of 11 DCMR §§ 2815.3, 2815.4, and 2201.1; (d) an area variance from the percentage and grouping of compact space requirements of 11 DCMR §§ 2115.2 and 2115.4; and (e) a variance from the Inclusionary Zoning requirements of 11 DCMR § 2807.1.
56. The test for variance relief is three-part: (1) demonstration that a particular piece of property is affected by some exceptional situation or condition; (2) such that, without the requested variance relief, the strict application of the Zoning Regulations would result in some practical difficulty upon the property owner; and (3) that the relief requested can be granted without substantial detriment to the public good or substantial impairment of the zone plan. The Commission finds that variance relief is appropriate in this application.

Variance from Height Requirements

57. The Applicant requests an area variance from § 2808.1 of the Zoning Regulations, which permits a maximum building height of 50 feet in the HE-1 Zone District. The Applicant proposes a building height of 52 feet for the building on Parcel F-1, and 53 feet for the portion of the building on Parcel G-1 in the HE-1 Zone District. The additional height is needed to achieve a minimum floor-to-ceiling height of 14 feet for the ground-floor retail uses as required under § 2812.1(c) of the Zoning Regulations. The subject property has an eight-foot difference in the topography as it descends between the western and eastern portion of the property, which is an exceptional situation. This exceptional situation presents a practical difficulty to the Applicant as the change in topography affects the floor plate of the ground-floor use which is required to have a height of 14 feet floor-to-ceiling-height as well as providing direct views into the building for a length of 20 feet requiring the retail use to be on an even floor plate without any internal steps to account for the change in topography. In addition, strict adherence to the requirement would result in the residential units having a floor to ceiling height of less than nine feet.

Variance from Parking Requirements

58. The Applicant requests an area variance from §§ 2815.1, 2815.2, and 2101.1 of the Zoning Regulations. For Parcel F-1, the required number of total parking spaces is 60. For Parcel G-1, the required number of total parking spaces is 143. The Applicant

proposes only 45 total parking spaces for the building on Parcel F-1 and 111 total parking spaces for the building on Parcel G-1. To accommodate the required spaces would require additional grading and/or a second level resulting in far more spaces than required and would run counter to encouraging the use of Metro rail, bus, and bicycles. The reduction in parking spaces along with the proximity to the Metro Station and the Transportation Demand Management (“TDM”) measures proposed should mitigate any adverse impacts.

59. The Project is located adjacent to the Stadium Armory Metro Station and near numerous bus routes along 19th Street. The Project also includes locations outside each building to accommodate BikeShare programs, which provide another alternate form of transportation.

Variance from Compact Parking Spaces Requirements

60. The Applicant requests an area variance from §§ 2115.2 and 2115.4 of the Zoning Regulations. For Parcel F-1, 20 compact parking spaces are provided where a maximum of 18 is permitted and the compact parking spaces are not located in continuous groups of at least 5 spaces with access from the same drive aisle. For Parcel G-1, compact parking spaces are not located in continuous groups of at least five spaces with access from the same drive aisle. The column spacing proposed for the building above, as well as the accommodation of the elevator core, stairways, trash rooms, walkways, and other building functions, would create an exceptional condition in the garage where only compact spaces could fit. Granting relief would not impact the public good and would result in a more efficient use of the garage space.

Variance from Loading Requirements

61. The Applicant requests an area variance from §§ 2815.3, 2815.4, and 2201.1 of the Zoning Regulations. For Parcel F-1, the Applicant proposes to have one 30-foot loading berth, one 100-square-foot loading platform, and one 20-foot service/delivery space. For Parcel G-1, the Applicant proposes to have one 30-foot loading berth, one 100-square-foot loading platform, and one 20-foot service/delivery space. Access to the loading docks can only be achieved via a private driveway leading to each building, which is not wide enough to accommodate large tractor trailers.
62. Both loading facilities would serve the residential and retail uses in each building. Currently, there are no alleys to the rear of these lots and the Applicant is providing a private driveway to access the buildings. The proposed driveway would be 20 feet wide, which would make it difficult to accommodate a tractor trailer due to insufficient width. Therefore, there is no need to provide a 55-foot berth which cannot be accessed. To minimize any negative impacts, the use of the loading docks would be monitored by a loading dock manager who would monitor and schedule move-ins and move-outs and if necessary coordinate with DDOT if larger trucks are scheduled to visit the site.

Variance from the Inclusionary Zoning Requirements

63. The Applicant seeks a variance from the inclusionary zoning requirements in Chapter 26 of the Zoning Regulations. The Property is located within the Anacostia Waterfront Development Zone, and must comply with the affordable housing requirements contained in the AWI Act. The AWI Act requires that at least 30% of the total housing units developed must be affordable with 15% reserved for households earning up to or at 30% of the AMI and 15% reserved for households earning up to or at 60% of the AMI.

Office of Planning Report

64. By report dated March 28, 2016, OP recommended approval of the application. (Ex. 22.) OP noted that the application successfully addresses all of the evaluation criteria of the HE Zone District and recommended approval of the Project if its concerns regarding EIFs were met or if additional, unrequested design relief was granted in order to permit EIFs.
65. As shown in the Final Architectural Drawings, the Applicant eliminated its proposed use of EIFs.

DDOT Report

66. By report dated March 28, 2016, DDOT provided its analysis regarding the parking, loading trip generation, and vehicle turning impacts of the project on the District's transportation network. (Ex. 21.) DDOT stated that it has no objection to the application with certain conditions, which are incorporated as TDM measures 7d-f., *infra*. (Ex. 21.) DDOT noted that the Applicant provided a loading management plan to mitigate the potential impacts caused by the loading relief requested.

CONCLUSIONS OF LAW

1. The application was submitted pursuant to 11 DCMR § 2801.1 for review and approval by the Commission, pursuant to 11 DCMR § 2815.9 for special exception relief from the parking access requirements of § 2815.6, and pursuant to § 2801.3 for: (a) an area variance from the maximum height requirements of 11 DCMR § 2808.1; (b) an area variance from the parking requirements of 11 DCMR §§ 2815.1, 2815.2, and 2101.1; (c) an area variance from the loading requirements of 11 DCMR §§ 2815.3, 2815.4, and 2201.1; (d) a variance from the percentage and grouping of compact space requirements of 11 DCMR §§ 2115.2 and 2115.4; and (e) a variance from the Inclusionary Zoning requirements of 11 DCMR § 2807.1. The Commission concludes that the Applicant has met its burden of proof.
2. The Commission provided proper and timely notice of the public hearing on the application by publication in the *D.C. Register* and by mail to ANC 7F, OP, and owners of property within 200 feet of the Property.

3. Pursuant to 11 DCMR § 2801.1, the Commission required the Applicant to comply with design guidelines set forth in 11 DCMR §§ 2812 through 2814 and with the general purposes of the HE Zone District as stated in 11 DCMR § 2800.7. The Commission concludes that the Applicant has met its burden.
4. The proposed development is within the applicable height, bulk, and density standards for the HE Zone District and will not tend to affect adversely the use of neighboring properties. The overall Project is also in harmony with the general intent and purpose of the Zoning Regulations and Map.
5. No person or parties appeared at the public hearing in opposition to the application.
6. 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 affected ANC in this case is ANC 7F. The Commission carefully considered ANC 7F's recommendation for approval and concurs in its recommendation, and considered the issues and concerns stated in its reports.
7. 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 (2001)), to give great weight to OP recommendations. The Commission carefully considered the OP report and, as explained in this decision, finds its recommendation to grant the application persuasive.
8. Based upon the record before the Commission, including witness testimony, letters in support and opposition, the reports submitted by OP, DDOT, ANCs 7F and 6B, and the Applicant's submissions, the Commission concludes that the Applicant has met the burden of satisfying the applicable standards under 11 DCMR §§ 2812 through 2814 and 11 DCMR § 2800.7 of the Zoning Regulations and for variance and special exception relief from 11 DCMR §§ 3103 and 3104.

DECISION

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application consistent with this Order. The term "Applicant" shall mean the person or entity then holding title to the Property. If there is more than one owner, the obligations under this Order shall be joint and several. If a person or entity no longer holds title to the Property, that party shall have no further obligations under this Order; however, that party remains liable for any violation of any condition that occurred while an owner. This approval is subject to the following guidelines, standards, and conditions:

1. The approval of the proposed development shall apply to Lots 802, 803, and 804 in Square 1112E.

2. The Project shall be built in accordance with the consolidated set of architectural drawings submitted to the Commission on May 12, 2016, and dated May 13, 2016, and the guidelines, conditions, and standards below.
3. Parcel F-1 shall be developed with a with a four-story building containing approximately 13,400 square feet of retail and 91 residential units. The building will have a maximum height of 52 feet; approximately 106,460 square feet of gross floor area; and a density of 1.86 FAR. The open plaza area along 19th Street shall be maintained by the Applicant **for the life of the project**.
4. Parcel G-1 shall be developed with a with a four-story building containing approximately 13,800 square feet of retail and 258 residential units. The building will have a maximum height of 53 feet on the portion of the parcel in the HE-1 Zone District and 69 feet on the portion of the parcel in the HE-2 Zone District; approximately 268,808 square feet of gross floor area; and a density of 3.27 FAR. The open plaza area along 19th Street shall be maintained by the Applicant **for the life of the project**. The Applicant shall have the flexibility of design to choose between the façades presented in its revised drawings (Ex. 30B, Sheet 51) and its post-hearing plans (Ex. 37A6, Sheet 51; 37A7, Sheet 64) for the Parcel G-1 C Street elevations.
5. In accordance with the AWI Act, for the building on Parcel F-1, the Applicant shall reserve 14 affordable units for households not exceeding 30% AMI and 14 affordable units for households not exceeding 60% AMI. These dedicated units shall be reserved at said affordability levels for 50 years. Upon the expiration of the 50-year period, the building on Parcel F-1 shall provide Inclusionary Zoning units as required currently by Chapter 26 of the Zoning Regulations **for the life of the Project**.
6. In accordance with the AWI Act, for the building on Parcel G-1, the Applicant shall reserve 39 affordable units for households not exceeding 30% AMI and 39 affordable units for households not exceeding 60% AMI. These dedicated units shall be reserved at said affordability levels for 50 years. Upon the expiration of the 50-year period, the building on Parcel G-1 shall provide Inclusionary Zoning units as required currently by Chapter 26 of the Zoning Regulations, **for the life of the Project**.
7. **The Applicant shall implement the following TDM measures for the life of the Project:**
 - a. Designate a transportation coordinator;
 - b. Provide information and/or links to the current transportation programs and services such as Capital BikeShare, ride hailing services (e.g., Uber), car sharing services, DDOT's DC Bicycle Map, goDCgo.com, commuter connections, and WMATA;
 - c. Provide 119 secure bicycle spaces in the two buildings;

- d. Provide a one time, annual Capital Bikeshare or car share membership per unit each time the unit turns over **for a period of three years;**
 - e. Unbundle parking costs from the lease or purchase price of the unit; and
 - f. Dedicate two parking spaces in each garage for car sharing services to use with the right of first refusal.
8. The Project shall achieve LEED-Silver certification.
9. The Applicant shall have flexibility with the design of the Project 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 materially change the exterior configuration of the buildings;
 - b. To vary the final selection of exterior materials within the color ranges provided (maintaining or exceeding the same general level of quality) as proposed, based on availability at the time of construction;
 - c. To make 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;
 - d. To vary the number of residential units provided so long as the total amount of residential units provided is not diminished or increased by more than 10%;
 - e. To provide signage, including digital signage as authorized by applicable code; and
 - f. To vary the number of parking spaces provided so long as that number equals or exceeds the minimum number of spaces required under the Zoning Regulations.
10. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.1 et seq. (the "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 identification, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by

the Act. Discrimination in violation of the Act will not be tolerated. Violations will be subject to disciplinary action.

On May 12, 2016, upon the motion of Commissioner Miller, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the application and **ADOPTED** this Order at its special public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve and adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*, that is on July 1, 2016.

District of Columbia REGISTER – July 1, 2016 – Vol. 63 - No. 28 008999 – 009270