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District of Columbia REGISTER

HIGHLIGHTS

- D.C. Council enacts Act 21-467, Bicycle and Pedestrian Safety Amendment Act of 2016
- D.C. Council enacts Act 21-473, Sale of Synthetic Drugs Congressional Review Emergency Amendment Act of 2016
- D.C. Council enacts Act 21-480, Wage Theft Prevention Correction and Clarification Emergency Amendment Act of 2016
- Department of Human Services establishes rules for implementing the provisions of the LGBTQ Homeless Youth Reform Amendment Act of 2014
- Department of Human Services solicits for applications for the Fiscal Year 2017 Grants to Community-Based Organizations for SNAP Employment and Training
- Mayor's Office on Latino Affairs announces funding availability for the Fiscal Year 2016 Latino Community Engagement Grant

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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DISTRICT OF COLUMBIA
OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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

MURIEL E. BOWSER
MAYOR

VICTOR L. REID, ESQ.
ADMINISTRATOR

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-464

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2016

To approve, on an emergency basis, Contract No. CW38874 with Public Consulting Group, Inc. to provide administrative services to the Department of Healthcare Finance and other District of Columbia agencies in accordance with federal statutory requirements, including Modification Nos. 0003 and 0004 to that contract, and to authorize payment in the total amount of $1,288,090 for the goods and services received and to be received pursuant to the contract and the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Contract No. CW38874 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. CW38874 with Public Consulting Group, Inc. to provide administrative services to the Department of Healthcare Finance and other District of Columbia agencies in accordance with federal statutory requirements, including Modification Nos. 0003 and 0004 to that contract, and authorizes payment in the amount of $1,288,090 for the goods and services received and to be received under the contract as modified by Modification Nos. 0003 and 0004.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

ENROLLED ORIGINAL

90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 21, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-465

IN THE COUNCIL FOR THE DISTRICT OF COLUMBIA

JULY 21, 2016

To amend the District of Columbia School Reform Act of 1995 to define conflicting interest transactions for public charter schools and establish governance and reporting obligations with respect to conflicting interest transactions, to require contracts between public charter schools and school management organizations to contain a provision whereby the school management organization agrees to provide to the public charter school for production to the eligible chartering authority books, records, papers, or documents pertaining to the services the school management organization provided or has agreed to provide to the public charter school, and to establish a public charter school's failure to comply with its conflict of interest obligations or to conform its contract with a school management organization to the provisions of this act as fiscal mismanagement.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Public Charter School Fiscal Transparency Amendment Act of 2016".

Sec. 2. The District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1800.01 *et seq.*), is amended as follows:

(a) Section 2002 (D.C. Official Code § 38-1800.02) is amended by adding a new paragraph (30C) to read as follows:

"(30C) *School management organization.* — The term "school management organization" means an entity that a public charter school identifies in its charter petition or petition for charter revision with which the public charter school contracts to provide management or oversight services regarding the school's expenditures, administration, personnel, or instructional methods. The term "school management organization" does not include an entity with which a public charter school contracts solely to provide administrative support services, such as:

"(A) Payroll processing or information technology services;

"(B) Academic support services; or

"(C) Temporary management services recommended by the eligible chartering authority to improve the performance of a public charter school.".

(b) Section 2204(c) (D.C. Official Code § 38-1802.04(c)) is amended as follows:

(1) A new paragraph (1A) is added to read as follows:

"(1A) *Conflicting interest transactions for public charter schools.* —

"(A) *In general.* — As of the effective date of the Public Charter School Fiscal Transparency Amendment Act of 2016, passed on 2nd reading on June 28, 2016 (Enrolled version of Bill 21-115), and notwithstanding any other provision of law, a contract or transaction between a public charter school and any of the following shall constitute a conflict of interest:

"(i) An individual who is a founder of the public charter school, or who is a current or former trustee, director, member, member of a designated body, officer, or key leader of the public charter school;

"(ii) A family member of any of the individuals identified in sub-subparagraph (i) of this subparagraph;

"(iii) An entity identified as submitting a petition to establish the public charter school pursuant to section 2202(13);

"(iv) An entity in which an individual identified in sub-subparagraph (i) of this subparagraph serves as a member of the board of directors or has a financial interest; or

"(v) An entity in which a family member of an individual identified in sub-subparagraph (i) of this subparagraph serves as a member of the board of directors or has a financial interest.

"(B) *Voidability.* — A contract or transaction described in subparagraph (A) of this paragraph shall be void or voidable unless the following conditions are satisfied:

"(i) The material facts as to the conflicting relationship or interest and as to the contract or transaction are known or disclosed to the Board of Trustees before the meeting at which the contract or transaction is authorized;

"(ii) The Board of Trustees authorizes the contract or transaction in good faith by an affirmative vote of a majority of disinterested trustees; and

"(iii) The contract or transaction is fair to the public charter school as of the time it is authorized.

"(C) *Quorum at meetings to authorize conflicting interest transactions.* — Common or interested trustees may be counted in determining the presence of a quorum at a meeting of the trustees at which a contract or transaction described in subparagraph (A) of this paragraph is authorized.

"(D) *Record of vote on conflicting interest transactions.* — The minutes of the meeting at which a conflicting interest contract or transaction is authorized shall reflect:

"(i) The material facts as to the conflicting relationship or interest and as to the contract or transaction; and

"(ii) The identity and vote of each disinterested trustee who voted.

"(E) *Reporting of conflicting interest transactions.* — The Board of Trustees shall report any conflicting interest contract or transaction it authorizes to the Public Charter School Board within 3 days of authorization.

"(F) *Fiscal mismanagement.* — An eligible chartering authority may consider a public charter school's failure to comply with this paragraph to be fiscal

mismanagement.

"(G) *Definitions.* — For the purposes of this paragraph, the term:

"(i) "Family member" means an individual who is legally or biologically related to another individual, or an individual who is legally or biologically related to the spouse or domestic partner of another individual.

"(ii) "Founder" means an individual identified in a petition to establish a public charter school pursuant to section 2202(13).

"(iii) "Key leader" means an individual holding any administrative, financial, operations, legal, or executive position at a public charter school as identified in the public charter school's charter agreement.

"(iv) "Designated body", "Director", "Member", and "Officer" shall have the same meanings as provided in D.C. Official Code § 29-401.02(8), (9), (24), and (29), respectively.

(2) A new paragraph (22) is added to read as follows:

"(22) *School management contracts.* — A public charter school may procure the services of a school management organization; provided, that it complies with subparagraphs (A) and (B) of this paragraph.

"(A) A public charter school shall submit a proposed agreement containing the provision described in subparagraph (B) of this paragraph in a petition to establish a public charter school, a petition to revise its charter, or an application to renew its charter to the eligible chartering authority for review, and it shall submit the executed agreement to the eligible chartering authority within 30 days of receiving approval of its petition or application.

"(B)(i) Any executed agreement for services between a public charter school and a school management organization shall include a provision whereby the school management organization agrees, under the following circumstances, to provide to the public charter school for production to the eligible chartering authority books, records, papers, and documents related to services the school management organization provided or has agreed to provide to the public charter school:

"(I) The public charter school requests such records from the school management organization; and either

"(II) The annual fee the public charter school agrees to pay to the school management organization or any of its related entities, as defined by section 201(h)(4)(B)-(C) of the Economic Recovery Tax Act of 1981, approved _August 13, 1981 (95 Stat. 218; 26 U.S.C. § 168(h)(4)(B)-(C)), is equal to or exceeds 20% of the school's annual revenue; or

"(III) The annual revenue the school management organization expects to derive from District public charter schools will exceed 25% of the school management organization's projected total annual revenue.

"(ii) The school management organization shall have the burden of producing records to demonstrate that it does not expect the revenue it derives from District public charter schools to exceed 25% of its projected total annual revenue.

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"(C) *Fiscal mismanagement.* — An eligible chartering authority may consider a public charter school's failure to comply with subparagraphs (A) or (B) of this paragraph as fiscal mismanagement; provided, that an eligible chartering authority shall not consider a public charter school to be out of compliance with this paragraph if the public charter school has submitted a petition or application that complies with subparagraph (A) of this paragraph within 180 days of the effective date of the Public Charter School Fiscal Transparency Amendment Act of 2016, passed on 2nd reading on June 28, 2016 (Enrolled version of Bill 21-115).".

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 21, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-466

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 25, 2016

To amend the Renewable Energy Portfolio Standard Act of 2004 to allow raw or treated wastewater used as a heat source or sink for a heating or cooling system to qualify as a tier one renewable source, to raise the renewable portfolio standard for tier one renewable sources to 50% by 2032 and the solar requirement to 5% by 2032, to require the Public Service Commission to provide a report to the Council relating to solar energy generated in the District that could qualify to be used to meet the annual solar energy requirement, but for which renewable energy credits cannot be purchased by electricity suppliers to meet the solar energy requirement, to change the alternative compliance payment for the solar requirement through 2032, and to expand the uses of the Renewable Energy Development Fund; and to amend the Clean and Affordable Energy Act of 2008 to increase the Sustainable Energy Trust Fund fee, and to establish a Solar for All Program within the Department of Energy and Environment for the purpose of increasing the access of seniors, small local businesses, nonprofits, and low-income households to the benefits of solar power.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Renewable Portfolio Standard Expansion Amendment Act of 2016".

Sec. 2. The Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-340; D.C. Official Code § 34-1431 *et seq.*), is amended as follows:

(a) Section 3(15) (D.C. Official Code § 34-1431(15)) is amended as follows:

(1) Subparagraph (F) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(2) Subparagraph (G) is amended by striking the period and inserting the phrase "; and" in its place.

(3) A new subparagraph (H) is added to read as follows:

"(H) Raw or treated wastewater used as a heat source or sink for a heating or cooling system.".

(b) Section 4 (D.C. Official Code § 34-1432) is amended as follows:

(1) Subsection (c) is amended as follows:

(A) Paragraph (12) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(B) Paragraph (13) is amended as follows:

(i) Strike the phrase "In 2023 and thereafter" and insert the phrase "In 2023" in its place.

(ii) Strike the period and insert a semicolon in its place.

(C) New paragraphs (14), (15), (16), (17), (18), (19), (20), (21), and (22) are added to read as follows:

"(14) In 2024, not less than 23% from tier one renewable sources, 0% from tier two renewable sources, and not less than 2.6% from solar energy;

"(15) In 2025, not less than 26% from tier one renewable sources, 0% from tier two renewable sources, and not less than 2.85% from solar energy;

"(16) In 2026, not less than 29% from tier one renewable sources, 0% from tier two renewable sources, and not less than 3.15% from solar energy;

"(17) In 2027, not less than 32% from tier one renewable sources, 0% from tier two renewable sources, and not less than 3.45% from solar energy;

"(18) In 2028, not less than 35% from tier one renewable sources, 0% from tier two renewable sources, and not less than 3.75% from solar energy;

"(19) In 2029, not less than 38% from tier one renewable sources, 0% from tier two renewable sources, and not less than 4.1% from solar energy;

"(20) In 2030, not less than 42% from tier one renewable sources, 0% from tier two renewable sources, and not less than 4.5% from solar energy;

"(21) In 2031, not less than 46% from tier one renewable sources, 0% from tier two renewable sources, and not less than 4.75% from solar energy; and

"(22) In 2032 and thereafter, not less than 50% from tier one renewable sources, 0% from tier two renewable sources, and not less than 5.0% from solar energy.".

(2) Subsection (e)(1) is amended by striking the phrase "larger than 5MW" both times it appears and inserting the phrase "larger than 15MW" in its place.

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

"(f) No later than March 1, 2017, the Commission shall provide a report to the Council that includes:

"(1) An estimate of the amount of solar energy generated annually by solar energy systems in the District that could qualify to be used to meet the annual solar energy requirement, but for which renewable energy credits cannot be purchased by electricity suppliers to meet the solar energy requirement; and

"(2) A recommendation for how the Commission could adjust the annual solar requirement to account for the amount of solar generation identified in paragraph (1) of this subsection.".

(c) Section 6(c)(3) (D.C. Official Code § 34-1434(c)(3)) is amended to read as follows:

"(3) Fifty cents in 2016 through 2023, 40 cents in 2024 through 2028, 30 cents in 2029 through 2032, and 5 cents in 2033 and thereafter for each kilowatt-hour of shortfall from required solar energy sources.".

(d) Section 8(c) (D.C. Official Code § 34-1436(c)) is amended to read as follows:

"(c)(1) The Fund shall be used for the purpose of:

"(A) Supporting the creation of new solar energy sources in the District, including activities that support the use of solar energy sources, such as electrical upgrades, structural improvements, and the installation of electrical or thermal storage systems;

"(B) Funding the Solar for All Program established by section 216 of the Clean and Affordable Energy Act of 2008, passed on 2nd reading on June 28, 2016 (Enrolled version of Bill 21-650);

"(C) Otherwise administering the Fund; and

"(D) Covering any costs to the District associated with implementing the Renewable Portfolio Standard Expansion Amendment Act of 2016, passed on 2nd reading on June 28, 2016 (Enrolled version of Bill 21-650).

"(2) The Fund may be used to supplement programs supporting the creation of new solar energy sources in the District through the Sustainable Energy Utility contract established by Title II of the Clean and Affordable Energy Act of 2008, effective October 22, 2008 (D.C. Law 17-250; D.C. Official Code § 8-1774.01 *et seq.*).".

Sec. 3. Title II of the Clean and Affordable Energy Act of 2008, effective October 22 2008 (D.C. Law 17-250; D.C. Official Code § 8-1774.01 *et seq.*), is amended as follows:

(a) Section 210(b) (D.C. Official Code § 8-1774.10(b)) is amended as follows:

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

(A) Subparagraph (C) is amended by striking the phrase "in fiscal year 2011 and each year thereafter." and inserting the phrase "in fiscal year 2011 through fiscal year 2016;" in its place.

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

"(D) The amount of $.01505 in fiscal year 2017 and each year thereafter.".

(2) Paragraph 2 is amended as follows:

(A) Subparagraph (C) is amended by striking the phrase "in fiscal year 2011 and each year thereafter." and inserting the phrase "in fiscal year 2011 through fiscal year 2016;" in its place.

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

"(D) The amount of $.001612 in fiscal year 2017 and each year thereafter.".

(b) A new section 216 is added to read as follows:

"Sec. 216. Solar for All Program.

"(a) There is established the Solar for All Program ("Program") to increase the access of seniors, small local businesses, nonprofits, and low-income households in the District to the benefits of solar power. The Program shall reduce by at least 50% the electric bills of at least 100,000 of the District's low-income households with high energy burdens by December 31, 2032.

"(b) The Program shall be administered by DOEE and operate until the end of Fiscal Year 2032. In administering the Program, DOEE shall coordinate with the Sustainable Energy Utility.

"(c) From Fiscal Year 2017 through Fiscal Year 2032, the Program shall be funded annually from the Renewable Energy Development Fund established by section 8 of the Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-340; D.C. Official Code § 34-1436).

"(d) The funding allocated in subsection (c) of this section may be used to supplement programs supporting the creation of new solar energy sources in the District through the Sustainable Energy Utility contract established by section 201.

"(e)(1) By February 1, 2017, DOEE shall develop, publish on its website, and submit to the Council a plan to implement the Program. The plan shall include:

"(A) A description of programs to be implemented by DOEE that would target seniors, small local businesses, nonprofits, and low-income households in the District;

"(B) An estimated timeline for implementation of the programs described in subparagraph (A) of this paragraph; and

"(C) Annual benchmarks for reducing by at least 50% the electric bills of at least 100,000 of the District's low-income households with high energy burdens by December 31, 2032.

"(2) If DOEE revises or updates the plan, DOEE shall publish on its website the revision or update within 30 days of its completion.

"(f) Beginning December 1, 2017, DOEE shall publish on its website and submit to the Council an annual report on the expenditure of the funds allocated to the Program, the amount of progress toward achieving the benchmarks established in subsection (e)(1)(C) of this section, and the number of solar systems installed pursuant to this section in the previous fiscal year.

"(g) For the purposes of this section, the term:

"(1) "Area median income" means:

"(A) For a household of 4 persons, the area median income for a household of 4 persons in the Washington Metropolitan Statistical Area as set forth in the periodic calculation provided by the United States Department of Housing and Urban Development;

"(B) For a household of 3 persons, 90% of the area median income for a household of 4 persons, as described in subparagraph (A) of this paragraph;

"(C) For a household of 2 persons, 80% of the area median income for a household of 4 persons, as described in subparagraph (A) of this paragraph;

"(D) For a household of one person, 70% of the area median income for a household of 4 persons, as described in subparagraph (A) of this paragraph; and

"(E) For a household of more than 4 persons, the area median income for a household of 4 persons, as described in subparagraph (A) of this paragraph, increased by 10% for each person in the household in excess of 4 persons (for example, the area median income for a household of 5 persons shall be 110% of the area median income for a household of 4 persons, as described in subparagraph (A) of this paragraph, and the area median income for a household of 6 persons shall be 120% of the area median income for a household of 4 persons, as described in subparagraph (A) of this paragraph).

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"(2) "Energy burden" means the percentage of household income spent on home energy bills.

"(3) "Low-income" means a household income equal to, or less than, 80% of the area median income.

"(4) "Solar system" means a solar photovoltaic or solar thermal system.".

Sec. 4. Applicability.

For 5 years after the effective date of this act, section 2(c) shall not apply to any contract entered into before the effective date of this act; provided, that section 2(c) shall apply to an extension or renewal of such a contract.

Sec. 5. Fiscal impact statement.

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

Sec. 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), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 25, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-467

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 25, 2016

To require the Mayor to publish crash data and moving infraction data; to require the District Department of Transportation ("DDOT") to publish sidewalk closure information and citizen petitions for traffic calming measures; to require DDOT to produce reports on locations of dangerous collisions and recommendations for improving bicycle and pedestrian safety; to require DDOT to create a Bicycle and Pedestrian Priority Area Program; to require DDOT to adopt a Complete Streets policy; to amend section 2214 of Title 18 of the District of Columbia Municipal Regulations to update rules on dooring prevention; to adopt consumer protection polices related to bicycle insurance policies; to require the Mayor to develop and make available an educational curriculum regarding the safe use of public streets by pedestrians and bicyclists; to amend Chapter 28 of Title 47 of the District of Columbia Official Code to update training for vehicle for-hire operators; to amend the Department of For-Hire Vehicles Establishment Act of 1985 to require training of operators associated with digital dispatch companies; to require the Mayor to transmit a report on remediation and deferred disposition program; to create the offense of aggressive driving; to amend the Bicycle Safety Enhancement Amendment Act of 2008 to require blind-spot mirrors, reflective blind-spot warning stickers, and side-underrun guards on registered heavy-duty vehicles; to require the Mayor to transmit a report regarding pedestrian-alert technologies for District-owned vehicles; to amend the District of Columbia Traffic Act, 1925, to enhance the penalties for operating or parking an all-terrain vehicle or dirt bike in the public right-of-way; to amend the District of Columbia Traffic Act, 1927 to revise the Ignition Interlock System Program to require mandatory participation for individuals convicted of driving under the influence of alcohol or a drug, driving while intoxicated, or operating a vehicle while impaired; to amend the Anti-Drunk Driving Act of 1982 to impose a permanent license revocation for a third conviction for driving under the influence of alcohol or a drug, driving while intoxicated, or operating a vehicle while impaired; to amend the Fiscal Year 1997 Budget Support Act of 1996 to provide access to photographs and video footage captured by automated traffic enforcement cameras and other District-owned cameras; and to establish a Major Crash Review Task Force.

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BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Bicycle and Pedestrian Safety Amendment Act of 2016".

TITLE I. OPEN ACCESS TO DATA AND INFORMATION

Sec. 101. Definitions.

For the purposes of this title, the term:

(1) "Collision" shall have the same meaning as provided in section 2(3) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(3)).

(2) "DDOT" means the District Department of Transportation.

(3) "Motor vehicle" shall have the same meaning as provided in section 2(11) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(11)).

(4) "MPD" means the Metropolitan Police Department.

Sec. 102. Publication of collision data.

(a) The Mayor shall publish online, at least once per month, the following data related to each collision that occurred in the preceding month:

(1) The date and time of the collision;

(2) The type of motor vehicle or motor vehicles involved in the collision;

(3) The location, by ward, block or intersection, and coordinates of the collision;

(4) The Police Service Area in which the collision occurred;

(5) The number of fatalities or injuries that result from the collision, disaggregated as follows:

(A) The number of motorists killed;

(B) The number of motorists injured;

(C) The number of passengers killed;

(D) The number of passengers injured;

(E) The number of bicyclists killed;

(F) The number of bicyclists injured;

(G) The number of pedestrians killed;

(H) The number of pedestrians injured;

(6) Available demographic information about the person or persons involved in the collision, including age-range, physical disabilities, if any, race, gender, and the jurisdiction in which the motor vehicle involved in the collision is registered; and

(7) As identified in MPD's accident report, the apparent human factor or factors that contributed to the collision, such as intoxication, driver inattention or distraction, speeding, or failure to yield.

(b) If complete data about a collision is not available at the time of publication, the Mayor shall publish online the information that is available at the time of publication, and update the data as additional information becomes available.

Sec. 103. Publication of moving infraction data.

(a) To the extent available, the Mayor shall publish online, at least once per month, the following information related to all notices of infractions issued for moving infractions in the preceding month:

(1) The date and time of the moving infraction;

(2) The location, by ward, block or intersection, and coordinates, where the moving infraction occurred;

(3) The Police Service Area in which the moving infraction occurred;

(4) The agency that issued the notice of infraction;

(5) Whether the notice of infraction was issued in person or by use of the automated traffic enforcement program;

(6) The provision of law violated;

(7) The age of the driver of the motor vehicle;

(8) The jurisdiction from which the driver's license was issued;

(9) The jurisdiction in which the motor vehicle involved in the moving infraction is registered; and

(10) The year, make, model, and type of the motor vehicle that committed the moving infraction.

(b) If complete data about a notice of infraction is not available at the time of publication, the Mayor shall publish the information that is available at the time of publication, and update the data as additional information becomes available.

Sec. 104. Publication of information relating to permits for the occupation of public space, public rights of way, and public structures.

(a) DDOT shall publish on its website, at least once per week, the following information related to permits for the occupation of public space, public rights of way, and public structures issued pursuant to section 603 of the Fiscal Year 1997 Budget Support Act of 1996, effective April 9, 1997 (D.C. Law 11-198; D.C. Official Code § 10–1141.03) ("permit"), in the preceding week that would block a sidewalk, bicycle lane, or other public pedestrian or bicycle path:

(1) The location of the public space, public right of way, or public structure affected by the issuance of the permit, by ward, block or intersection, and coordinates;

(2) A description of the public space, public right of way, or public structure affected by the issuance of the permit, including whether the permit closes a sidewalk, bicycle lane, or other public pedestrian or bicycle path;

(3) The duration for which the portion of a sidewalk, bicycle lane, or other public pedestrian or bicycle path will be closed, including the start and end date for the closure;

(4) A brief explanation of the reason for issuing the permit to close a portion of a sidewalk, bicycle lane, or other public pedestrian or bicycle path; and

(5) A description of any safe accommodation provided for pedestrians and bicyclists, as required by section 603(f) of the Fiscal Year 1997 Budget Support Act of 1996, effective April 9, 1997 (D.C. Law 11-198; D.C. Official Code § 10-1141.03(f)), or, in the event that a safe accommodation is not provided for pedestrians and bicyclists, an explanation for the absence of a safe accommodation.

(b) If complete data about the permit is not available at the time of publication, DDOT shall publish the information that is available at the time of publication, and update the data as additional information becomes available.

Sec. 105. Publication of information relating to citizen petitions for traffic calming measures.

(a) DDOT shall publish on its website, at least once per month, the following information related to citizen petitions for traffic calming measures submitted to the agency in the preceding month:

(1) The location of the requested traffic calming measure, by ward, block or intersection, and coordinates;

(2) The date that the citizen petition was submitted to the agency;

(3) The change or modification requested under the citizen petition for traffic calming; and

(4) The status of the citizen petition within the agency's review of citizen petitions for traffic calming measures.

(b) If complete data about the citizen petitions for traffic calming measures is not available at the time of publication, DDOT shall publish the information that is available at the time of publication, and update the data as additional information becomes available.

Sec. 106. Annual report on locations with the highest frequency of collisions that injure or kill pedestrians.

By July 1, 2017, and annually thereafter, DDOT shall transmit to the chairperson of the Council committee with oversight of transportation a report that:

(1) Identifies the 20 locations at which pedestrians were most frequently seriously injured or killed as the result of a collision during the preceding 5 years;

(2) Describes any inspections conducted by DDOT at the locations identified pursuant to paragraph (1) of this section;

(3) Makes recommendations for how to decrease the number of collisions with pedestrians at the locations identified pursuant to paragraph (1) of this section and provides a timeline for implementing the recommendations; and

(4) Provides status updates on the implementation of recommendations provided in past reports required by this section.

Sec. 107. Biennial report on improving bicycle and pedestrian safety.

(a) By July 1, 2018, and every 2 years thereafter, DDOT, with input from other District agencies as needed, shall submit to the Council and make publicly available a report for improving bicycle and pedestrian safety, which shall include:

(1) Recommendations on how to enhance the safety of bicyclists and pedestrians where motor vehicles make left and right turns;

(2) Recommendations on how arterial streets may be designed to minimize the risk of collisions with bicyclists and pedestrians;

(3) Recommendations on how to enhance the safety of pedestrians at unsignalized crosswalks; and

(4) A timeline for implementing the recommendations contained in the report.

(b) DDOT shall use the report required by subsection (a) of this section to develop strategies and plans to improve bicycle and pedestrian safety.

TITLE II. BICYCLE AND PEDESTRIAN PRIORITY AREAS

Sec. 201. Bicycle and Pedestrian Priority Area Program.

(a) There is established the Bicycle and Pedestrian Priority Area Program ("Program"), which shall be implemented by the District Department of Transportation ("DDOT"). The purpose of the Program shall be to enhance implementation of rapid infrastructure changes and enforcement attention in specific geographic areas identified pursuant to subsection (b)(1) of this section.

(b)(1) Under the Program, DDOT shall designate corridors, including blocks immediately adjacent to the corridor, around the District as Priority Areas, taking into account the following criteria:

(A) Use by bicyclists and pedestrians;

(B) The frequency of collisions involving a pedestrian or bicyclist;

(C) The severity of collisions involving a pedestrian or bicyclist; and

(D) Any other bicycle and pedestrian safety data collected by DDOT.

(2) Upon being designated a Priority Area, a corridor shall retain that designation for at least 5 years.

(c) By July 1, 2017, and annually thereafter, the Mayor shall transmit to the Council a report that includes detailed information about the implementation of the Program, including:

(1) An explanation of why each Priority Area was selected;

(2) A summary of the improvements made in the previous year to each Priority Area, including the use of automated traffic enforcement, the use of traffic control officers, temporary traffic safety improvements, and long-term modifications; and

(3) A description of modifications to traffic patterns and infrastructure that DDOT recommends occur within each Priority Area, and a timeline for implementing the modifications, which may include:

(A) Not allowing a right turn when a motor vehicle operator has a red light at a signalized intersection;

(B) A reduction of the speed limit;

(C) The installation of protected bicycle infrastructure; and

(D) The increased use of traffic control officers and the automated traffic enforcement system.

(d) 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.*), may issue rules to implement the provisions of this section.

(e) For the purposes of this section, the term:

(1) "Collision" shall have the same meaning as provided in section 2(3) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(3)).

(2) "Motor vehicle" shall have the same meaning as provided in section 2(11) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(11)).

TITLE III. COMPLETE STREETS

Sec. 301. Complete Streets policy.

(a) For the purposes of this section, the term:

(1) "Complete Streets policy" means a policy by which streets are designed, operated, and maintained to accommodate safe and convenient access and mobility for all users of the District's transportation system, including pedestrians, bicyclists, users of mass transit, motorists, emergency responders, and persons of all ages and abilities.

(2) "Highway" means any street, road, or public thoroughfare that is under the jurisdiction and control of the District, when any part thereof is open to the use of the public for purposes of vehicular or pedestrian travel.

(b) The District Department of Transportation ("DDOT") shall create a Complete Streets policy, which shall contain, at a minimum, the following goals:

(1) Improving safety and promoting healthy communities by encouraging walking, bicycling, and using public transportation;

(2) Establishing a District-wide integrated system of vehicle, bicycle, and pedestrian infrastructure;

(3) Accommodating and balancing the choice, safety, and convenience of all users of the District's transit network, while recognizing that individual corridors have modal priorities;

(4) Protecting the environment and reducing congestion by providing safe alternatives to single-occupancy driving;

(5) Involving local residents and stakeholders in planning and design decisions;

(6) Actively looking for opportunities to repurpose highways to enhance connectivity for pedestrians, bicyclists, and transit; and

(7) Improving non-motorized use of highways within one quarter mile of schools and parks.

(c) DDOT shall incorporate the Complete Streets policy into the Transportation Strategic Plan, the Pedestrian Master Plan, the Bicycle Master Plan, and other DDOT plans, manuals, rules, regulations, and programs, including the construction, reconstruction, and maintenance of all highways, unless:

(1) Use of a particular highway by specified users is prohibited by law, including within interstate highway corridors, in which case DDOT shall endeavor to accommodate such users elsewhere, including on highways that cross or otherwise intersect with the affected highway;

(2) The costs would be excessively disproportionate to the need or probable use of the particular highway; or

(3) The safety of vehicular, pedestrian, or bicycle traffic would be placed at an unacceptable risk.

(d) By July 1, 2017, and annually thereafter, DDOT shall report to the Council on the agency's progress towards implementing the Complete Streets policy during the previous calendar year, as well as plans for further implementation of the Complete Streets policy during the upcoming year. These reports shall incorporate performance measures established by DDOT to determine how well streets are serving all users and identify barriers to implementing the Complete Streets policy.

(e) 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.*), may issue rules to implement the provisions of this section.

TITLE IV. BICYCLE CONSUMER PROTECTION

Sec. 401. Definitions.

For the purposes of this title, the term:

(1) "Bicyclist" means a person operating a bicycle, as that term is defined in section 10(1) of the District of Columbia Comprehensive Bicycle Transportation and Safety Act of 1984, effective March 6, 1985 (D.C. Law 5-179; D.C. Official Code § 50-1609(1)).

(2) "Commissioner" means the Commissioner of the Department of Insurance, Securities, and Banking, or the Commissioner's designee.

(3) "Insured" means a named insured or any other person insured in a bicycle insurance policy, with the exception of those persons specifically excluded by endorsement on the bicycle insurance policy.

(4) "Insurer" means any person, company, or professional association licensed in the District of Columbia that provides bicycle insurance policies.

(5) "Named insured" means the person identified in the declaration of the bicycle insurance policy.

(6) "Person" means any natural person, firm, copartnership, association, government, government agency, or instrumentality.

Sec. 402. Consumer protection for bicycle insurance.

(a) No insurer shall cancel a bicycle insurance policy except for refusal or failure of the insured to pay a premium due under the terms of the policy of bicycle insurance.

(b) No cancellation or refusal to renew by an insurer of a bicycle insurance policy shall be effective unless the insurer has delivered or mailed to the named insured, at the address shown in the policy or to the named insured's last known address, a written notice of intent to cancel or refusal to renew. The required notice shall be provided to the named insured at least 30 calendar days before the effective date of cancellation, or, in the case of nonrenewal, 30 calendar days before the end of the policy period. The notice shall contain a statement advising the named insured of his or her right to request, in writing, within 15 calendar days of receipt of the notice, that the Commissioner review the action of the insurer in cancelling or refusing to renew the policy of the insured.

(c) Proof of mailing of the notice of cancellation, or of intention not to renew, to the named insured by post office receipt secured or certified mail at the address shown in the policy or to the named insured's last known address shall be sufficient proof of notice.

(d) Despite failure of the named insured to make timely payment of the renewal premium, failure by the insurer to provide the notice required by this section shall result in the insurer being required:

(1) To provide coverage for any claim that would have been covered under the policy, if the claim arises within 45 calendar days after the date within which the named insured discovers or should have discovered that his or her policy has not been renewed; and

(2) To renew the policy upon tender of payment; provided, that tender is made within 15 calendar days after the date the named insured discovers, or should have discovered, that his or her policy has not been renewed.

(e) No insurer shall fail or refuse to issue a policy of bicycle insurance to an applicant, fail or refuse to renew a policy of bicycle insurance, or cancel a policy of bicycle insurance in violation of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*).

(f) No applicant for a policy of bicycle insurance, as a condition precedent to obtaining a policy or renewing a policy, shall be required to disclose whether he, she, or any person reasonably expected to operate the applicant's bicycle has ever had an insurance policy cancelled or not renewed; provided, that at the time of application an applicant may be required to disclose his or her experience as a bicyclist for a past period of not more than 3 years.

(g) No insurer shall refuse to insure, refuse to continue to insure, limit coverage available to, or charge a disadvantageous rate to any person seeking to obtain bicycle insurance because that person had not been previously insured.

(h) The restrictions on cancellation contained in this title shall not be effective with respect to any policy that has been in force for 60 calendar days or less if the policy is not a renewal policy.

Sec. 403. Appeals.

(a) If the insured disputes the validity of a purported cancellation or nonrenewal, the insured may send, within 15 calendar days of receipt of the notice of intent to cancel or not to renew, written notification to the Commissioner of the reasons the insured believes the action by the insurer is invalid. The Commissioner shall, upon receipt, immediately send the insurer a copy of the notification.

(b) Unless the matter referred to in subsection (a) of this section has been settled, the Commissioner shall determine, within 45 calendar days of receipt of the notification of appeal, whether the cancellation or nonrenewal was authorized under the terms of this title and shall notify immediately the insured and the insurer in writing of the decision.

(c)(1) If the Commissioner determines that a policy was improperly cancelled or not renewed, the policy in question shall be considered to be in effect and to have been in effect from the date of notification of cancellation or nonrenewal.

(2) If the Commissioner determines that a policy was properly cancelled or not renewed, the policy in question shall be considered to be cancelled or not renewed as of the cancellation or nonrenewal date given in the notice sent by the insurer pursuant to section 402 or as of the date of determination by the Commissioner, whichever is later. The insured shall pay any portion of the required premium or cost to the insurer for the insurance coverage in effect and provided by the insurer for which the insured has not paid.

(d) Decisions of the Commissioner shall be appealable 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.*).

Sec. 404. Immunity.

There shall be no liability on the part of and no cause of action of any nature shall arise against any employee of the District government, any insurer, its authorized representatives, its agents, its employees, or any firm, person, or corporation who, in good faith:

(1) Furnishes to the named insured information as to the reason for cancellation or nonrenewal;

(2) Makes any statement in any written notice of cancellation or renewal;

(3) Makes any other communication, oral or written, specifying the reason for cancellation or nonrenewal;

(4) Provides information pertaining to the insured; or

(5) Makes statements or submits evidence at any hearing conducted in connection with the cancellation or nonrenewal.

Sec. 405. Rights and policy terms.

(a) The rights provided by this title shall be in addition to and shall not prejudice any other rights the named insured may have at common law or otherwise.

(b) Notwithstanding section 201(a)(1) of the District of Columbia Comprehensive Bicycle Transportation and Safety Act of 1984, effective May 1, 2008 (D.C. Law 17-149; D.C. Official Code § 50–1611(a)(1)), an insurer that offers bicyclist insurance policies may require that an insured register his or her bicycle with the National Bicycle Registry, as that term is defined in section 10(1B) of the District of Columbia Comprehensive Bicycle Transportation and Safety Act of 1984, effective March 16, 1985 (D.C. Law 5-179; D.C. Official Code § 50-1609(1B)), or a District bicycle registry established by the Mayor in accordance with section 201 of the District of Columbia Comprehensive Bicycle Transportation and Safety Act of 1984, effective May 1, 2008 (D.C. Law 17-149; D.C. Official Code § 50-1611), and maintain such registration for the duration of the policy coverage.

TITLE V. BICYCLE AND PEDESTRIAN SAFETY

Sec. 501. Section 2214.4 of Title 18 of the District of Columbia Municipal Regulations (18 DCMR § 2214.4) is amended by striking the phrase "without interfering with moving traffic or pedestrians" and inserting the phrase "without interfering with moving traffic, bicyclists, or pedestrians" in its place.

Sec. 502. Universal street safety education.

(a) The Mayor shall develop and make available to public schools and public charter schools in the District an educational curriculum for children in the first through fifth grades regarding the safe use of public streets and premises open to the public by pedestrians and users of bicycles. At a minimum, the curriculum shall address:

(1) The safe use of bicycles;

(2) Traffic laws and regulations;

(3) The use of bicycle lanes and trails; and

(4) Safe pedestrian practices.

(b) For the purposes of this section, the term "bicycle" shall have the same meaning as provided in section 10(1) of the District of Columbia Comprehensive Bicycle Transportation and Safety Act of 1984, effective March 6, 1985 (D.C. Law 5-179; D.C. Official Code § 50-1609(1)).

TITLE VI. MOTOR VEHICLE SAFETY

Sec. 601. Section 47-2829(e)(2)(A) of the District of Columbia Official Code is amended as follows:

(a) The lead-in language is amended by striking the phrase "the training course shall be designed" and inserting the phrase "the training course and any refresher course provided by the Department of For-Hire Vehicles shall be designed" in its place.

(b) Sub-subparagraph (iii) is amended to read as follows:

"(iii) District traffic laws and regulations and the penalties for violating these laws and regulations, including:

"(I) The rights and duties of motorists, which include not blocking the crosswalk or intersection, and not driving or stopping in a bicycle lane;

"(II) The rights and duties of pedestrians; and

"(III) The rights and duties of bicyclists.".

Sec. 602. Section 20f-2 of the Department of For-Hire Vehicles Establishment Act of 1985, effective March 10, 2015 (D.C. Law 20-197; D.C. Official Code § 50-301.25b), is amended to read as follows:

"Sec. 20f-2. Training of employees and operators.

"(a) A company that uses digital dispatch shall train associated operators:

"(1) In how to properly and safely handle mobility devices and equipment and to treat an individual with disabilities in a respectful and courteous manner; and

"(2) On District traffic laws and regulations, and the penalties for violating these laws and regulations, including:

"(A) The rights and duties of motorists, which include not blocking the crosswalk or intersection, and not driving or stopping in a bicycle lane;

"(B) The rights and duties of pedestrians; and

"(C) The rights and duties of bicyclists.

"(b) Completion of a public vehicle-for-hire driver's training course approved by the DFHV shall satisfy the operator training required by subsection (a) of this section.".

Sec. 603. Study of remediation and deferred disposition program.

Before July 1, 2017, the Mayor shall transmit to the chairperson of the Council committee with oversight of transportation a report and recommendations as to whether the District should implement a remediation and deferred disposition program for individuals that commit moving or nonmoving infractions in the District. The report shall include the following:

(1) A review of the best practices in other jurisdictions;

(2) An examination of issues such as staffing levels and implementation costs;

(3) The moving and nonmoving infractions, if any, to which the remediation and deferred disposition program should apply;

(4) Whether the remediation and deferred disposition program should reduce the entire fine or number of points assessed, or a portion of the fine or number of points assessed; and

(5) If the Mayor recommends implementing a remediation and deferred disposition program, the report shall include a detailed description of the content of any proposed safety course provided in the program, the process by which a person would participate in the program, and the alternatives available to participants in lieu of paying a fine or being assessed points.

Sec. 604. Aggressive driving.

(a) It shall be a violation of this section if a person violates 3 or more of the following provisions at the same time or during a single and continuous period of driving within the course of one mile:

(1) Section 2000.4 of Title 18 of the District of Columbia Municipal Regulations (18 DCMR § 2000.4);

(2) Section 2200 of Title 18 of the District of Columbia Municipal Regulations (18 DCMR § 2200);

(3) Section 2201.6 of Title 18 of the District of Columbia Municipal Regulations (18 DCMR § 2201.6);

(4) Section 2201.9 of Title 18 of the District of Columbia Municipal Regulations (18 DCMR § 2201.9);

(5) Section 2202.4 of Title 18 of the District of Columbia Municipal Regulations (18 DCMR § 2202.4);

(6) Section 2205 of Title 18 of the District of Columbia Municipal Regulations (18 DCMR § 2205);

(7) Section 2210.1 of Title 18 of the District of Columbia Municipal Regulations (18 DCMR § 2210.1);

(8) Section 2220 of Title 18 of the District of Columbia Municipal Regulations (18 DCMR § 2220);

(9) Section 2405.1(e) of Title 18 of the District of Columbia Municipal Regulations (18 DCMR § 2405.1(e)); or

(10) Section 9 of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (45 Stat. 1123; D.C. Official Code § 50–2201.04).

(b)(1) The penalty for violating this section shall be a fine of $200 and 2 traffic points. The penalties prescribed by this subsection shall be applied in addition to any other penalties provided by law for the offenses listed in subsection (a) of this section.

(2) In addition to any penalty described in paragraph (1) of this subsection, a person who violates this section shall complete traffic school, as approved by the Department of Motor Vehicles, within 90 days of the date on which the infraction is established. Failure to successfully complete the traffic school shall result in the suspension of the driver's license or privilege to operate a motor vehicle in the District for a period to be determined by the Department of Motor Vehicles.

(c) A violation of this section shall be processed and adjudicated under the provisions applicable to moving violations set forth in Title II of the District of Columbia Traffic Adjudication Act of 1978, effective September 12, 1978 (D.C. Law 2-104; D.C. Official Code § 50-2302.01 *et seq.*).

Sec. 605. The Bicycle Safety Enhancement Amendment Act of 2008, effective March 25, 2009 (D.C. Law 17-352; D.C. Official Code § 50-205), is amended as follows:

(a) The section heading is amended by striking the phrase "District-owned,".

(b) New subsections (a-1) and (a-2) are added to read as follows:

"(a-1) Effective January 1, 2017, all heavy-duty vehicles registered in the District shall be equipped with the following:

(1) Blind-spot mirrors or a blind-spot camera system; and

(2) Reflective blind-spot warning stickers.

"(a-2) Effective January 1, 2019, all heavy-duty vehicles registered in the District shall be equipped with side-underrun guards to prevent bicyclists, other vehicles, or pedestrians from sliding under rear wheels.".

Sec. 606. Audible warnings from public sector large vehicles.

By July 1, 2017, the Mayor shall transmit to the chairperson of the Council committee with oversight of transportation a report and recommendation as to whether DC Circulator buses and District-owned, heavy-duty vehicles should be equipped with pedestrian-alert technologies. The report shall review best practices in other jurisdiction and examine issues such as cost, implementation, and feasibility, and shall provide a timeline for implementation, if the Mayor recommends using this technology.

Sec. 607. Section 9b of the District of Columbia Traffic Act, 1925, effective April 5, 2005 (D.C. Law. 15-289; D.C. Official Code § 50-2201.04b), is amended to read as follows:

"Sec. 9b. All-terrain vehicles and dirt bikes.

"(a) No person shall:

"(1) Operate at any time an all-terrain vehicle or dirt bike on public property, including any public space in the District; or

"(2) Park at any time an all-terrain vehicle or dirt bike on public property, including any public space in the District.

"(b) All-terrain vehicles or dirt bikes shall not be registered with the Department of Motor Vehicles.

"(c) A person violating any provision of this section shall upon conviction be fined no more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or incarcerated for no more than 30 days, or both.

"(d) In addition to the penalties described in subsection (c) of this section, a person who is convicted of violating subsection (a)(1) of this section shall, upon a second or subsequent conviction for violating subsection (a)(1) of this section, have his or her driver's license, or privilege to operate a motor vehicle in the District, suspended for one year from the date of conviction; provided, that the period of suspension shall toll during a period of incarceration.

"(e) The Attorney General for the District of Columbia, or his or her assistants, shall prosecute violations of this section, in the name of the District of Columbia.

"(f) An all-terrain vehicle or dirt bike operated or parked in violation of this section shall be subject to forfeiture pursuant to the standards and procedures set forth in the Civil Asset Forfeiture Amendment Act of 2014, effective June 16, 2015 (D.C. Law 20-278; D.C. Official Code § 41-301 *et seq.*).".

Sec. 608. Section 101(4) of the Civil Asset Forfeiture Amendment Act of 2014, effective June 16, 2015 (D.C. Law 20-278; D.C. Official Code § 41-301(4)), is amended by striking the phrase "or section 4 of the District of Columbia Revenue Act of 1937, approved August 17, 1937 (50 Stat. 682; D.C. Official Code § 50-1501.04)" and inserting the phrase "section 4 of the District of Columbia Revenue Act of 1937, approved August 17, 1937 (50 Stat. 682; D.C. Official Code § 50-1501.04), or section 9b of the District of Columbia Traffic Act, 1925, effective April 5, 2005 (D.C. Law 15-289; D.C. Official Code § 50-2201.04b)" in its place.

Sec. 609. Emergency vehicle enforcement cameras.

By July 1, 2017, the Mayor shall transmit to the chairperson of the Council committee with oversight of transportation and the chairperson of the Council committee with oversight of public safety a report and recommendation as to whether emergency vehicles should be equipped with cameras to better enforce regulations associated with the failure to yield to emergency vehicles. The report shall also review best practices in other jurisdictions and examine issues related to equipping emergency vehicles with cameras, such as cost, implementation, accident prevention, and feasibility. If the Mayor recommends equipping emergency vehicles with cameras, the report shall provide a timeline for implementing the use of such cameras.

TITLE VII. DRUNK DRIVING

Sec. 701. Section 10a of the District of Columbia Traffic Act, 1925, effective April 3, 2001 (D,C. Law 13-238; D.C. Official Code § 50-2201.05a), is amended to read as follows:

"Sec. 10a. Establishment of Ignition Interlock System Program.

"(a) For the purposes of this section, the term "covered offense" means a violation of any of the following provisions of law:

"(1) Sections 3b, 3c, or 3e of the Anti-Drunk Driving Act of 1982, effective April 27, 2013 (D.C. Law 19-266; D.C. Official Code § 50-2206.11, § 50-2206.12, or § 50-2206.14); or

"(2) Driving a motor vehicle in a party state while under the influence of intoxicating liquor or a narcotic drug or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle, pursuant to article IV(a)(2) of section 2 of the Driver License Compact Adoption Act of 1984, effective March 16, 1985 (D.C. Law 5-184; D.C. Official Code § 50-1001(IV)(a)(2)).

"(b) Except as provided in sections 3d(d-1) and 3f(c-1) of the Anti-Drunk Driving Act of 1982, effective September 14, 1982 (D.C. Law 4-145; D.C. Official Code §§ 50-2206.13(d-1) and 50-2206.15(c-1)), and section 3t(a-1)(2) of the Anti-Drunk Driving Act of 1982, effective September 14, 1982 (D.C. Law 4-145; D.C. Official Code § 50-2206.55(a-1)(2)), a person convicted of a covered offense who holds a driver's license issued by the District shall, as a condition of a restricted license, enroll in the Ignition Interlock System Program ("Program") established by this section for:

"(1) Upon a first conviction, a period of 6 months;

"(2) Upon a second conviction, a period of one year; and

"(3) Upon a third or subsequent conviction, a period of 2 years.

"(c) A person enrolled in the Program shall:

"(1) Not operate a motor vehicle that is not equipped with a functioning, certified ignition interlock system for a period of time, not to exceed the period of license restriction set forth in subsection (b) of this section; and

"(2) Install an ignition interlock system on each motor vehicle owned by or registered to the person.

"(d)(1) For the duration of the person's participation in the Program, the Department shall issue to the offender a restricted license which shall appropriately set forth the restrictions required by this section and regulations issued pursuant to this section.

"(2) The Department may revoke the participant's operator's permit or issue a civil fine for failing to comply with the requirements of the Program.

"(e)(1) Except as provided in paragraph (2) of this subsection, a participant in the Program shall pay all costs associated with enrolling and participating in the Program.

"(2) Before a participant enrolls in the Program, the Department shall determine whether a participant is indigent. If a participant is determined to be indigent, the Department shall pay all costs associated with that person's enrollment and participation in the Program.

"(3) For the purposes of paragraph (2) of this subsection, the term "indigent" means a person who receives an annual income, after taxes, of 150% or less of the federal poverty guidelines as updated periodically in the Federal Register by the United States Department of Health and Human Services pursuant to section 673(2) of the Community Services Block Grant Act, approved October 27, 1998 (112 Stat. 2729; 42 U.S.C. § 9902(2).".

Sec. 702. The Anti-Drunk Driving Act of 1982, effective September 14, 1982 (D.C. Law 4-145; D.C. Official Code § 50-2206.01 *et seq.*), is amended as follows:

(a) Section 3d (D.C. Official Code § 50-2206.13) is amended by adding a new subsection (d-1) to read as follows:

"(d-1)(1) In addition to any other penalty provided by law, and notwithstanding section 10a of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat 1119; D.C. Official Code § 50-2201.05a), and section 3t(a-1)(1), a person violating any provision of section 3b or 3c when the person has 2 prior offenses under section 3b, 3c, or 3e within the past 5 years and is being sentenced on the current offense shall have his or her driver's license or privilege to operate a motor vehicle in the District permanently revoked without the ability to be reinstated.

"(2) Notwithstanding paragraph (1) of this subsection, a person whose driver's license or privilege to operate in the District was revoked pursuant to paragraph (1) of this subsection may, after 5 years from the date of revocation, apply to the Department for reinstatement. Upon receipt of an application, the Department may reinstate the persons driver's license or privilege to operate a motor vehicle in the District for good cause shown.".

(b) Section 3f (D.C. Official Code § 50-2206.15) is amended by adding a new subsection (c-1) to read as follows:

"(c-1)(1) In addition to any other penalty provided by law, and notwithstanding section 10a of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat 1119; D.C. Official Code § 50-2201.05a), and section 3t(a-1)(1), a person violating any provision of section 3e when the person has 2 prior offenses under section 3b, 3c, or 3e within the past 5 years and is being sentenced on the current offense shall have his or her driver's license or privilege to operate a motor vehicle in the District permanently revoked without the ability to be reinstated.

"(2) Notwithstanding paragraph (1) of this subsection, a person whose driver's license or privilege to operate in the District was revoked pursuant to paragraph (1) of this subsection may, after 5 years from the date of revocation, apply to the Department for reinstatement. Upon receipt of an application, the Department may reinstate the persons driver's license or privilege to operate a motor vehicle in the District for good cause shown.".

(c) Section 3t (D.C. Official Code § 50-2206.55) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "The Mayor or his or her designated agent" and inserting the phrase "Except as provided in subsection (a-1) of this section, the Mayor or his or her designated agent" in its place.

(2) A new subsection (a-1) is added to read as follows:

"(a-1)(1) Notwithstanding subsection (a) of this section, and except as provided in sections 3d(d-1) and 3f(c-1) and paragraph (2) of this subsection, the Mayor shall restrict the operator's permit of a person who has an operator's permit issued by the District who is convicted or adjudicated a juvenile delinquent as a result of a violation of sections 3b, 3c, or 3e and such person shall enroll in the Ignition Interlock System Program, pursuant to section 10a of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat 1119; D.C. Official Code § 50-2201.05a).

"(2) If a person who has an operator's permit issued by the District is convicted or adjudicated a juvenile delinquent as a result of the commission of a violation of sections 3b, 3c,

or 3e and an offense listed in subsection (a)(2) through (6) of this section, the Mayor shall revoke the person's operator's permit and such person shall not enroll in the Ignition Interlock System Program established by section 10a of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.05a).".

Sec. 703. Rules.

Within 180 days after the effective date of the Bicycle and Pedestrian Safety Amendment Act of 2016, passed on 2nd reading on June 28, 2016 (Enrolled version of Bill 21-335), 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 title.

Sec. 704. Applicability.

Sections 701 and 702(c) shall apply upon the issuance of rules by the Mayor pursuant to section 703.

TITLE VIII. MAJOR CRASH REVIEW

Sec. 801. Title IX of the Fiscal Year 1997 Budget Support Act of 1996, effective April 9, 1997 (D.C. Law 11-198; D.C. Official Code § 50-2209.01 *et seq.*), is amended by adding a new section 904 to read as follows:

"Sec. 904. Access to automated traffic enforcement and District-owned camera photographs and video footage.

"(a) If an automated traffic enforcement camera or other District-owned camera captures a photograph or video footage of a collision handled by the Metropolitan Police Department Major Crash Unit, the Mayor shall:

"(1) Within 14 business days of the collision, inform all parties involved in the collision of the existence of the photograph or video footage;

"(2) Ensure the preservation of the photograph or video footage for 6 months from the date the photograph or video footage was created; and

"(3) Within 14 business days of the request of a party, provide access to the photograph or video footage; provided, that where the photograph or video footage is evidence in a criminal proceeding, access to the photograph or video footage shall be handled through the existing discovery process for criminal cases.

"(b) Nothing in this section shall be construed to alter or impair the rights of any person under Title II of the District of Columbia Administrative Procedure Act, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq*).

"(c) 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.*), may issue rules to implement the provisions of this section.

"(d) For the purposes of this section, the term "District-owned camera" shall not include a body-worn camera.".

Sec. 802. Major Crash Review Task Force.

(a) There is established a Major Crash Review Task Force ("Task Force"), which shall consist of the following members:

(1) The Chief of the Metropolitan Police Department, or the Chief's designee;

(2) The Director of the District Department of Transportation, or the Director's designee;

(3) The Director of the Office of Planning, or the Director's designee;

(4) A representative from the Bicycle Advisory Council who is selected by the Bicycle Advisory Council;

(5) A representative from the Pedestrian Advisory Council who is selected by the Pedestrian Advisory Council; and

(6) A representative from the Multimodal Accessibility Advisory Council who is selected by the Multimodal Accessibility Advisory Council.

(b) The Task Force shall review every crash handled by the Major Crash Unit of the Metropolitan Police Department and recommend to the Mayor and the Council changes to the District's statutes, regulations, policies, and infrastructure that the Task Force believes would reduce the number of crashes in the District resulting in serious injury or death.

(c) The Task Force shall begin review of a crash handled by the Major Crash Unit of the Metropolitan Police Department either:

(1) Upon receipt of notice that the United States Attorney's Office for the District of Columbia and the Attorney General for the District of Columbia has declined to bring any prosecutions related to the crash; or

(2) If there is a criminal proceeding against an individual involved in the crash, the issuance of a final judgment in the criminal proceeding.

TITLE IX. APPLICABILITY; FISCAL IMPACT; EFFECTIVE DATE

Sec. 901. Applicability.

(a) Sections 103 and 801 and the amendatory section 10a(e)(2) of the District of Columbia Traffic Act, 1925 within section 701, shall apply upon the date of inclusion of their fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

ENROLLED ORIGINAL

Sec. 902. Fiscal impact statement.

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

Sec. 903. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 25, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-468

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2016

To designate the public alley in Square 2851 that runs north and south between Irving Street, N.W., and Columbia Road, N.W., in Ward 1, as Theodore "Ted" Williams Alley.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Theodore 'Ted' Williams Alley Designation Act of 2016".

Sec. 2. Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01) ("Act"), and notwithstanding the requirements of sections 403, 407, and 408 of the Act (D.C. Official Code §§ 9-204.03, 9-204.07, and 9-204.08), the Council designates the alley in Square 2851 that runs north and south between Irving Street, N.W., and Columbia Road, N.W., in Ward 1, as "Theodore 'Ted' Williams Alley".

Sec. 3. Implementation of alley designation

(a)(1) The name designated pursuant to section 2 shall be the official name of the alley.

(2) For the purposes of this act, the term "official name" means the legal designation of the alley for mailing address and other official purposes.

(b) The Mayor shall:

(1) Update relevant records of the District of Columbia to reflect the official name of the alley, including:

(A) Fire and Emergency Medical Services Department records;

(B) Homeland Security and Emergency Management Agency records;

(C) District of Columbia maps; and

(D) Any other record of the District of Columbia used for way-finding or address purposes;

(2) Notify the United States Postal Service, other relevant government agencies, and relevant private-sector entities of the official name of the alley; and

(3) Install signage indicating the official name of the alley using procedures established by the District Department of Transportation, and remove any signs with a previous name.

ENROLLED ORIGINAL

Sec. 4. Transmittal.

The Council shall transmit a copy of this act, upon its effective date, to the Mayor, the District Department of Transportation, and the Office of the Surveyor.

Sec. 5. Fiscal impact statement.

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

Sec. 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), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 21, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-469

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2016

To establish, on a temporary basis, that it shall be unlawful for the owner or operator of a grocery store to impose a restrictive land covenant or use restriction on the sale, or other transfer, or lease of real property used as a grocery store that prohibits the subsequent use of the property as a grocery store.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Grocery Store Restrictive Covenant Prohibition Temporary Act of 2016".

Sec. 2. (a) It shall be unlawful for the owner or operator of a grocery store to impose a restrictive land covenant or use restriction in a contract for the sale, or other transfer, or lease of real property being used as a grocery store that prohibits the subsequent use of the real property as a grocery store.

(b) Any contract, including a private agreement, that includes a restrictive land covenant or use restriction on real property as described in subsection (a) of this section shall be void and unenforceable.

(c) The prohibition imposed by this section shall not apply to an owner or operator of a grocery store or food retail store that terminates operations at a site for purposes of relocating the grocery or food retail store into a comparable or larger store located within the District of Columbia within one-half mile of the site where the prior operation was terminated; provided, that relocation and commencement of the operation of the new grocery store or food retail store at the new site occurs within 2 years of the sale, transfer, or lease of the prior site, and the restrictive covenant imposed on the prior site does not have a term in excess of 3 years. If the new grocery store or food retail store is not relocated within the District within one-half mile of the prior site within 2 years, the restrictive land covenant or use restriction shall not be enforceable.

(d) For the purposes of this act, the term:

(1) "Grocery store" means a retail establishment with a primary business of selling grocery products and includes a selling area that is used for a general line of food and nonfood grocery products.

(2) "Private agreement" means a mutually agreed upon and entered into exchange of promises.

ENROLLED ORIGINAL

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.

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

(b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 21, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-470

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 30, 2016

To amend, on a temporary basis, the Retail Services Station Act of 1976 to provide that certain prohibitions to discontinuing or converting to another use a full service retail service station shall not apply to a retail service station for which an application was on file with the Zoning Commission between May 2, 2015 and August 1, 2015.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Gas Station Advisory Board Temporary Amendment Act of 2016".

Sec. 2. Section 5-301(b) of the Retail Services Station Act of 1976, effective April 19, 1977 (D.C. Law 1-123; D.C. Official Code § 36-304.01(b)), is amended as follows:

(a) Designate the existing text as paragraph (1).

(b) The newly designated paragraph (1) is amended by striking the phrase "No retail station" and inserting the phrase "Except as provided in paragraph (2) of this subsection, no retail station" in its place.

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

"(2) This subsection shall not apply to any retail service station for which an application was on file with the Zoning Commission between May 2, 2015, and August 1, 2015.".

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.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(l) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(l)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

UNSIGNED
Mayor
District of Columbia
July 21, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-471

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2016

To amend, on a temporary basis, Title III of the Washington Metropolitan Area Transit Regulation Compact, known as the Washington Metropolitan Area Transit Authority Compact, to provide that the Secretary of the United States Department of Transportation appoints the federal government representatives to the Board of Directors of the Washington Metropolitan Area Transit Authority.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Washington Metropolitan Area Transit Authority Compact Temporary Amendment Act of 2016".

Sec. 2. Paragraph 5(a) of Article III of Title III of the Washington Metropolitan Area Transit Regulation Compact, approved November 6, 1966 (80 Stat. 1324; D.C. Official Code § 9-1107.01(5)(a)), is amended by striking the phrase "Administrator of General Services" both times it appears and inserting the phrase "Secretary of the United States Department of Transportation" in its place both.

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.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved

ENROLLED ORIGINAL

December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 21, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-472

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2016

To amend, on an emergency basis, due to congressional review, Chapter 7 of Title 25 of the District of Columbia Official Code to clarify the penalties for sale to minor violations and the failure to ascertain the legal drinking age violations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Sale to Minors Penalty Clarification Congressional Review Emergency Amendment Act of 2016".

Sec. 2. Chapter 7 of Title 25 of the District of Columbia Official Code is amended as follows:

(a) Section 25-781 is amended as follows:

(1) Subsection (f) is amended by striking the phrase "Upon finding that a licensee has violated subsection (a), (b), or (c) of this section in the preceding," and inserting the phrase "For violations of subsection (a), (b), or (c) of this section in the preceding" in its place.

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

"(g)(1) In determining whether a licensee has prior violations for the purposes of subsection (f) of this section, the 4-year period is the 4 years immediately preceding the date of the incident or conduct in the case pending before the Board for which the licensee has been found liable of violating subsection (a), (b), or (c) of this section, either by an order of the Board, the Board's acceptance of an offer-in-compromise, or the licensee's payment of a fine. A prior violation falls within the 4-year period if the date that the licensee was found liable of violating subsection (a), (b), or (c) of this section, either by an order of the Board, the Board's acceptance of an offer-in-compromise, or the licensee's payment of a fine, falls within the 4-year period.

"(2) For the purposes of this subsection, the term "offer-in-compromise" means a negotiation between the government and the respondent to settle the charges brought by the government for those violations committed by the respondent.".

(b) Section 25-783 is amended as follows:

(1) Subsection (c) is amended by striking the phrase "Upon finding that a licensee has violated subsection (a) or (b) of this section in the preceding" and inserting the phrase "For violations of subsection (a) or (b) of this section in the preceding" in its place.

(2) A new subsection (c-1) is added to read as follows:

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"(c-1)(1) In determining whether a licensee has prior violations for the purposes of subsection (c) of this section, the 4-year period is the 4 years immediately preceding the date of the incident or conduct in the case pending before the Board for which the licensee has been found liable of violating subsection (a) or (b) of this section, either by an order of the Board, the Board's acceptance of an offer-in-compromise, or the licensee's payment of a fine. A prior violation falls within the 4-year period if the date that the licensee was found liable of violating subsection (a) or (b) of this section, either by an order of the Board, the Board's acceptance of an offer-in-compromise, or the licensee's payment of a fine, falls within the 4-year period.

"(2) For the purposes of this subsection, the term "offer-in-compromise" means a negotiation between the government and the respondent to settle the charges brought by the government for those violations committed by the respondent.".

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 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
July 21, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-473

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2016

To amend, on an emergency basis, due to congressional review, section 47-2844 of the District of Columbia Official Code to enable the Mayor to suspend or revoke the business license of any business engaged in the buying or selling of a synthetic drug and to enable the Chief of Police to seal a business licensee's premises for up to 96 hours for the buying or selling of a synthetic drug; and to amend the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 to designate the sale of a synthetic drug as a per se imminent danger to the health or safety of District residents and provide for an administrative hearing after the sealing of a business licensee's premises.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Sale of Synthetic Drugs Congressional Review Emergency Amendment Act of 2016".

Sec. 2. Section 47-2844(a-2) of the District of Columbia Official Code is amended as follows:

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

(1) The lead-in language is amending by striking the phrase "subsection (a-1) of this section" and inserting the phrase "subsection (a-1) of this section and paragraph (1A) of this subsection" in its place.

(2) Subparagraph (A) is amended by striking the word "subsection" and inserting the word "paragraph" in its place.

(3) Subparagraph (B) is amended by striking the word "subsection" and inserting the word "paragraph" in its place.

(4) Subparagraph (C) is amended by striking the word "subsection" and inserting the word "paragraph" in its place.

(b) A new paragraph (1A) is added to read as follows:

"(1A) In addition to the provisions of subsection (a-1) of this section and paragraph (1) of this subsection, the Mayor or the Chief of Police, notwithstanding § 2-1801.04(a)(1)), may take the following actions against, or impose the following requirements upon, any licensee, or agent or employee of a licensee, that knowingly engages or attempts to

engage in the purchase, sale, exchange, or any other form of commercial transaction involving a synthetic drug, including the possession of multiple units of a synthetic drug:

"(A) For the first violation of this paragraph:

"(i) The Mayor shall issue a fine in the amount of $10,000;

"(ii) The Chief of Police, after a determination by the Mayor in accordance with § 2-1801.06(a), may seal the licensee's premises, or a portion of the premises, for up to 96 hours without a prior hearing;

"(iii) The Mayor may issue a notice to revoke all licenses issued to the licensee pursuant to this chapter; and

"(iv)(I) Within 14 days after having a licensee's premises sealed for a violation of this paragraph, the Mayor shall require the licensee to submit a remediation plan to the Director of the Department of Consumer and Regulatory Affairs that contains the licensee's plan to prevent any future recurrence of purchasing, selling, exchanging, or otherwise transacting any synthetic drug and acknowledgement that a subsequent occurrence of engaging in prohibited activities may result in the revocation of all licenses issued to the licensee pursuant to this chapter.

"(II) If the licensee fails to submit a remediation plan in accordance with this sub-subparagraph, or if the Mayor, in consultation with the Chief of Police, rejects the licensee's remediation plan, the Mayor shall provide written notice to the licensee of the defects in any rejected remediation plan and the Mayor's intent to revoke all licenses issued to the licensee pursuant to this chapter.

"(III) If the licensee cures the defects in a rejected remediation plan, the Mayor may suspend any action to revoke any license of the licensee issued pursuant to this chapter.

"(B) For any subsequent violation of this paragraph:

"(i) The Mayor shall issue a fine in the amount of $20,000; and

"(ii) The Chief of Police, after a determination by the Mayor in accordance with § 2-1801.06(a), may seal the licensee's premises, or portion of the premises, for up to 30 days without a prior hearing.

"(C) If a licensee's premises, or a portion of the premises, is sealed under subparagraph (A) or (B) of this paragraph, a licensee shall have the right to request a hearing with the Office of Administrative Hearings within 2 business days after service of notice of the sealing of the premises pursuant to subparagraph (D) of this paragraph.

"(D) At the time of the sealing of the premises, or a portion of the premises, under subparagraph (A) or (B) of this paragraph, the Director of the Department of Consumer and Regulatory Affairs shall post at the premises and serve on the licensee a written notice and order stating:

"(i) The specific action or actions being taken;

"(ii) The factual and legal bases for the action or actions;

"(iii) The right, within 2 business days after service of notice of the sealing of the premises, to request a hearing with the Office of Administrative Hearings;

"(iv) The right, within 2 business days of a timely request being received by the Office of Administrative Hearings, to a hearing before an administrative law judge; and

"(v) That it shall be unlawful for any person to enter the sealed premises for any purpose without written permission by the Director of the Department of Consumer and Regulatory Affairs.

"(E) A licensee shall pay a fine issued pursuant to subparagraph (A) or (B) of this paragraph within 20 days after adjudication. If the licensee fails to pay the fine within the specified time period, the Mayor may seal the premises until the fine is paid.

"(F) For the purposes of this paragraph, the term:

"(i) "Business days" means days in which the Office of Administrative Hearings is open for business.

"(ii) "Synthetic drug" means any product possessed, provided, distributed, sold, or marketed with the intent that it be used as a recreational drug, such that its consumption or ingestion is intended to produce effects on the central nervous system or brain function to change perception, mood, consciousness, cognition, or behavior in ways that are similar to the effects of marijuana, cocaine, amphetamines, or Schedule I narcotics under § 48-902.04. The term "synthetic drug" also includes any chemically synthesized product (including products that contain both a chemically synthesized ingredient and herbal or plant material) possessed, provided, distributed, sold, or marketed with the intent that the product produce effects substantially similar to the effects created by compounds banned by District or federal synthetic drug laws or by the U.S. Drug Enforcement Administration pursuant to its authority under the Controlled Substances Act, approved October 27, 1970 (84 Stat. 1247; 21 U.S.C. § 812). The following factors shall be treated as indicia that a product is being marketed with the intent that it be used as a recreational drug:

"(I) The product is not suitable for its marketed use (such as a crystalline or powder product being marketed as "glass cleaner");

"(II) The individual or business providing, distributing, displaying, or selling the product does not typically provide, distribute, or sell products that are used for that product's marketed use (such as liquor stores, smoke shops, or gas or convenience stores selling "plant food");

"(III) The product contains a warning label that is not typically present on products that are used for that product's marketed use including, "Not for human consumption", "Not for purchase by minors", "Must be 18 years or older to purchase", "100% legal blend", or similar statements;

"(IV) The product is significantly more expensive than products that are used for that product's marketed use;

"(V) The product resembles an illicit street drug (such as cocaine, methamphetamine, or Schedule I narcotic) or marijuana; or

"(VI) The licensee or any employee of the licensee has been warned by a District government agency or has received a criminal incident report, arrest

report, or equivalent from any law enforcement agency that the product or a similarly labeled product contains a synthetic drug.".

Sec. 3. Section 106 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective March 8, 1991 (D.C. Law 8-237; D.C. Official Code § 2-1801.06), is amended as follows:

(a) Subsection (a) is amended as follows:

(1) Strike the phrase "premises are primarily used" and insert the phrase "premises are used" in its place.

(2) Add a new sentence at the end to read as follows:

"Purchasing, selling, exchanging, or otherwise transacting any synthetic drug, as defined in D.C. Official Code § 47-2844(a-2)(1A)(F)(ii), shall be a per se imminent danger to the health or safety of the residents of the District.".

(b) Subsection (c) is amended as follows:

(1) The existing text is designated as paragraph (1).

(2) The newly designated paragraph (1) is amended by striking the phrase "A licensee" and inserting the phrase "Except as provided in paragraph (2) of this subsection, a licensee" in its place.

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

"(2) A licensee engaged in the purchase, sale, exchange, or any other form of commercial transaction involving a synthetic drug in violation of D.C. Official Code § 47-2844(a-2)(1A) shall have the right to request a hearing within 2 business days after service of notice of the sealing of the premises. The Office of Administrative Hearings shall hold a hearing within 2 business days of receipt of a timely request, and shall issue a decision within 2 business days after the hearing.".

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 21, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-474

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2016

To confirm, on an emergency basis, the reappointment of Mr. Donald Soifer to the Public Charter School Board.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Public Charter School Board Donald Soifer Confirmation Emergency Act of 2016".

Sec. 2. Notwithstanding section 2214(a)(5)(B) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat 1321; D.C. Official Code § 38-1802.14(a)(5)(B)) ("School Reform Act"), the Council of the District of Columbia confirms the reappointment of:

Mr. Donald Soifer
1429 R Street, N.W., Unit A
Washington, D.C. 20009
(Ward 2)

as a member of the Public Charter School Board, established by section 2214 of the School Reform Act, for a 4-year term to end February 24, 2020.

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
July 21, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-475

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2016

To amend, on an emergency basis, due to congressional review, the Legalization of Marijuana for Medical Treatment Initiative of 1999 to allow a holder of a cultivation center registration that owns or has a valid lease for the real property adjacent to its existing cultivation center to expand its facility into that adjacent real property for purposes of increasing production of marijuana plants, not to exceed the authorized limit, and to increase the number of living plants a cultivation center may possess at any time to 1000.

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

Sec. 2. The Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 7-1671.01) is amended by adding a new paragraph (1A) to read as follows:

"(1A) "Adjacent" means located within the same physical structure as, and is abutting, adjoining, bordering, touching, contiguous to, or otherwise physically meeting.".

(b) Section 7 (D.C. Official Code § 7-1671.06) is amended as follows:

(1) Subsection (d) is amended by adding a new paragraph (4) to read as follows:

"(4) The Mayor may approve the holder of a cultivation center registration that also owns, or has a valid lease for, real property adjacent to its existing cultivation center to physically expand the registered cultivation center into that adjacent real property for the purpose of increasing production of marijuana plants, not to exceed the limit permitted under this act.".

(2) Subsection (e)(2) is amended by striking the number "500" and inserting the number "1000" in its place.

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).

ENROLLED ORIGINAL

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 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
July 21, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-476

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2016

To amend, on an emergency basis, due to congressional review, An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes to clarify agency responsibilities with regard to school attendance, to deem an absence of a minor student from a public school unexcused where the school does not obtain an explanation for the absence from the student's parent or guardian verifying the reason for an absence within 5 days after a student's return to school, to prohibit the suspension, expulsion, or unenrollment of a minor from a public school due to an unexcused absence or due to a late arrival to school, to clarify attendance reporting requirements for public, independent, private, and parochial schools, to revise the protocol for a law enforcement officer who comes in contact with a minor and has reasonable grounds to believe the minor is truant, to revise the educational institution referral requirement for the Child and Family Services Administration, the Court Social Services Division of the Superior Court of the District of Columbia, and the Office of the Attorney General Juvenile Section to only include unexcused full school day absences with regard to attendance, to provide educational institutions with discretion on referrals if a student's 10th or 15th unexcused absence is accrued within the final 10 school days of the school year, and to require the State Superintendent of Education to provide written notice to each public, independent, private, or parochial school outlining the attendance and reporting requirements by July 1 of each year; to amend the District of Columbia School Reform Act of 1995 to conform it to the prohibitions against expulsion and suspension provided in An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes and the Pre-k Enhancement and Expansion Amendment Act of 2008; and to amend Chapter 21 of Subtitle A of Title 5 of the District of Columbia Municipal Regulations to repeal the requirement that a public school notify the Metropolitan Police Department after each occurrence of a student's 10th unexcused absence, to require that an educational institution obtain an explanation for a student's absence within 5 days of the student's return to school, and to amend the terms "truancy rate" and "chronic absenteeism."

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "School Attendance Clarification Congressional Review Emergency Amendment Act of 2016".

ENROLLED ORIGINAL

Sec. 2. An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Official Code § 38-201 *et seq.*), is amended as follows:

(a) Section 1 of Article I (D.C. Official Code § 38-201) is amended as follows:

(1) A new paragraph (1A) is added to read as follows:

"(1A) "Chronic absenteeism" means the incidence of students missing more than 10% of school days, including excused and unexcused absences.".

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

"(2B) "Full school day" means the entirety of the instructional hours regularly provided on a single school day.".

(b) Section 1 of Article II (D.C. Official Code § 38-202) is amended as follows:

(1) Subsection (c) is amended by striking the phrase "Superintendent of Schools" and inserting the phrase "head of the educational institution in which the minor is enrolled" in its place.

(2) Subsection (d) is amended by striking the phrase "to govern the validity of applications for permission to be absent from school,".

(c) Section 2 of Article II (D.C. Official Code § 38-203) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "Superintendent of Schools" and inserting the phrase "State Superintendent of Education" in its place.

(2) Subsection (b) is repealed.

(3) Subsection (c) is amended as follows:

(A) The existing text is designated as paragraph (1).

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

"(2) An absence of a minor covered by section 1(a) of this article who is enrolled in a public school is deemed unexcused unless the minor's parent, guardian, or other person who has custody or control of the minor provides the school with a valid excuse for the minor's absence within 5 school days upon the minor's return to school.".

(4) New subsections (f-1) and (f-2) are added to read as follows:

"(f-1) Beginning school year 2016-2017, no minor covered by section 1(a) of this article who is enrolled in a public school may be expelled or receive an out-of-school suspension due to an unexcused absence or due to a late arrival to school.

"(f-2) Beginning school year 2016-2017, no minor covered by section 1(a) of this article who is enrolled in a public school, other than an adult education program, may be unenrolled from the local education agency due to an unexcused absence or due to a late arrival to school unless the minor has accumulated 20 or more full school day consecutive unexcused absences.".

(5) Subsection (i) is amended by striking the phrase "to the Mayor, or the Mayor's designee, and make publicly available, the following data based on the preceding school year:" in the lead-in language and inserting the phrase "to the Office of the State Superintendent of Education, and make publicly available the following data for each school or campus under its authority based on the preceding school year:" in its place.

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

"(k) By October 1 of each year, the Office of the State Superintendent of Education shall publicly report on the state of absenteeism in the District based on data from the preceding school year, including an analysis of truancy and chronic absenteeism by school or campus and the impact of current laws on improving school attendance.".

(d) Section 4 of Article II (D.C. Official Code § 38-205) is amended to read as follows:

"Sec. 4. By October 5 of each year, each public, independent, private, and parochial school shall report to the Office of the State Superintendent of Education the name, address, sex, and date of birth of each minor who resides permanently or temporarily in the District who is currently enrolled in their school. By the 5th of every month thereafter, each school shall report any changes in enrollment, including withdrawals, to the Office of the State Superintendent of Education.".

(e) Section 6(a) of Article II (D.C. Official Code § 38-207(a)) is amended to read as follows:

"(a)(1) A law enforcement officer who has reasonable grounds to believe, based on the minor's age and other factors, that a minor is truant from any public, independent, private, or parochial school on a day and during the hours when the school is in session shall take that minor into custody and deliver the minor to the public, independent, private, or parochial school where the minor is presently enrolled, so long as the school is located in the District.

"(2) If the minor is not currently enrolled at a public, independent, private, or parochial school, the law enforcement officer shall take the minor to the District of Columbia Public Schools placement office.

"(3) If a minor is enrolled in a public, independent, private, or parochial school located within the District of Columbia, the educational institution shall receive that minor from a law enforcement officer during the hours when the school is in operation.".

(f) Section 7 of Article II (D.C. Official Code § 38-208) is amended as follows:

(1) Subsection (a) is repealed.

(2) Subsection (c) is amended as follows:

(A) The lead-in language is amended by striking the phrase "subsections (a) and" and inserting the word "subsection" in its place.

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

(i) Subparagraph (A) is amended as follows:

(I) Strike the phrase "The educational institution" and insert the phrase "Beginning in the 2016-2017 school year, the educational institution" in its place.

(II) Strike the phrase "10 unexcused absences" and insert the phrase "10 unexcused full school day absences" in its place.

(ii) Subparagraph (B) is amended as follows:

(I) Strike the phrase "Beginning in the 2013-2014 school year" and insert the phrase "Beginning in the 2016-2017 school year" in its place.

(II) Strike the phrase "15 unexcused absences" and insert the phrase "15 unexcused full school day absences" in its place.

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

"(C) The educational institution shall have discretion with regard to the referral requirements set forth in subparagraphs (A) and (B) of this paragraph if a minor student accrues the 10th or 15th unexcused absence, respectively, within the final 10 school days of a school year.".

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

"(d) By July 1 of each year, the State Superintendent of Education shall send written notice to each educational institution outlining the attendance and reporting requirements outlined in this act.".

Sec. 3. Section 2206(g) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1802.06(g)), is amended to read as follows:

"(g) – *Expulsion and suspension.* – The principal of a public charter school may expel or suspend a student from the school based on criteria set forth in the charter granted to the school; provided, that:

"(1) Consistent with section 2(f-1) of Article II of An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Official Code § 38-203(f-1)), no student may be expelled or receive an out-of-school suspension due to an unexcused absence or due to a late arrival to school; and

"(2) Consistent with section 303 of the Pre-k Enhancement and Expansion Amendment Act of 2008, effective June 23, 2015 (D.C. Law 21-12; D.C. Official Code § 38-273.03), no student of pre-k age:

"(A) May be expelled; or

"(B) Receive an out-of-school suspension unless it is determined by a school administrator that the student has willfully caused or attempted to cause bodily injury, or threatened serious bodily injury to another person, except in self-defense; provided, that no student of pre-k age may be suspended for longer than 3 days for any individual incident.".

Sec. 4. Chapter 21 of Subtitle A of Title 5 of the District of Columbia Municipal Regulations (5 DCMR § A2100 *et seq.*) is amended as follows:

(a) Section A2101.9(a) (5-A DCMR § 2101.9(a)) is repealed.

(b) Section A2102.4 (5-A DCMR § 2102.4) is amended to read as follows:

"2102.04 An educational institution shall obtain an explanation from the student's parent or guardian verifying the reason for an absence within no more than five (5) days upon the student's return to school, otherwise the absence shall be deemed unexcused.".

(c) Section A2199.1 (5-A DCMR § 2199.1) is amended as follows:

(1) The definition of "Chronic Absenteeism" is amended to read as follows:

" "Chronic absenteeism" – The incidence of a student missing more than 10% of school days, including excused and unexcused absences.".

(2) The definition of "Truancy rate" is amended to read as follows:

ENROLLED ORIGINAL

" "Truancy rate" – The incidence of students of compulsory attendance age, as defined by D.C. Official Code § 38-202(a), enrolled at a school at any point in a given school year who are absent without valid excuse as defined by 5-A DCMR § 2102.2 on ten (10) or more occasions within a single school year, divided by the total number of students of compulsory attendance age ever enrolled during the corresponding school year.".

Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report for the School Attendance Clarification Amendment Act of 2016, enacted on June 1, 2016 (D.C. Act 21-411; 63 DCR 8207), 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
July 21, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-477

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2016

To amend, on an emergency basis, section 3209 of Title 17 of the District of Columbia Municipal Regulations to create an exemption to the requirement that an individual engaged in the practice of interior design be licensed for individuals participating in certain charitable fundraising events.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Interior Design Charitable Event Regulation Emergency Amendment Act of 2016".

Sec. 2. Section 3209 of Title 17 of the District of Columbia Municipal Regulations (17 DCMR § 3209) is amended by adding a new subsection 3209.4 to read as follows:

"3209.4 (a) This chapter shall not require a license for, or restrict or prohibit an individual from engaging in, any activity or service described in § 3209.1 of this chapter, if:

"(1) The individual is participating in a nonprofit organization's fundraising event;

"(2) The fundraising event is managed by at least one licensed interior designer;

"(3) At least 85% of the funds raised at the fundraising event support a charitable activity; and

"(4) The individual participates in the fundraising event without compensation.

"(b) An individual may rely on the exemption provided by paragraph (a) of this subsection no more than once per calendar year.".

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

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
July 21, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-478

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2016

To adjust, on an emergency basis, certain allocations in the Fiscal Year 2016 Budget Request Act of 2015 pursuant to the Omnibus Appropriations Act, 2009.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fiscal Year 2016 Revised Budget Request Adjustment Extension Emergency Act of 2016".

Sec. 2. Pursuant to section 817 of the Omnibus Appropriations Act, 2009, approved March 13, 2009 (123 Stat. 699; D.C. Official Code § 47-369.02), the Fiscal Year 2016 budgets for the following agencies shall be adjusted by the following amounts:

TITLE II – DISTRICT OF COLUMBIA FUNDS – SUMMARY OF EXPENSES

$28,288,000 is added from local funds; and $5,000,000 is increased in enterprise and other funds; to be allocated as follows:

Economic Development and Regulation

The appropriation for Economic Development and Regulation is increased by $4,492,000 in local funds; to be allocated as follows:

(1) Department of Employment Services. - $4,492,000 is added to be available from local funds.

Public Safety and Justice

The appropriation for Public Safety and Justice is increased by $14,214,000 in local funds; to be allocated as follows:

(1) Metropolitan Police Department. - $5,864,000 is added to be available from local funds;

(2) Department of Forensic Sciences. - $8,024,000 is added to be available from local funds; and

(3) Office of the Chief Medical Examiner. - $326,000 is added to be available from local funds.

Human Support Services

The appropriation for Human Support Services is increased by $3,776,000 in local funds; to be allocated as follows:

ENROLLED ORIGINAL

(1) Department of Parks and Recreation. - $2,526,000 is added to be available from local funds; and

(2) Children and Youth Investment Trust Corporation. - $1,250,000 is added to be available from local funds.

Public Works

The appropriation for Public Works is increased by $806,000 in local funds; to be allocated as follows:

(1) Department of Public Works. - $806,000 is added to be available from local funds.

Financing and Other

The appropriation for Financing and Other is increased by $5,000,000 in local funds; to be allocated as follows:

(1) Convention Center Transfer – Dedicated Taxes. - $5,000,000 is added to be available from local funds.

Enterprise and Other Funds

The appropriation for Enterprise and Other Funds is increased by $5,000,000 in local funds; to be allocated as follows:

(1) Washington Convention and Sports Authority. - $5,000,000 is added to be available from local funds.

Sec. 3. Applicability.

This act shall apply as of August 21, 2016.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 21, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-479

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2016

To order, on an emergency basis, the closing of a portion of 14th Street, N.E., adjacent to Squares 3954 and 4024 and Parcel 143/45, and to accept the dedication of portions of land in Squares 3953, 3954, 4024, and 4025 and Parcel 143/45 for public street and alley purposes, in Ward 5.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Closing of Public Streets and Dedication of Land for Street and Alley Purposes in and abutting Squares 3953, 3954, 4024, 4025, and Parcel 143/45, S.O. 14-20357, Emergency Act of 2016".

Sec. 2. (a) Pursuant to Section 404 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-204.04), and consistent with the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-201.01 *et seq.*) ("Act"), the Council finds that those portions of 14th Street, N.E., as shown by the hatch-marks on the Surveyor's plat filed under S.O. 14-20357, are unnecessary for street purposes and orders them closed with title to the land to vest as shown on the Surveyor's plat.

(b) Pursuant to sections 302 and 401 of the Act (D.C. Official Code §§ 9-203.02 and 9-204.01), and notwithstanding the requirements set forth in sections 303, 304, and 402 of the Act (D.C. Official Code §§ 9-203.03, 9-203.04, and 9-204.02), the Council accepts the dedication of the alley adjacent to and in Square 3953 and the dedication and designation of the extension of 14th and 15th Streets, N.E., adjacent to and in Squares 3954, 4024, and 4025 and Parcel 143/45 as shown on the Surveyor's plat filed under S.O. 14-20357.

Sec. 3. The approval of the Council of the closing in section 2(a) and the dedications and designation in section 2(b), are contingent upon the satisfaction of all the conditions set forth in the official file, S.O. 14-20357, including that the applicant shall obtain District of Columbia Water and Sewer Authority approval of the proposed relocation or abandonment of the existing 8-inch water main and 10-inch sewer main in 14th Street N.E., before the recordation of the plat by the Surveyor.

ENROLLED ORIGINAL

Sec. 4. Transmittal.

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

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
July 21, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-480

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2016

To amend, on an emergency basis, An Act To provide for the payment and collection of wages in the District of Columbia to clarify who may bring an action on behalf of an employee and when a general contractor and subcontractor or a general contractor and temporary staffing firm will be jointly and severally liable for violations, to revise criminal penalties for violations of the act, and to authorize the Mayor to issue rules to implement the provisions of the act; to amend the Minimum Wage Act Revision Act of 1992 to clarify the time period for retention of payroll records, when a general contractor and subcontractor or a general contractor and temporary staffing firm will be jointly and severally liable for violations, and how the Mayor shall make certain information available to employers; and to amend the Wage Theft Prevention Amendment Act of 2014 to repeal a retroactive applicability provision.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Wage Theft Prevention Correction and Clarification Emergency Amendment Act of 2016".

Sec. 2. An Act To provide for the payment and collection of wages in the District of Columbia, approved August 3, 1956 (70 Stat. 976; D.C. Official Code § 32-1301 *et seq.*), is amended as follows:

(a) Section 3 (D.C. Official Code § 32-1303) is amended as follows:

(1) Paragraph (5) is amended as follows:

(A) Strike the word "alleged" and insert the word "found" in its place.

(B) Strike the phrase "Act." and insert the phrase "Act, except as otherwise provided in a contract between the contractor and subcontractor in effect on the effective date of the Wage Theft Prevention Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-157; 61 DCR 10157)." in its place.

(2) Paragraph (6) is amended by striking the phrase "District." and inserting the phrase "District, except as otherwise provided in a contract between the temporary staffing firm and the employer in effect on the effective date of the Wage Theft Prevention Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-157; 61 DCR 10157)." in its place.

(b) Section 7(a) (D.C. Official Code § 32-1307(a)) is amended to read as follows:

"(a)(1) Any employer who negligently fails to comply with the provisions of this act or the Living Wage Act shall be guilty of a misdemeanor and, upon conviction, shall be fined:

"(A) For the first offense, an amount per affected employee of not more than $2,500;

"(B) For any subsequent offense, an amount per affected employee of not more than $5,000.

"(2) Any employer who willfully fails to comply with the provisions of this act or the Living Wage Act shall be guilty of a misdemeanor and, upon conviction, shall:

"(A) For the first offense, be fined not more than $5,000, or imprisoned not more than 30 days, or both; or

"(B) For any subsequent offense, be fined not more than $10,000, or imprisoned not more than 90 days, or both.

"(3) The fines set forth in paragraphs (1) and (2) of this subsection shall not be limited by section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01).".

(c) Section 8(a) (D.C. Official Code § 32-1308(a)) is amended by striking the phrase ", or any entity a member of which is aggrieved by a violation of this act, the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the Living Wage Act".

(d) A new section 10b is added to read as follows:

"Sec. 10b. Rules.

"The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1068 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this act.".

Sec. 3. The Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1001 *et seq.*), is amended as follows:

(a) Section 9(a)(1) (D.C. Official Code § 32-1008(a)(1)) is amended by striking the phrase "3 years or whatever the prevailing federal standard is, whichever is greater" and inserting the phrase "3 years or the prevailing federal standard, if identified in regulations issued pursuant to this act, whichever is greater" in its place.

(b) Section 10(c) (D.C. Official Code § 32-1009(c)) is amended to read as follows:

"(c) The Mayor shall make copies or summaries of this act publicly available on the District government's website or by some other appropriate method within 60 days of the effective date of the Wage Theft Prevention Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-157; 61 DCR 10157). An employer shall not be liable for failure to post notice if the Mayor has failed to provide to the employer the notice required by this section.".

(c) Section 12(d)(1)(C) (D.C. Official Code § 32-1011(d)(1)(C)) is amended by striking the phrase "3 years or whatever the prevailing federal standard is, whichever is greater" and inserting the phrase "3 years or the prevailing federal standard, if identified in regulations issued pursuant to this act, whichever is greater" in its place.

(d) Section 13 (D.C. Official Code § 32-1012) is amended as follows:

(1) Subsection (c) is amended by striking the phrase "act." and inserting the phrase "act, except as otherwise provided in a contract between the contract and subcontractor in

effect on the effective date of the Wage Theft Prevention Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-157; 61 DCR 10157)." in its place.

(2) Subsection (f) is amended by striking the phrase "District." and inserting the phrase "District, except as otherwise provided in a contract between the temporary staffing firm and the employer in effect on the effective date of the Wage Theft Prevention Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-157; 61 DCR 10157)." in its place.

Sec. 4. Section 7 of the Wage Theft Prevention Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-157; 61 DCR 10157), is repealed.

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
July 21, 2016

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: August 5, 2016
Petition Date: September 19, 2016
Hearing Date: October 3, 2016
Protest Date: November 30, 2016

License No.: ABRA-103289
Licensee: Techno Excess LLC
Trade Name: Ababa Ethiopian Restaurant
License Class: Retailer's Class "C" Restaurant
Address: 2106 18th Street, N.W.
Contact: Jeff Jackson: 202-251-1566

WARD 1 ANC 1C SMD 1C01

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 November 30, 2016

NATURE OF OPERATION
New Restaurant offering Ethiopian and American cuisine. Total Occupancy Load is 100.

HOURS OF OPERATON
Sunday through Thursday 10 am – 2 am, Friday and Saturday 10 am – 3 am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION
Sunday through Thursday 10 am – 1:45 am, Friday and Saturday 10 am – 2:45 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: August 5, 2016
Petition Date: September 19, 2016
Hearing Date: October 3, 2016
Protest Date: November 30, 2016

License No.: ABRA-103693
Licensee: Capo, LLC
Trade Name: Capo
License Class: Retailer's Class "C" Tavern
Address: 715 Florida Avenue, N.W.
Contact: Andrew Kline: 202-686-7600

WARD 1 ANC 1B SMD 1B01

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for November 30, 2016 at 1:30 pm.

NATURE OF OPERATION
New CT with 120 seats and a Total Occupancy Load of 150. Applicant has also applied for an Entertainment Endorsement with dancing and cover charge.

HOURS OF OPERATION
Sunday through Thursday 7 am – 2 am, Friday through Saturday 7 am - 3 am.

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION ON PREMISE
Sunday through Thursday 8 am – 2 am, Friday-Saturday 8 am - 3 am.

HOURS OF ENTERTAINMENT
Sunday through Thursday 6 pm – 2 am, Friday-Saturday 6 pm - 3 am.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date:	August 5, 2016
Petition Date:	September 19, 2016
Hearing Date:	October 3, 2016
License No.:	ABRA-097794
Licensee:	Washington Heights LLC
Trade Name:	Mezcalero Cocina Mexicana
License Class:	Retailer's Class "C" Restaurant
Address:	3714 14th Street, N.W.
Contact:	Ana De Leon: 202-246-7601

WARD 4 ANC 4C SMD 4C04

Notice is hereby given that this licensee has applied for Substantial Changes to their license under the D.C. Alcoholic Beverage Control Act and 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.

NATURE OF SUBSTANTIAL CHANGES
To add a Sidewalk Cafe with 12 seats and an Entertainment Endorsement to provide Live Entertainment.

CURRENT HOURS OF OPERATION
Sunday through Thursday 6 am – 2 am, Friday and Saturday 6 am – 3 am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION
Sunday through Thursday 8 am – 2 am, Friday and Saturday 8 am – 3 am

PROPOSED HOURS OF OPERATON FOR SIDEWALK CAFE
Sunday through Thursday 6 am – 2 am, Friday and Saturday 6 am – 3 am

PROPOSED HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR SIDEWALK CAFÉ
Sunday through Saturday 10 am – 12 am

PROPOSED HOURS OF LIVE ENTERTAINMENT
Sunday through Thursday 6 pm – 2 am, Friday and Saturday 6 pm – 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: August 5, 2016
Petition Date: September 19, 2016
Hearing Date: October 3, 2016
Protest Date: November 30, 2016

License No.: ABRA-103708
Licensee: Pho 12th Street LLC
Trade Name: Pho 12th Street
License Class: Retailer's Class "C" Restaurant
Address: 3740 12th Street, N.E.
Contact: Danny Dao: 301-219-1759

WARD 5 ANC 5B SMD 5B05

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 1:30pm on November 30, 2016.

NATURE OF OPERATION
New Restaurant serving Vietnamese food. Total Occupancy Load is 34. Sidewalk Café with 8 seats.

HOURS OF OPERATON AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION ON PREMISE AND FOR SIDEWALK CAFE
Sunday through Thursday 10 am – 10 pm, Friday and Saturday 10 am – 11 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date:	August 5, 2016
Petition Date:	September 19, 2016
Hearing Date:	October 3, 2016
Protest Date:	November 30, 2016

License No.:	ABRA-103710
Licensee:	Orange Sprinkles, LLC
Trade Name:	Sugar Shack Donuts and Coffee/Nocturne
License Class:	Retailer's Class "C" Restaurant
Address:	1932 9th Street, N.W.
Contact:	Erin Sharkey: (202) 686-7600

WARD 1 ANC 1B SMD 1B02

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 November 30, 2016 at 4:30pm.

NATURE OF OPERATION
New C Restaurant with a Total Occupancy Load of 99 seats.

HOURS OF OPERATION
Sunday through Thursday 7:00 am – 2:00 am, Friday and Saturday 7:00 am – 3:00 am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION
Sunday through Thursday 8:00 am – 2:00 am, Friday and Saturday 8:00 am – 3:00 am

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

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

TIME: 9:30 A.M.

WARD ONE

19330 ANC-1A **Application of District Dogs**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the NC-Use Group B requirements of Subtitle H § 1107.1(a), to establish an animal care and boarding use in the NC-7 Zone at premises 3210 Georgia Avenue N.W. (Square 2892, Lot 910).

WARD TWO

19336 ANC-2A **Application of Edward Gonzalez**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the nonconforming use requirements of Subtitle C § 204, to convert office space to residential apartments on the first floor of an existing building in the R-17 Zone at premises 2405 I Street, #1-A N.W. (Square 28, Lots 157, 2001).

WARD SIX

19338 ANC-6A **Application of Douglas and Stephanie Lett**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the lot occupancy requirements of Subtitle E § 304.1, to construct a two-story rear addition to an existing one-family dwelling in the RF-1 Zone at premises 543 Tennessee Avenue N.E. (Square 1053N, Lot 52).

WARD SIX

19339 ANC-6A **Application of Chris Caldwell and Kelly Steele**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the lot occupancy requirements of Subtitle E § 304.1, to construct a two-story garage with accessory apartment in the RF-1 Zone at premises 313 11th Street N.E. (Square 986, Lot 805).

WARD SIX

19340
ANC-6B

Application of Robert and Julie Corn, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the lot occupancy requirements of Subtitle E § 304.1, to construct a two-story addition to the rear of an existing one-family dwelling in the RF-1 Zone at premises 1736 Bay Street S.E. (Square 1098, Lot 141).

WARD SIX

19341
ANC-6B

Application of Phil and Kjersten Drager, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the lot occupancy requirements of Subtitle E § 304.1, to construct a second-story addition to the rear of an existing one-family dwelling in the RF-1 Zone at premises 133 Kentucky Avenue S.E. (Square 1014, Lot 25).

WARD SIX

19345
ANC-6C

Appeal of Diane Conocchioli, pursuant to 11 DCMR §§ 3100 and 3101, from a February 3, 2015 decision by the Zoning Administrator, Department of Consumer and Regulatory Affairs, to issue Building Permit No. B1501052, granted to permit a health clinic in the C-M-1 District at premises 1225 4th Street N.E. (Square 804, Lot 56).

PLEASE NOTE:

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

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial. The public hearing in these cases will be conducted in accordance with the provisions of Subtitles X and Y of the District of Columbia Municipal Regulations, Title 11. Pursuant to Subtitle Y, Chapter 2 of the Regulations, the Board will impose time limits on the testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.

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

441 4th Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

**Note that party status is not permitted in Foreign Missions cases.*

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

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

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF RESCHEDULED[1] PUBLIC HEARING

TIME AND PLACE: **Thursday, October 20, 2016, @ 6:30 p.m.**
Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

Z.C. Case No. 15-27 (KF Morse, LLC – Consolidated PUD, First Stage PUD, and Related Map Amendment @ Square 3587, Lots 805, 814, and 817)

THIS CASE IS OF INTEREST TO ANCs 5D & 5C

On October 30, 2015, the Office of Zoning received an application from KF Morse, LLC (the "Applicant") requesting approval of a consolidated planned unit development ("PUD"), a first-stage PUD, and a related zoning map amendment from the M and C-M-1 Zone Districts to the C-3-C Zone District for property located at 300, 325, and 350 Morse Street, N.E. (the "Property"). On January 15, 2016, the Applicant submitted revised architectural drawings to supplement the drawings submitted as part of its original application. The Office of Planning submitted a report to the Zoning Commission on April 20, 2016. At its April 25, 2016 public meeting, the Zoning Commission voted to set down the application for a public hearing. The Applicant provided its prehearing statement on May 11, 2016.

Because the case was set down for hearing prior to the September 6, 2016 effective date of the replacement version of Title 11 (the "2016 Regulations"[2]), all of the substantive requirements of the Zoning Regulations in effect as of September 5, 2016 (the "1958 Regulations") will continue to apply to this application and any construction authorized by the Commission. However, because the hearing has been scheduled after the effective date, all applicable procedural requirements of the 1958 Regulations will apply to this application until September 5, 2016, after which the applicable procedural rules set forth in the 2016 Regulations will apply.

The Property that is the subject of this application is located in Square 3587, which is bounded by New York Avenue, N.E. to the north, 4th Street, N.E. to the northeast, Morse Street, N.E. to the southeast, Florida Avenue to the southwest, and the Amtrak and Metrorail lines to the west. The Property has a land area of approximately 213,044 square feet, is located in Ward 5, and is within the boundaries of Advisory Neighborhood Commission ("ANC") 5D. ANC 5C is directly across the street.

The Property is presently improved with one-story industrial buildings used for wholesale distribution, which the Applicant proposes to raze in connection with redevelopment of the

[1] This case was previously scheduled for September 15, 2016.
[2] As adopted by the Zoning Commission through a Notice of Final Rulemaking published in Part II of the March 4, 2016 edition of the *District of Columbia Register*.

Property. The Applicant proposes to redevelop the Property with a mixed use project comprised of four buildings (Buildings "A-D"), which will include residential, retail, office, and possibly hotel uses. The project will be constructed in two phases. The consolidated PUD will include (i) the southern portion of Building A ("Building A1"), designated for residential use with ground floor retail; (ii) Building B, designated for residential use with ground floor retail; and (iii) the southern portion of Building C ("Building C1") designated for office use with ground floor retail. The first-stage PUD will include (i) the northern portion of Building A ("Building A2"), designated for residential use with ground floor retail, and the option for hotel use instead of residential use; (ii) The northern portion of Building C ("Building C2"), designated for residential use with ground floor retail; and (iii) Building D, designated for residential use with ground floor retail.

The overall project will consist of approximately 1,371,258 square feet of gross floor area (6.4 FAR) and will have an overall lot occupancy of 80.5%. Buildings A, C, and D will have a maximum height of 130 feet; Building B will have a maximum height of 78 feet.

The public hearing will be conducted in accordance with the contested case provisions of Subtitle Z § 408 of 2016 Regulations.

How to participate as a witness.

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

How to participate as a party.

Any person who desires to participate as a party in this case must so request and must comply with the provisions of the Zoning Regulations.

A party has the right to cross-examine witnesses, to submit proposed findings of fact and conclusions of law, to receive a copy of the written decision of the Zoning Commission, and to exercise the other rights of parties as specified in the Subtitle Z § 403, of the 2016 Regulations. If you are still unsure of what it means to participate as a party and would like more information on this, please contact the Office of Zoning at dcoz@dc.gov or at (202) 727-6311.

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

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

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

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

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

Pursuant to Subtitle Z § 408.4 of the 2016 Regulations, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

Written statements, in lieu of oral testimony, may be submitted for inclusion in the record. The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at http://app.dcoz.dc.gov/Login.aspx; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Please include the case number on your submission. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

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

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FINAL RULEMAKING

The Higher Education Licensure Commission (HELC or Commission), pursuant to the authority set forth in the Education Licensure Commission Act of 1976 (the Act), effective April 6, 1977 (D.C. Law 1-104; D.C. Official Code § 38-1306(b)(3), 38-1309, and 38-1311 (2012 Repl. & 2016 Supp.)), and Mayor's Order 89-120, dated May 31, 1989; and the State Superintendent of Education, pursuant to Section (3)(b)(6) 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)(6) (2012 Repl. & 2016 Supp.)), hereby gives notice of the adoption of a new Chapter 83 (Delivery of Online Instruction by a Postsecondary Educational Institution) of Title 5 (Education), Subtitle A (Office of the State Superintendent of Education), of the District of Columbia Municipal Regulations (DCMR).

The Office of the State Superintendent of Education is responsible for overseeing the functions and activities of the Commission. In this regard the Superintendent has reviewed this proposal.

The purpose of the rulemaking is to revise licensing requirements for postsecondary degree-granting and non-degree-granting educational institutions by adding procedures and standards for distance-learning institutions.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* for a thirty (30) day public comment period on May 20, 2016, at 63 DCR 7726. The comment period officially closed on June 20, 2016. OSSE did not receive any comments and has not made any changes in the Final Rulemaking.

These rules have been "deemed approved" by the Council of the District of Columbia, pursuant to Section 6(b)(3) of the Act (D.C. Official Code § 38-1306(b)(3) (2012 Repl. & 2015 Supp.)). The rules were adopted as final on July 25, 2016 and will become effective upon publication of this notice in the *D.C. Register*.

Title 5-A DCMR, OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION, is amended to add a new Chapter 83 to read as follows:

CHAPTER 83 DELIVERY OF ONLINE INSTRUCTION BY A POSTSECONDARY EDUCATIONAL INSTITUTION

8300 PURPOSE

8300.1 The purpose of this chapter is to establish standards and procedures governing the provision of online instruction to District of Columbia residents by postsecondary educational institutions and schools.

8301 APPLICABILITY

8301.1 Any postsecondary educational institution seeking to provide online instruction to a District resident through an online presence shall be deemed to be operating in the District, as defined in this chapter, whether or not the institution has a physical presence in the District.

8301.2 Prior to providing online instruction to a District resident, advertising online instruction to a District resident, or enrolling a District resident as a student for online instruction, an institution shall either be:

(a) Licensed by the Commission in accordance with this chapter; or

(b) Authorized to operate in the District in accordance with this chapter.

8301.3 This chapter is not limited to institutions that solely provide online instruction.

8301.4 A new applicant for licensure that has a physical presence and is seeking to provide online instruction shall submit to the Commission, either:

(a) An Application for Provisional Licensure that meets the requirements of Chapter 80 of Subtitle A of Title 5 of the D.C. Municipal Regulations and the Standards for Online Instruction in Section 8302 of this chapter; or

(b) An Application for Initial Licensure that meets the requirements of Chapter 81 of Subtitle A of Title 5 of the D.C. Municipal Regulations and the Standards for Online Instruction in Section 8302 of this chapter.

8301.5 A new applicant for licensure that does not have a physical presence and is seeking to provide online instruction shall submit to the Commission, either:

(a) An Application for Provisional Licensure that meets the requirements of Chapter 80 of Subtitle A of Title 5 of the D.C. Municipal Regulations and the Standards for Online Instruction in Section 8302 of this chapter; or

(b) An Application for Initial Licensure that meets the requirements of Chapter 81 of Subtitle A of Title 5 of the D.C. Municipal Regulations and the Standards for Online Instruction in Section 8302 of this chapter.

8301.6 A current licensee seeking to expand its existing program of instruction to include online instruction shall submit to the Commission, either:

(a) An Application for License Amendment that meets the requirements of Section 8010 of Chapter 80 of Subtitle A of Title 5 of the D.C. Municipal Regulations and the Standards for Online Instruction in Section 8302 of this chapter; or

(b) An Application for License Amendment that meets the requirements of Section 8123 of Chapter 81 of Subtitle A of Title 5 of the D.C. Municipal Regulations and the Standards for Online Instruction in Section 8302 of this chapter, as applicable.

8301.7 A congressionally chartered postsecondary educational institution whose home state is the District of Columbia and that is seeking to expand its existing program of instruction to include online instruction shall execute a memorandum of understanding with the Commission to facilitate institutional participation in State Authorization Reciprocity Agreement.

8302 STANDARDS FOR LICENSING OF POSTSECONDARY EDUCATIONAL INSTITUTION OFFERING ONLINE INSTRUCTION

8302.1 In order to qualify for a license, a postsecondary degree granting institution seeking to provide online instruction to a District resident shall demonstrate that it meets each standard for licensure in 5-A DCMR § 8004 and shall also demonstrate that the institution meets the following requirements related to online instruction in a form specified by the HELC:

(a) Online learning is appropriate to the institution's mission and purposes;

(b) The institution's plans for developing, sustaining, and, if appropriate, expanding online learning offerings are integrated into its regular planning and evaluation processes;

(c) Online learning is incorporated into the institution's systems of governance and academic oversight;

(d) Curricula for the institution's online learning offerings are coherent, cohesive, and comparable in academic rigor to programs offered in traditional instructional formats;

(e) The institution evaluates the effectiveness of its online learning offerings, including the extent to which the online learning goals are achieved, and uses the results of its evaluations to enhance the attainment of the goals;

(f) Faculty responsible for delivering the online learning curricula and evaluating the students' success in achieving the online learning goals are appropriately qualified and effectively supported;

(g) The institution provides effective student and academic services to support students enrolled in online learning offerings; and

(h) The institution provides sufficient resources to support and, if appropriate, expand its online learning offerings.

8302.2 In order to qualify for a license, a postsecondary non-degree granting institution seeking to provide online instruction to a District resident shall demonstrate that it meets each standard for licensure in Chapter 81 of 5-A DMCR and shall also meet the following requirements related to online instruction:

(a) Online learning is appropriate to the institution's mission and purposes;

(b) The institution's plans for developing, sustaining, and, if appropriate, expanding online learning offerings are integrated into its regular planning and evaluation processes;

(c) Online learning is incorporated into the institution's systems of governance and academic oversight;

(d) Curricula for the institution's online learning offerings are coherent, cohesive, and comparable in academic rigor to programs offered in traditional instructional formats;

(e) The institution evaluates the effectiveness of its online learning offerings, including the extent to which the online learning goals are achieved, and uses the results of its evaluations to enhance the attainment of the goals;

(f) Faculty responsible for delivering the online learning curricula and evaluating the students' success in achieving the online learning goals are appropriately qualified and effectively supported;

(g) The institution provides effective student and academic services to support students enrolled in online learning offerings; and

(h) The institution provides sufficient resources to support and, if appropriate, expand its online learning offerings.

8303 PARTICIPATION IN THE STATE AUTHORIZATION RECIPROCITY AGREEMENT

8303.1 This section shall be effective upon the approval of District of Columbia as a member state of the State Authorization Reciprocity Agreement (SARA).

8303.2 The following institutions are eligible to become an approved SARA institution, subject to the policies and standards of SARA and approval pursuant to this chapter:

(a) Postsecondary degree granting institution whose home state is the District of Columbia; or

(b) A conditionally exempt and congressionally chartered educational institution whose home state is the District of Columbia and who has executed a memorandum of understanding with the Commission to facilitate institutional participation in SARA.

8303.4 An application to become an approved SARA institution shall be submitted to and approved by the Commission to confirm the institution's compliance with SARA policies and standards and affirm the institution's willingness and ability for future compliance.

8303.4 An educational institution shall be assessed fees by the Commission and SARA to participate as an approved SARA institution. The fee to the Commission shall be determined annually.

8303.5 A postsecondary educational institution that has been authorized to provide online instruction by the duly authorized licensing body of a State that is a member of SARA, to which the District of Columbia is also a member, shall be authorized to operate in the District and provide online instruction to a District resident in accordance with SARA policies and standards.

8399 DEFINITIONS

"Home State" – a member state where the institution holds its legal domicile, in which the institution's principal campus holds its institutional accreditation.

"Higher Education Licensure Commission" or "Commission" — the body established by the Education Licensure Commission Act of 1976, effective April 6, 1977 (D.C. Law 1-104; D.C. Official Code §§ 38-1301 *et seq.*).

"License" or "to license" – the granting of approval to operate by the Commission to any educational institution covered under this chapter. Such approval shall be contingent upon said educational institution's compliance with all rules, regulations and criteria promulgated by the Commission, as well as compliance with all other applicable D.C. laws and regulations.

"Online Instruction" — education, whether known as "Virtual Class," "Correspondence Course," "Distance Learning" or a like term, where the

learner and instructor are not physically in the same place at the same time, in whatever electronic medium such as, but not limited to, the Internet, Web-based, real time or recorded video or digital form, offered or provided by an educational institution to District residents who are physically present in the District.

"Online Presence" — a connection to the District of Columbia created by the provision of online instruction by a postsecondary institution that is physically located outside of the District of Columbia, which gives rise to the requirement to obtain licensure from the Higher Education Licensure Commission or authorization to operate in the District pursuant to this chapter.

"Physical Presence" – an institution has established one of the following in the District of Columbia:

(a) A physical location for students to receive instruction;

(b) An administrative office;

(c) A physical site operated by or on behalf of the institution that provides information to students for the purpose of enrolling students or provides student support services; or

(d) Office space for instructional and non-instructional staff.

"To operate" or "operating" – when applied to an educational institution means to establish, keep, or maintain any facility or location in the District, or to establish, keep, or maintain any facility or location organized or chartered in the District where from or through which education is offered or given, or educational credentials are offered or granted, and includes contracting with any person, group, or entity to perform any such act.

D.C. DEPARTMENT OF HUMAN RESOURCES

NOTICE OF FINAL RULEMAKING

The Director of the D.C. Department of Human Resources, with the concurrence of the City Administrator, pursuant to Mayor's Order 2008-92, dated June 26, 2008, and in accordance with Title XXI of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-620.01 *et seq.* (2014 Repl. & 2015 Supp.)); the Health Care Benefits Expansion Amendment Act of 2005, effective April 4, 2006 (D.C. Law 16-82; D.C. Official Code § 32-706 (2012 Repl.)); and Title 26 of the United States Code §§ 125(a) and 152(a)(d)(2), hereby gives notice that final rulemaking action was taken to adopt the following amendments to Chapter 21 (Health Benefits), of Title 6 (Personnel), Subtitle B (Government Personnel), of the District of Columbia Municipal Regulations (DCMR).

The purpose of the rulemaking is to require an employee who enrolls a domestic partner for health insurance coverage under the D.C. Employee Health Benefits Program to deduct the health insurance premium cost on an after-tax basis, unless the domestic partner meets the definition of "dependent" pursuant to 26 U.S.C. § 152(a).

No comments were received to the Notice of Emergency and Proposed Rulemaking published in *D.C. Register* on May 20, 2016, at 63 DCR 007755, or the Notice of Second Emergency and Proposed Rulemaking published on May 27, 2016 at 63 DCR 008011. The rules were adopted as final on July 22, 2016 and will become effective upon publication of this notice in the *D.C. Register*.

Chapter 21, HEALTH BENEFITS, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is amended as follows:

Subsections 2129.7 through 2129.13 of Section 2129, OPTIONAL HEALTH BENEFITS COVERAGE FOR DOMESTIC PARTNERS, are being amended to read as follows:

2129.7 Any health insurance premiums pursuant to this section shall be deducted on an after-tax basis directly from the employee's paycheck.

2129.8 A domestic partner may qualify as a dependent, if he or she meets the definition of a dependent, as defined in Title 26 of the United States Code § 152.

2129.9 Health benefits for a domestic partner and eligible dependents shall be terminated upon the death of the employee. A surviving domestic partner enrolled as a dependent may convert to an individual health insurance policy directly through the health insurance provider.

2129.10 Upon termination of District government service, the eligible employee may elect to continue health benefits coverage as specified in Section 2130 of this chapter, and may include continued health benefits coverage for his or her domestic partner and eligible dependents of the domestic partner.

2129.11 An eligible employee shall inform his or her personnel authority, in writing, of any change in the circumstances attested to in the Affidavit of Domestic Partnership for Health Insurance Benefits referenced in Subsection 2129.4 of this section.

2129.12 A domestic partnership may be terminated, with or without the consent of both partners, by filing a termination of domestic partnership statement with the D.C. Department of Health. The termination of the domestic partnership shall become effective six (6) months after the date it is filed with the D.C. Department of Health.

2129.13 An employee whose domestic partnership is terminated as specified in Subsection 2129.12 of this section shall notify his or her personnel authority within thirty (30) days of the filing of the termination of domestic partnership statement. Health benefits enrollment of the domestic partner and his or her dependents shall continue, at the cost specified in Subsection 2129.6 of this section, during the six (6) months that the termination of the domestic partnership is pending, provided District government employment is maintained.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF FINAL RULEMAKING

The Director of the District of Columbia (District) Department of Human Services (Department), pursuant to the authority set forth in Section 31(b) of the Homeless Services Reform Act of 2005 (HSRA), effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-756.02 (2012 Repl.)), Mayor's Order 2014-177, dated July 23, 2014, and Mayor's Order 2006-20, dated February 13, 2006, hereby gives notice of the intent to adopt the following amendments to Chapter 25 (Shelter and Supportive Housing for Individuals and Families) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the amendments is to establish rules to implement the provisions of the LGBTQ Homeless Youth Reform Amendment Act of 2014 ("Act"), effective May 3, 2014, (D.C. Law 20-100; D.C. Official Code § 4-756.02(b) (2012 Repl. & 2016 Supp.)), including but not limited to data collection requirements, training requirements, and grant making requirements. Specifically, the proposed amendments establish: (1) data collection requirements; (2) training requirements for service providers; and (3) grant-making requirements for issuing grants for ten (10) emergency shelter beds for lesbian, gay, bisexual, transgender, and questioning (LGBTQ) homeless youth. The proposed amendments also include: (1) requirements for homeless service providers' implementation of best practices and staff training for the culturally competent care of this population; (2) data collection during the annual Point-in-Time count to include data collection regarding sexual orientation and gender identity; (3) guidelines for services, shelter, and housing designed to better serve the needs of LGBTQ clients to establish a minimum number of crisis shelter beds for this population; and (4) authorization of grant-making authority and establishment of a grant program within the District's Office of Lesbian, Gay, Bisexual, Transgender and Questioning Affairs to train providers to effectively assist this population.

The Notice of Emergency and Proposed Rulemaking (Rulemaking) with respect to these amendments were published in the *D.C. Register* on March 18, 2016, at 63 DCR 4119. The Department did not receive any comments from the public concerning the rulemaking during the thirty (30)-day comment period, and no changes have been made to the text of the rulemaking since they were published as emergency and proposed. Pursuant to Section 31 of the HSRA (D.C. Official Code § 4-756.02), the proposed rules were submitted to the Council of the District of Columbia (Council) on March 8, 2016 for a forty-five (45)-day review period, excluding Saturdays, Sundays, legal holidays, and days of Council recess.

As the forty-five (45)-day review period, excluding Saturdays, Sundays, legal holidays, and days of Council recess, expired without action by the Council to approve or disapprove the proposed rules, the proposed rules have been deemed approved. These rules were adopted as final on May 26, 2016, and shall take effect upon publication of this final rulemaking in the *D.C. Register*.

Chapter 25, SHELTER AND SUPPORTIVE HOUSING FOR INDIVIDUALS AND FAMILIES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Section 2501, GENERAL ELIGIBILITY CRITERIA FOR SHELTER AND SUPPORTIVE HOUSING, is amended by adding new Subsections 2501.3 through 2501.5 to read as follows:

2501.3 The Department or its designee shall provide the following for each individual seeking services:

(a) An overview of the shelter's policies in regards to the protection of residents based upon actual or perceived sexual orientation and gender identity;

(b) The opportunity for the individual to disclose whether he or she requests special placement or care based on safety concerns due to actual or perceived sexual orientation status or gender identity; and

(c) The opportunity to disclose, voluntarily and only following a discussion of the shelter's policies and accommodations for LGBTQ populations and ability to safeguard confidential information, the individual's sexual orientation and gender identification and expression; provided that the intake worker and all staff shall conduct this discussion in a culturally competent manner.

2501.4 In determining what would be an appropriate referral, the Department or its designee shall consider relevant factors, including:

(a) Prior receipt of services;

(b) Disability;

(c) Family size;

(d) Affordability of housing;

(e) Age; and

(f) Whether an individual is an LGBTQ homeless youth.

2501.5 The Department or its designees shall enter information detailed in § 2501.4 into HMIS.

Section 2512, CLIENT RIGHTS, is amended by adding new Subsections 2512.20 through 2512.24 to read as follows:

2512.20 Clients shall have the right to choose LGBTQ-specific accommodations and services if available or non-LGBTQ-specific accommodations and services.

2512.21 Clients shall have the right to receive information from the Department or Providers regarding LGBTQ-specific accommodations and services.

2512.22 Clients shall have the right to express their gender identity through their chosen attire, hairstyle, and mannerisms while using Department services.

2512.23 Clients served within the Continuum of Care shall have the right to be treated in all ways in accordance with the individual's gender identity and expression, including:

(a) Use of gender-specific facilities including restrooms, showers, and locker rooms;

(b) Being addressed in accordance with the individual's gender identity and expression;

(c) Having documentation reflect the individual's gender identity and expression;

(d) Being free from dress codes that are in conflict with the individual's gender identity and expression;

(e) Confidentiality of information regarding the individual's gender identity and expression; and

(f) Being free from discrimination in the provision of health care and mental health services related to the individual's gender identity and expression.

2512.24 Families shall not be separated based on sexual orientation, gender expression, or gender nonconformity of any members of the family.

Section 2515, PROVIDER STANDARDS FOR SHELTER AND SUPPORTIVE HOUSING, is amended by adding new Subsections 2515.24 through 2515.27 to read as follows:

2515.24 Providers shall publicly display information regarding the ability to seek redress under the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code §§ 2-1401.01, *et seq*.), as amended.

2515.25 Providers shall develop a system for reporting bullying and harassment in accordance with Youth Bullying Prevention Act of 2012, effective September 14, 2012 (D.C. Law 19-167; D.C. Official Code §§ 2-1535.01, *et seq*.), as amended.

2515.26 Providers shall ensure that all homeless service workers, including intake workers, direct service staff, contractors, and volunteers, direct service staff managers, and direct service staff supervisors, shall be trained by the District's

Office of Lesbian, Gay, Bisexual, Transgender and Questioning Affairs or its designee in cultural competence with regard to the LGBTQ population, including but not limited to, the following:

(a) Vocabulary and definitions relevant to LGBTQ clients;

(b) Information about how to communicate with clients about sexuality, sexual orientation, and gender identity;

(c) Information about the Department's nondiscrimination policy and discrimination complaint process;

(d) Best practices for data collection, privacy, storage, and use;

(e) Confidentiality policies and practices;

(f) Current social science research and common risk factors for LGBTQ youth;

(g) Information about the coming out process, its impact on LGBTQ youth, and how to address a youth who self-discloses his or her sexual or gender identity (*e.g.*, offering support, engaging in conversation as appropriate, locating appropriate services);

(h) Best practices for supporting LGBTQ clients in shelter, housing, and supportive services, including but not limited to information on community resources available to serve LGBTQ clients;

(i) Suicide awareness and prevention; and

(j) Legal requirements for providers and homeless service workers for homeless youth.

2515.27 Providers of shelter or supportive housing for LGBTQ homeless youth shall implement research-based family acceptance interventions that are designed to educate families on the impact of rejection towards their LGBTQ children and negative outcomes for LGBTQ youth associated with rejection, including depression, suicidal behavior, drug use, and unprotected sex. Family acceptance interventions may include individual and family sessions, assessment tools, and resources for families that promote acceptance by parents and positive well-being and development of LGBTQ youth.

Section 2521, TRANSFER OF INDIVIDUALS AND FAMILIES IN SHELTER AND SUPPORTIVE HOUSING, is amended by amending Subsection 2521.2 to read as follows:

2521.2 A Provider may transfer a client to another Provider to ensure the client receives the most appropriate services available within the Continuum of Care whenever:

(a) The client consents to the transfer, including a transfer requested by the client;

(b) The Provider identifies and secures for the client a placement with another Provider that more appropriately meets the client's medical, mental health, behavioral, or rehabilitative service needs in accordance with the client's Service Plan. If the client is being transferred because of domestic violence or other urgent need, the Provider shall expedite the transfer; or

(c) The client is a non-LGBTQ-identified youth occupying a bed established pursuant to Section 28(c)(1) of the HSRA (D.C. Official Code § 4-755.01(c)(1)) and an LGBTQ-identified homeless youth has presented a need for shelter; and

(d) For purposes of this subsection, a more appropriate placement may include transfer to a different level of service or type of program based on the circumstances upon which the transfer is based, including a transfer when the facility or program in which the client is currently receiving services is ending operations.

New Sections 2562 and 2563 are added to read as follows:

2562 LGBTQ HOMELESS YOUTH SHELTER BED GRANT PROGRAM

2562.1 In accordance with Section 28(c) of the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-755.01(c)) (HSRA), as amended, a minimum of ten (10) beds shall be maintained for LGBTQ homeless youth through a two (2)-year grant program to establish and maintain facilities for these beds.

2562.2 All grants awarded under this section shall be issued in accordance with the Grant Administration Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code §§ 1-328.11, *et seq*.), as amended.

2562.3 LGBTQ-identified homeless youth shall have priority preference for the beds established through the two (2)-year grant program.

2562.4 If beds are not in use by an LGBTQ-identified homeless youth, they may be filled by a non-LGBTQ-identified homeless youth until an LGBTQ-identified homeless youth presents the need for a bed and the non-LGBTQ-identified homeless youth has been transferred pursuant to § 2521.2.

2562.5 Eligibility criteria for the grant program shall include but not be limited to the following:

(a) Be community organizations based in the District;

(b) Have expertise in systems of care for LGBTQ homeless youth; and

(c) Establish or maintain facilities through these grants that protect the safety of LGBTQ homeless youth through facilities that are specifically for LGBTQ youth and separate from any existing homeless services for the general population.

2562.6 Prior to award of grant funding and in accordance with § 2562.2, the Department or its designee shall issue a Request for Application (RFA) and Notice of Funding Availability (NOFA) through the District's Office of Partnerships and Grant Services for the two (2)-year grant program.

2562.7 The RFA for the two (2)-year grant program shall include but not be limited to information regarding the following:

(a) The Funding Opportunity Title;

(b) The Funding Opportunity Number;

(c) The target population of the grant program;

(d) Eligible organizations/entities for grant awards;

(e) The award period;

(f) The grant award amount or amounts;

(g) The use of grant funds;

(h) The point of contact for additional information and updates regarding the application process; and,

(i) The deadline date for applications.

2562.8 Subsequent to announcement and issuance of the RFA and in accordance with § 2562.2, the Department or its designee shall host a pre-application conference to inform applicants about the application process for the two (2)-year grant program.

2562.9 At least thirty percent (30%) of the grant funding shall be allocated to support proposals received for social innovation and other demonstration projects that

may address the needs of this population with new, promising prevention and service-delivery models; provided that the number of beds established for LGBTQ youth is no lower than ten (10).

2562.10 This section shall be repealed if the Interagency Council on Homelessness determines that the needs of LGBTQ homeless youth are being met at a rate equal to or higher than the needs of homeless youth in the general population of the District of Columbia pursuant to Section 5(b-1) of the HSRA (D.C. Official Code § 4-752.02 (b-1)).

2563 LGBTQ YOUTH SERVICES AND DATA COLLECTION

2563.1 Homeless services provided by the Department or its designee shall include services specifically designed to alleviate the high risk of homelessness faced by LGBTQ youth.

2563.2 Year-round data collection on homeless youth and the annual Point-in-Time survey required by the U.S. Department of Housing and Urban Development shall include data regarding the sexual orientation and gender identity of each individual counted, subject to the individual's discretion to decline to provide that information.

2563.3 Services provided by the Department or its designee as well as data collection regarding sexual orientation and gender identity conducted pursuant to the annual Point-in-Time survey shall apply best practices for serving LGBTQ youth.

Section 2599, DEFINITIONS, § 2599.1, is amended by adding the following terms and definitions in alphabetical order:

LGBTQ – a person who self-identifies as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or questioning their sexual orientation or gender identity and expression.

Youth – a person who is under twenty-four (24) years of age.

DEPARTMENT OF MOTOR VEHICLES

NOTICE OF FINAL RULEMAKING

The Director of the Department of Motor Vehicles ("Director"), pursuant to the authority set forth in Sections 1825 and 1826 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code §§ 50-904 and 50-905 (2014 Repl.)) and Sections 6, 7 and 8a of the District of Columbia Traffic Act of 1925, approved March 3, 1925 (43 Stat. 1121, 1125; D.C. Official Code §§ 50-2201.03, 50-1401.01 and 50-1401.03 (2014 Repl.)), hereby gives notice of the adoption of amendments to Chapter 1 (Issuance of Driver Licenses) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations ("DCMR").

The rulemaking gives the Director the authority to approve documents required in order to establish residency, and for those individuals seventy (70) years of age and older, allow for submission of documents, subject to the approval of the Director, certifying identity and date of birth or social security number.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on May 6, 2016 at 63 DCR 006974. No comments were received. No changes were made to the text of the proposed rules. The final rules were adopted on June 10, 2016 and will be effective upon publication of this notice in the *D.C. Register*.

Chapter 1, ISSUANCE OF DRIVER LICENSES, of Title 18 DCMR, VEHICLES AND TRAFFIC, is amended as follows:

Section 103, APPLICATION FOR A DRIVER LICENSE, LEARNER PERMIT, OR PROVISIONAL PERMIT, is amended as follows:

Subsection 103.4(d) is amended by adding a new paragraph (12) to read as follows:

(12) Any other documents deemed acceptable by the Director through written approval.

Subsection 103.5 is amended by adding a new paragraph (c) to read as follows:

(c) If the applicant is seventy (70) years or older, he or she may submit documents subject to the approval of the Director certifying identity, date of birth, or social security number.

DEPARTMENT OF HEALTH

NOTICE OF SECOND EMERGENCY RULEMAKING

The Director of the Department of Health ("DOH"), pursuant to the authority set forth in Section 5(a) of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983 ("Act"), effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-504(a) (2016 Supp.)), and in accordance with Mayor's Order 98-137, dated August 20, 1998, hereby gives notice of the adoption, on an emergency basis, of an amendment to Section 2039 of Chapter 20 (Hospitals) of Title 22 (Health), Subtitle B (Public Health and Medicine), of the District of Columbia Municipal Regulations ("DCMR").

This rulemaking is identical to the Notice of Emergency and Proposed Rulemaking adopted on an emergency basis on March 29, 2016 and will be published in the *D.C. Register* on August5, 2016.

This second emergency rulemaking action is necessary as the proposed regulations were not timely submitted to the Council of the District of Columbia, as required by D.C. Official Code § 44-504(j), and the Council of the District of Columbia will be on its summer recess from July 15, 2016 through September 15, 2016. The identical emergency regulations adopted on March 29, 2016 expired on July 26, 2016.

This emergency rulemaking changes the expiration date from March 31, 2016 to August 31, 2016 for the Testing for Synthetic Cannabinoid Surveillance regulations. Under the regulations, (1) hospitals are required to collect urine samples from patients who present and have symptoms consistent with having taken a synthetic cannabinoid; (2) it is recommended that hospitals collect blood samples from patients who present and have symptoms consistent with having taken a synthetic cannabinoid; (3) hospitals are required to store urine and blood samples in accordance with protocols provided by the Department of Health; and, (4) hospitals are required to turn over the urine and blood samples for testing by the Office of the Chief Medical Examiner.

This emergency rulemaking action is necessary for the Department to continue tracking the use of the illegal synthetic cannabinoid products commonly known as K-2, Spice, ScoobySnax, Bizarro, Synthetic Marijuana, and other names, which are readily available in the District. K-2 is a mixture of herbs, spices or shredded plant material that is typically sprayed with a synthetic compound chemically similar to tetrahydrocannabinol, the psychoactive ingredient in marijuana, but with the potential for a much more powerful and unpredictable effect. The Partnership for Drug-Free Kids lists the effects of using K-2 as increased agitation, pale skin, seizures, vomiting, profuse sweating, uncontrolled/spastic body movements, elevated blood pressure, elevated heart rate, and palpitations. The National Institute on Drug Abuse reports that Spice abusers who have been taken to Poison Control Centers report symptoms that include rapid heart rate, vomiting, agitation, confusion, and hallucinations. Spice can also raise blood pressure and cause reduced blood supply to the heart (myocardial ischemia), and in a few cases it has been associated with heart attacks.

Regular users of synthetic cannabinoids may experience withdrawal and addiction symptoms and often graduate to other, more powerful substances, such as MDMA (3, 4-methylenedioxy-methamphetamine), popularly known as Ecstasy or, more recently, as Molly, with potentially deadly consequences. Multiple incidents linked to use of a synthetic cannabinoids have been reported the District. The District needs to continue to determine the level of synthetic marijuana usage in the District and how to best educate the community of the inherent dangers of synthetic marijuana and implement appropriate measures to treat those who have become habitual users. Enactment of this amendment will immediately allow the Department to continue to better determine the level of use of synthetic marijuana in the District and to determine the locations where use is especially prevalent, in order to better protect the health, welfare and safety of residents of and visitors to the District.

The District experienced an upward spike in the unconfirmed use of illegal synthetic cannabinoids last summer for which the Testing for Synthetic Cannabinoid Surveillance regulations were promulgated. Having the Testing for Synthetic Cannabinoid Surveillance regulations continue until August 31, 2016 will allow the Department to confirm whether an upward spike occurs in this summer.

DOH intends for the testing of the urine samples and the blood samples to be conducted by the Office of the Chief Medical Examiner ("OCME") or its contractor. Because this is only a surveillance program, DOH does not want to receive any individually identifying information. For this reason, it is intended that the OCME will, upon receipt of the samples from the hospitals, assign a unique identifier to each sample to remove individually identifying information from test results that are shared with DOH. Therefore, under this surveillance program, DOH will not have access to any individually identifying information for the tested samples and will only receive de-identified information, which DOH will use solely for surveillance purposes.

This emergency rulemaking was adopted on July 26, 2016 and became effective on that date. This emergency rulemaking may remain in effect for up to one hundred twenty (120) days after the date of adoption, expiring on November 23, 2016, or upon earlier amendment or repeal by the Director or publication of a final rulemaking in the *D.C. Register*, whichever occurs first. However, available funding for the testing conducted by OCME is certified only through August 31, 2016. This emergency rulemaking will expire on August 31, 2016 as intended.

Chapter 20, HOSPITALS, of Title 22-B DCMR, PUBLIC HEALTH AND MEDICINE, is amended as follows:

Section 2039, TESTING FOR SYNTHETIC CANNABINOID SURVEILLANCE, Subsection 2039.11, of is amended to read as follows:

2039.11 These rules will expire on August 31, 2016.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF SECOND EMERGENCY RULEMAKING

The District of Columbia Taxicab Commission ("Commission" or "DCTC"), pursuant to the authority set forth in Sections 8(c)(2), (3), (7), (10), and (19), and 14, 20, and 20j of the District of Columbia Taxicab Commission Establishment Act of 1985 ("Establishment Act"), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-301.07(c)(2), (3), (7), (10), and (19), 50-301.13, 50-301.19, and 50-301.29 (2014 Repl. & 2016 Supp.)), hereby gives notice of its intent to adopt amendments to Chapter 10 (Public Vehicles for Hire) and Chapter 18 (Wheelchair Accessible Paratransit Taxicab Service) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations ("DCMR").

Emergency rulemaking action, pursuant to Section 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2012 Repl.)), is used when necessary to preserve the peace, health, safety, welfare, or morals of District residents. This second emergency rulemaking is required to: (1) immediately increase the number of wheelchair accessible vehicles participating in Transport DC, to improve the quality of service in the program, including service response time; and (2) immediately increase the number of wheelchair accessible vehicles available throughout the District, in compliance with the Establishment Act and other applicable laws.

Emergency and proposed rulemaking was adopted by the Commission on January 20, 2016 and was published in the *D.C. Register* on April 1, 2016 at 63 DCR 004888. The first emergency rules remained in effect for one hundred twenty (120) days after the date of adoption, expiring May 19, 2016. This second emergency rulemaking was adopted by the Commission on May 11, 2016, and shall remain in effect for one hundred twenty (120) days after the date of the adoption, expiring September 8, 2016, unless earlier superseded by an amendment or repeal by the Commission, or the publication of final rulemaking, whichever occurs first. This second emergency rulemaking is required to prevent a lapse in coverage from the first emergency rulemaking.

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

Section 1010, ISSUANCE OF DCTC VEHICLE LICENSES, is amended as follows:

Subsection 1010.18 is amended to read as follows:

1010.18 Each company, taxicab owner, or operator of a vehicle participating in CAPS-DC pursuant to a dispatch agreement under §§ 1010.17 or 1010.19 shall be subject to the prohibitions and penalties of §§ 1807 and 1808.

A new Subsection 1010.19 is added to read as follows:

1010.19 A new DCTC taxicab vehicle license may be issued to an applicant who possesses a current and valid DCTC taxicab operator's license provided that:

(a) The license is used exclusively for a wheelchair accessible, best fuel vehicle purchased and placed into active service;

(b) Notwithstanding the provisions of § 609, the vehicle is not more than two (2) model years older than the current calendar year, or such earlier model year as the Office may establish in an administrative issuance;

(c) The applicant executes a written a dispatch agreement with a taxicab company participating in CAPS-DC, for a period of not less than three (3) years, during which the vehicle shall be in continuous active service and available for dispatch in accordance with all of the applicable operating requirements of § 1806, a copy of which shall be filed with the Office; and

(d) The DCTC taxicab vehicle license shall be subject to suspension or revocation if, at any time and for any reason, the vehicle or independent taxicab owner fails to comply with the provisions of subparagraphs (a), (b), or (c) of this subsection.

Chapter 18, WHEELCHAIR ACCESSIBLE PARATRANSIT TAXICAB SERVICE, is amended as follows:

Section 1806, TAXICAB COMPANIES AND OPERATORS – OPERATING REQUIREMENTS, is amended as follows:

Subsection 1806.8 is amended to read as follows:

1806.8 Each company shall maintain with the Office a current and accurate inventory of all active operators and vehicles approved for and providing CAPS-DC service, including all vehicles associated with the company pursuant to a dispatch agreement under § 505.11 or § 1010.17, updated in such manner and at such times as determined by the Office, with the following information:

(a) For each operator: name, cellular telephone number, DCTC operator's license number, and an indication of whether the operator has completed the wheelchair service training pursuant to § 1806.6, and, if so, the date of completion; and

(b) For each vehicle: year, make, model, color, PVIN, tag number, and an indication of whether the vehicle is wheelchair accessible.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia (District) to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat.744; D.C. Official Code § 1-307.02 (2014 Repl. & 2016 Supp.)) and Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6)) (2012 Repl.), hereby gives notice of the adoption, on an emergency basis, of an amendment to Chapter 45 (Medicaid Reimbursement for Federally Qualified Health Centers) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The emergency and proposed rules amend the Medicaid reimbursement methodology for a Federally Qualified Health Center (FQHC). Federal law authorizes Medicaid reimbursement of FQHCs on a prospective payment system (PPS) based on reasonable costs or an Alternative Payment Methodology (APM), subject to certain requirements. The current PPS reimbursement model has been in effect since January 1, 2001. Since that time, the number of FQHCs operating in the District has increased as well as the variation in the services offered and patients served.

The major components of the proposed reimbursement model include: (1) an APM for primary care services, behavioral health services, preventive, diagnostic, and comprehensive dental services; (2) a limit on reimbursement for administrative costs; (3) an additional payment based upon performance of each FQHC beginning in January 2018; and (4) a new PPS reimbursement model for new providers that enroll in the Medicaid program after the effective date of these rules. These rules set forth the standards for participation in the Medicaid program, the standards used to develop the PPS, APM, cost reporting and auditing processes, and establish the requirements for Medicaid reimbursement of FQHCs for Medicaid-reimbursable services that are outside the scope of core services that qualify for APM rates. DHCF projects an increase in aggregate expenditures of approximately $307,000 in Fiscal Year (FY) 2016 and $1,200,000 in FY 2017.

Emergency action is necessary for the immediate preservation of the health, safety and welfare of persons receiving primary care, behavioral health, and dental services from FQHCs. FQHCs deliver primary care, behavioral health, and dental services to some of the District's most physically and economically vulnerable residents. In order to ensure that the District's FQHCs maintain adequate resources to continue their role as safety net providers within the public health care delivery system, these rules must be published on an emergency basis to preserve the health, safety and welfare of individuals receiving health care from the FQHCs.

This Notice of Emergency and Proposed Rulemaking was adopted on July 22, 2016 and will become effective for dates of services rendered beginning September 1, 2016, if the corresponding State Plan amendment has been approved by CMS with an effective date of September 1, 2016 or the effective date established by CMS, whichever is later. The Council of the District of Columbia approved the corresponding State Plan amendment through the Fiscal

Year 2016 Budget Support Act of 2015, effective October 22, 2015 (D.C. Law 21-36; 62 DCR 10905 (August 14, 2015)). The emergency rules shall remain in effect for one hundred and twenty (120) days from the date of adoption, until November 19, 2016, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director also gives notice of the intent to adopt this proposed rule not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 45, MEDICAID REIMBURSEMENT FOR FEDERALLY QUALIFIED HEALTH CENTERS of Title 29 DCMR, PUBLIC WELFARE, is deleted in its entirely and replaced with a new Chapter 45 to read as follows:

CHAPTER 45 MEDICAID REIMBURSEMENT FOR FEDERALLY QUALIFIED HEALTH CENTERS

4500 GENERAL PROVISIONS

4500.1 The rules set forth in this chapter establish the conditions of participation for a Federally Qualified Health Center (FQHC) in the Medicaid program. These rules also establish the reimbursement methodology for services rendered to Medicaid beneficiaries by an FQHC.

4500.2 Prior to seeking Medicaid reimbursement each FQHC must:

(a) Be approved by the federal Centers for Medicare and Medicaid Services (CMS) and meet the requirements governing FQHCs set forth in the

applicable provisions of Title XVIII of the Social Security Act and implementing regulations;

(b) Be screened and enrolled in the Medicaid program pursuant to the requirements set forth in Chapter 94 of Title 29 of the District of Columbia Municipal Regulations; and

(c) Obtain a National Provider Identifier (NPI) for each site operated by an FQHC.

4500.3 Medicaid reimbursable services provided by an FQHC shall be furnished in accordance with Section 4231 of the State Medicaid Manual and provided in a setting that is within the scope of project approved by the federal Health Resources Services Administration (HRSA).

4500.4 Services may be provided at other sites including mobile vans, intermittent sites such as a homeless shelter, a seasonal site and a beneficiary's place of residence for beneficiaries that are temporarily homebound, provided the sites and activities are within the FQHC's Scope of Project approved by HRSA and the claims for reimbursement are consistent with the services described in Sections 4505 through 4508.

4500.5 All services provided by an FQHC shall be subject to quality standards, measures and guidelines established by National Committee for Quality Assurance (NCQA), Healthcare Effectiveness Data and Information Set, HRSA, CMS and the Department of Health Care Finance (DHCF).

4500.6 Services for which an FQHC seeks Medicaid reimbursement pursuant to this Chapter shall be delivered in accordance with the corresponding standards for service delivery, as described in relevant sections of the District of Columbia State Plan for Medical Assistance and implementing regulations.

4501 REIMBURSEMENT

4501.1 Medicaid reimbursement for primary care, behavioral health, and dental services furnished by an FQHC shall be made under:

(a) A Prospective Payment System (PPS) as described in Section 4502; or

(b) An Alternative Payment Methodology (APM) as described in Sections 4503 through 4506.

4501.2 Each FQHC that is enrolled in the District's Medicaid program as of the effective date of these rules that elects to be reimbursed for services under an APM shall sign an agreement with the DHCF.

4501.3 The APM referenced in Subsection 4501.2 shall become effective on or after the date of an executed agreement between DHCF and the FQHC, subject to approval by CMS of the corresponding State Plan amendment, whichever is later.

4501.4 The APM shall comply with all requirements set forth in federal law and rules.

4501.5 Any FQHC that elects not to be reimbursed under an APM shall be reimbursed under the PPS methodology described in Section 4502.

4502 PROSPECTIVE PAYMENT SYSTEM

4502.1 Medicaid reimbursement for services furnished on or after January 1, 2001 by an FQHC shall be on a PPS consistent with the requirements set forth in Section 1902(aa) of the Social Security Act.

4502.2 The PPS rate shall be paid for each encounter with a Medicaid beneficiary when a medical service or services are furnished. The PPS for services rendered beginning on or after January 1, 2001 through and including September 30, 2001, shall be calculated as follows:

(a) The sum of the FQHC's audited allowable costs for the FYs 1999 and 2000 shall be divided by the total number of patient encounters in FYs 1999 and 2000; .

(b) The amount established in Subsection 4502.2(a) shall be adjusted to take into account any increase or decrease in the scope of services furnished by the FQHC during FY 2001. Each FQHC shall report to DHCF any increase or decrease in the scope of services, including the starting date of the change. The amount of the adjustment shall be negotiated between the parties. The adjustment shall be implemented not later than ninety (90) days after establishment of the negotiated rate; and

(c) Allowable costs shall include reasonable costs that are incurred by the FQHC in furnishing Medicaid coverable services to Medicaid eligible beneficiaries, as determined by Medicare Reasonable Cost Principles set forth in 42 C.F.R. Part 413.

4502.3 For services furnished beginning FY 2002 and each fiscal year thereafter, an FQHC shall be reimbursed at a rate that is equal to the rate in effect the previous fiscal year, increased by the percentage increase in the Medicare Economic Index, established in accordance with Section 1842(i)(3) of the Social Security Act and adjusted to take into account any increase or decrease in the scope of services furnished by the FQHC during the fiscal year.

4502.4 Each FQHC shall report to DHCF any increase or decrease in the scope of services, including the starting date of the change. The amount of the adjustment

for an increase or decrease in services shall be negotiated between the parties. The adjustment shall be implemented not later than ninety (90) days after establishment of the negotiated rate. A change in the cost of a service, in and of itself, is not considered a change in the scope of services.

4502.5 In any case in which an entity first qualifies as an FQHC after FY 2000, the prospective rate for services furnished in the first year shall be equal to the average of the prospective rates paid to other FQHCs located in the same area with a similar caseload. For each fiscal year following the first year in which the entity first qualified as an FQHC, the prospective payment rate shall be computed in accordance with Subsection 4502.3. This section shall not apply to a new provider. Reimbursement for a new provider is set forth in Section 4512.

4502.6 An FQHC that furnishes services to Medicaid beneficiaries pursuant to a contract with a managed care entity, as defined in Section 1932(a)(1)(B) of the Social Security Act, shall receive a wrap-around supplemental payment if the FQHC's reimbursement for services received from the managed care organization (MCO) is less than the amount the FQHC would be entitled to receive pursuant to Subsections 4502.2 through 4502.5.

4502.7 The amount of the wrap-around supplemental payment shall equal the difference between the payment received from the MCO as determined on a per encounter basis and the FQHC PPS rate calculated pursuant to this section.

4502.8 The wrap-around supplemental payment shall be processed and paid by DHCF.

4503 ALTERNATIVE PAYMENT METHODOLOGY FOR PRIMARY CARE SERVICES

4503.1 The APM for primary care services rendered beginning the effective date of these rules by an FQHC shall be determined as described in this section. The APM shall be applicable to all sites for FQHCs operating in multiple locations. The APM shall be available for each encounter with a D.C. Medicaid beneficiary for primary care services described in Section 4507.

4503.2 The APM for primary care services shall be calculated by taking the sum of the FQHC's audited allowable costs for primary care services, and administrative and capital costs and dividing it by the total number of eligible primary care encounters.

4503.3 For services rendered beginning the effective date of these rules through December 31, 2017, the APM shall be determined based upon each FQHC's FY 2013 audited allowable costs.

4503.4 An FQHC which has been in operation as an FQHC, or an FQHC look-alike as determined by HRSA, for fewer than five (5) years, at the time of audit will

receive the lesser of the average APM rate calculated for similar facilities pursuant to Subsection 4503.2 or the APM rate based on costs reported by the FQHC or FQHC look-alike.

4503.5 For services rendered beginning the effective date of these rules through December 31, 2017, the APM for primary care services shall not be lower than the Medicare PPS rate in FY 2016. If, an FQHC's APM for primary care services is less than the Medicare PPS rate, the APM shall be adjusted up to the Medicare PPS rate for the applicable time period.

4503.6 Except as described in Subsection 4503.4, for services rendered beginning January 1, 2018 through December 31, 2018, each FQHC shall be reimbursed an APM rate (which shall apply to all of the FQHC's sites if the FQHC has more than one (1) site), for each encounter with a D.C. Medicaid beneficiary for primary care services as follows:

(a) The APM for primary care services shall be determined as described in Subsection 4503.2, except that administrative costs shall not exceed twenty percent (20%) of the total allowable costs for any FQHC that has ten thousand (10,000) or more encounters in a year as reported in the audited cost report.

4503.7 Except as described in Subsection 4503.4, the APM for primary care services rendered on or after January 1, 2019, shall be determined as described in Subsection 4503.2, except that administrative costs shall not exceed twenty percent (20%) of the total allowable costs for all FQHCs.

4503.8 The APM established pursuant to Subsection 4503.7 shall be adjusted annually by the percentage increase in the Medicare Economic Index, established in accordance with Section 1842(i)(3) of the Social Security Act.

4503.9 An FQHC that furnishes primary care services to Medicaid beneficiaries pursuant to a contract with a managed care entity, as defined in Section 1932(a)(1)(B) of the Social Security Act, shall receive a wrap-around supplemental payment if the FQHC's reimbursement for primary care services received from the MCO is less than the amount the FQHC would be entitled to receive pursuant to this section.

4503.10 The amount of the wrap-around supplemental payment shall equal the difference between the payment received from the MCO as determined on a per encounter basis and the FQHC APM calculated pursuant to this section.

4503.11 The wrap-around supplemental payment shall be processed and paid by DHCF.

4503.12 Reimbursement shall be limited for each beneficiary to one primary care encounter per day. The FQHC shall document each encounter in the beneficiary's medical record.

4503.13 The APM established pursuant to this section may be subject to adjustment to take into account any change in the scope of services as described in Section 4509.

4503.14 Each FQHC shall include the Current Procedural Terminology (CPT) code(s) that correspond to the specific services provided on each claim submitted for reimbursement.

4503.15 If an FQHC seeks Medicaid reimbursement for services that are outside the scope of primary care services described in Section 4507, such as prescription drugs, labor and delivery services, or laboratory and x-ray services that are not office based, the FQHC shall:

(a) Obtain a separate DC Medicaid identification number in accordance with Chapter 94 of Title 29 DCMR;

(b) Obtain a separate NPI;

(c) Ensure that all individuals providing the service are authorized to render the service and meet the requirements governing the service; and

(d) Be subject to the limitations set forth in the State Plan for Medical Assistance and any governing rules and regulations.

4504 ALTERNATIVE PAYMENT METHODOLOGY FOR BEHAVIORAL HEALTH SERVICES

4504.1 The APM for behavioral health services rendered beginning the effective date of these rules by an FQHC shall be determined as described in this section. The APM shall be applicable to all sites for FQHCs operating in multiple locations. The APM shall be available per encounter with a D.C. Medicaid beneficiary for behavioral health services described in Section 4508.

4504.2 Except for group therapy as described in Subsection 4504.3 and reimbursement to certain FQHCs as described in Subsection 4504.5, the APM for behavioral health services shall be calculated by taking the sum of the FQHC's audited allowable costs for behavioral health services and administrative and capital costs and dividing it by the total number of eligible behavioral health encounters.

4504.3 The APM for group therapy shall be equal to one fifth (1/5) of the APM for behavioral health service calculated pursuant to Subsection 4504.2.

4504.4 For services rendered beginning the effective date of these rules through December 31, 2017, the APM shall be determined based upon each FQHC's FY 2013 audited allowable costs.

4504.5 An FQHC which has been in operation as an FQHC, or an FQHC look-alike as determined by HRSA, for fewer than five (5) years, at the time of audit will receive the lesser of the average APM rate calculated for similar facilities pursuant to Subsection 4504.2 or the APM rate based on costs reported by the FQHC or FQHC look-alike.

4504.6 For services rendered beginning the effective date of these rules through December 31, 2017, the APM for behavioral services shall not be lower than the Medicare PPS in FY 2016. If, an FQHC's APM for behavioral health services is less than the Medicare PPS rate, the APM shall be adjusted up to the Medicare PPS rate for the applicable time period.

4504.7 Except as described in Subsection 4504.5, for services rendered beginning January 1, 2018 through December 31, 2018, each FQHC shall be reimbursed an APM (which shall apply to all of the FQHC's sites if the FQHC has more than one (1) site), for each encounter with a D.C. Medicaid beneficiary for behavioral health services as follows:

(a) The APM for behavioral health services shall be determined as described in Subsection 4504.2, except that administrative costs shall not exceed twenty percent (20%) of the total allowable costs for any FQHC that has ten thousand (10,000) or more encounters in a year as reported in the audited cost report; and

(b) Group therapy shall be determined as described in Subsection 4504.3.

4504.8 Except as described in Subsection 4504.5, the APM for behavioral health services rendered on or after January 1, 2019, shall be determined as described in Subsection 4504.2, except that administrative costs shall not exceed twenty percent (20%) of the total allowable costs for all FQHCs.

4504.9 The APM established pursuant to Subsection 4504.8 shall be adjusted annually by the percentage increase in the Medicare Economic Index, established in accordance with Section 1842(i)(3) of the Social Security Act.

4504.10 An FQHC that furnishes behavioral health services to Medicaid beneficiaries pursuant to a contract with a managed care entity, as defined in Section 1932(a)(1)(B) of the Social Security Act, shall receive a wrap-around supplemental payment if the FQHC's reimbursement for behavioral health services received from the MCO is less than the amount the FQHC would be entitled to receive pursuant to this section.

4504.11 The amount of the wrap-around supplemental payment shall equal the difference between the payment received from the MCO as determined on a per encounter basis and the FQHC APM calculated pursuant to this section.

4504.12 The wrap-around supplemental payment shall be processed and paid by DHCF.

4504.13 Reimbursement shall be limited for each beneficiary to one behavioral service encounter per day. The FQHC shall document each encounter in the beneficiary's medical record.

4504.14 The APM established pursuant to this Section may be subject to adjustment to take into account any change in the scope of services as described in Section 4509.

4504.15 Each FQHC shall include the Current Procedural Terminology (CPT) code(s) that correspond to the specific services provided on each claim submitted for reimbursement.

4504.16 If an FQHC seeks Medicaid reimbursement for services that are outside the scope of behavioral health services described in Section 4508, such as rehabilitative services, including Mental Health Rehabilitative Services prescription drugs, or laboratory and x-ray services that are not office based, the FQHC shall:

(a) Obtain a separate DC Medicaid identification number in accordance with Chapter 94 of Title 29 DCMR;

(b) Obtain a separate NPI;

(c) Ensure that all individuals providing the service are authorized to render the service and meet the requirements governing the service; and

(d) Be subject to the limitations set forth in the State Plan for Medical Assistance and any governing rules and regulations.

4505 ALTERNATIVE PAYMENT METHODOLOGY FOR PREVENTIVE AND DIAGNOSTIC DENTAL SERVICES

4505.1 The APM for preventive and diagnostic dental services rendered beginning the effective date of the rules by an FQHC shall be determined as described in this section. The APM shall be applicable to all sites for FQHCs operating in multiple locations. The APM shall be available per encounter with a D.C. Medicaid beneficiary for preventive and diagnostic dental services described in Subsection 4505.5.

4505.2 The APM for preventive and diagnostic dental services shall be calculated by taking the sum of the FQHC's audited allowable costs for preventative and diagnostic dental services, administrative and capital costs and dividing it by the total number of eligible preventive and diagnostic dental service encounters.

4505.3 For services rendered beginning the effective date of these rules through

December 31, 2017, the APM shall be determined based upon each FQHC's FY 2013 audited allowable costs.

4505.4 For services rendered beginning January 1, 2018 through December 31, 2018, the APM for preventive and diagnostic dental services shall be determined as described in section 4505.2, except that administrative costs shall not exceed twenty percent (20%) of the total allowable costs for any FQHC that has ten thousand (10,000) or more encounters in a year as reported in the audited cost report.

4505.5 The APM for preventive and diagnostic dental services rendered on or after January 1, 2019 shall be determined as described in Subsection 4505.2 except that administrative costs shall not exceed twenty percent (20%) of the total allowable costs for all FQHCs.

4505.6 The APM established pursuant to Subsection 4505.5 shall be adjusted annually by the percentage increase in the Medicare Economic Index, established in accordance with Section 1842(i)(3) of the Social Security Act.

4505.7 Subject to the limitations set forth in the section, covered preventive and diagnostic dental services provided by the FQHC may include the following procedures:

(a) Diagnostic-American Dental Association (ADA) dental procedure codes (D0100-D0999) representing clinical oral examinations, radiographs, diagnostic imaging, tests and examinations; and

(b) Preventive-ADA dental procedure codes (D1000-D1999) representing dental prophylaxis, topical fluoride treatment (office procedure), space maintenance (passive appliances and sealants).

4505.8 If a procedure code listed in Subsection 4505.7 is not included on the D.C. Medicaid Fee for Service schedule, the procedure code shall not be reimbursed by the Medicaid program. The D.C. Medicaid Fee for Service schedule is available online at http://www.dc-medicaid.com.

4505.9 An FQHC that furnishes preventive and diagnostic dental services to Medicaid beneficiaries pursuant to a contract with a managed care entity, as defined in Section 1932(a)(1)(B) of the Social Security Act, shall receive a wrap-around supplemental payment if the FQHC's reimbursement for preventative and diagnostic dental services received from the MCO is less than the amount the FQHC would be entitled to receive pursuant to this section.

4505.10 The amount of the wrap-around supplemental payment shall equal the difference between the payment received from the MCO as determined on a per encounter basis and the amount of the FQHC APM calculated pursuant to this section.

4505.11 The wrap-around supplemental payment shall be processed and paid by DHCF.

4505.12 Reimbursement shall be limited for each beneficiary to one preventive and diagnostic encounter per day. The FQHC shall document each encounter in the beneficiary's dental record.

4505.13 If an encounter comprises both a preventive and diagnostic service and a comprehensive dental service as described in Section 4506, the FQHC shall bill the encounter as a comprehensive dental service.

4505.14 All preventive and diagnostic dental services shall be provided in accordance with the requirements, including any limitations, as set forth in Section 964 (Dental Services) of Title 29 DCMR.

4505.15 Each FQHC shall include the Current Dental Terminology (CDT) code(s) that correspond to the specific services provided on each claim submitted for reimbursement with associated tooth number, quadrant, and arch if applicable for the dental procedure.

4505.16 Each provider of preventive and diagnostic dental services, with the exception of children's fluoride varnish treatments, shall be a dentist or dental hygienist, working under the supervision of a dentist, who provide services consistent with the scope of practice authorized pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq*. (2012 Repl. & 2015 Supp.)), or consistent with the applicable professional practices act within the jurisdiction where services are provided.

4506 ALTERNATIVE PAYMENT METHODOLOGY FOR COMPREHENSIVE DENTAL SERVICES

4506.1 The APM for comprehensive dental services rendered by the FQHC on or after the effective date of these rules shall be determined in accordance with this section.

4506.2 The APM shall be applicable to all sites for FQHCs operating in multiple locations. The APM shall be available for each encounter with a D.C. Medicaid beneficiary for comprehensive dental services described in Subsection 4506.5.

4506.3 The APM for comprehensive dental services shall be calculated by taking the sum of the FQHC's audited allowable costs for comprehensive dental services, administrative and capital costs and dividing it by the total number of eligible comprehensive dental service encounters.

4506.4 For services rendered beginning on or after the effective date of these rules,

through December 31, 2017, the APM shall be determined based upon each FQHC's FY 2013 audited allowable costs.

4506.5 For services rendered from January 1, 2018 through December 31, 2018, the APM for comprehensive dental services shall be determined as described in Subsection 4506.3, except that administrative costs shall not exceed twenty percent (20%) of the total allowable costs for any FQHC that has ten thousand (10,000) or more encounters in a year as reported in the audited cost report.

4506.6 The APM for comprehensive dental services rendered on or after January 1, 2019 shall be determined as described in Subsection 4506.3 except that administrative costs shall not exceed twenty percent (20%) of the total allowable costs for all FQHCs.

4506.7 The APM established pursuant to Subsection 4506.6 shall be adjusted annually by the percentage increase in the Medicare Economic Index, established in accordance with Section 1842(i)(3) of the Social Security Act.

4506.8 Subject to the limitations set forth in this section, covered comprehensive dental services provided by the FQHC may include the following procedures:

(a) Restorative - ADA dental procedure codes (D2000-D2999) representing amalgam restoration, resin-based composite restorations, crowns (single restorations only), and additional restorative services;

(b) Endodontic - ADA dental procedures codes (D3000-D3999) representing pulp capping, pulpotomies, endodontic therapy of primary and permanent teeth, endodontic retreatment, apexification/recalcification procedures, apicoectomy/periradicular services, and other endodontic services;

(c) Peridontic - ADA dental procedure codes (D4000-D4999) representing surgical services, including usual postoperative care), nonsurgical periodontal services, and other periodontal services;

(d) Prosthodontic - ADA dental procedure codes (D5000-D5899) representing complete and partial dentures treatment including repairs and rebasing, interim prosthesis, and other removable prosthetic services;

(e) Maxillofacial Prosthetics - ADA dental procedure code (D5982) representing the surgical stent procedure;

(f) Implants Services - ADA dental procedure codes (D6000-D6199) representing Pre-surgical and surgical services, implant-supported prosthetics, and other implant services;

(g) Oral and Maxillofacial Surgery - ADA dental procedure codes (D7000-

D7999) representing treatment and care related to extractions, alveoloplasty, vestibuloplasty, surgical treatment of lesions, treatment of fractures, repair traumatic wounds including complicated suturing;

(h) Orthodontics - ADA dental procedure codes (D8000-D8999) representing orthodontic treatments and services; and

(i) Adjunctive General Services - ADA dental procedure codes (D9000-D9999) representing unclassified treatment, anesthesia, professional consultation, professional visits, drugs and miscellaneous.

4506.9 If a procedure code listed in Subsection 4506.8 is not included on the D.C. Medicaid Fee for Service schedule, the procedure code shall not be reimbursed by the Medicaid program. The D.C. Medicaid Fee for Service schedule is available online at http://www.dc-medicaid.com.

4506.10 An FQHC that furnishes comprehensive dental services to Medicaid beneficiaries pursuant to a contract with a managed care entity, as defined in Section 1932(a)(1)(B) of the Social Security Act, shall receive a wrap-around supplemental payment if the FQHC's reimbursement for comprehensive dental services received from the MCO is less than the amount the FQHC would be entitled to receive pursuant to this section.

4506.11 The amount of the wrap-around supplemental payment shall equal the difference between the payment received from the MCO as determined on a per encounter basis and the FQHC APM calculated receive pursuant to this section.

4506.12 The wrap-around supplemental payment shall be processed and paid by DHCF.

4506.13 Reimbursement shall be limited for each beneficiary to one comprehensive dental service encounter per day. The FQHC shall document each encounter in the beneficiary's dental record.

4506.14 If an encounter comprises both a preventive and diagnostic service as described in Section 4505 and a comprehensive dental service, the FQHC shall bill the encounter as a comprehensive dental service.

4506.15 All comprehensive dental services shall be provided in accordance with the requirements, including any limitations, as set forth in Section 964 (Dental Services) of Title 29 DCMR.

4506.16 Each FQHC shall include the CDT code(s) that correspond to the specific services provided on each claim submitted for reimbursement with associated tooth number, quadrant, surface, and arch if applicable for the dental procedure.

4506.17 Each provider of comprehensive dental services, with the exception of children's

fluoride varnish treatments, shall be a dentist or dental hygienist, working under the supervision of a dentist, who provide services consistent with the scope of practice authorized pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2012 Repl. & 2015 Supp.)), or consistent with the applicable professional practices act within the jurisdiction where services are provided.

4507 PRIMARY CARE SERVICES

4507.1 Covered primary care services provided by the FQHC shall be limited to the following services:

(a) Health services related to family medicine, internal medicine, pediatrics, obstetrics (excluding services related to birth and delivery), and gynecology which include but are not limited to:

(1) Health management services and treatment for illness, injuries or chronic conditions (examples of chronic conditions include diabetes, high blood pressure, etc.) including but not limited to health education and self-management training;

(2) Well child care services provided pursuant to the Early and Periodic Screening, Diagnostic and Treatment benefit for Medicaid eligible children under the age of twenty-one (21);

(3) Preventive fluoride varnish for children, provided the service is furnished during a well-child visit by a physician or pediatrician who is acting within the scope of practice authorized pursuant to District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2012 Repl. & 2015 Supp.)) ("HORA").

(4) Preventive and diagnostic services, including but not limited to the following:

(i) Prenatal and postpartum care rendered at an FQHC, excluding labor and delivery;

(ii) Lactation consultation, education and support services if provided by a certified nurse mid-wife licensed in accordance with HORA and certified by the International Board of Lactation Consultant Examiners (IBLCE) or a registered lactation consultant certified by IBLCE;

(iii) Physical exams;

(iv) Family planning services;

(v) Screenings and assessments, including but not limited to, visual acuity and hearings screenings, and nutritional assessments and referrals;

(vi) Risk assessments and initial counseling regarding risks for clinical services;

(vii) PAP smears, breast exams and mammography referrals when provided as part of an office visit; and

(viii) Preventive health education.

(b) Incidental services and supplies that are integral, although incidental, parts of the diagnosis or treatment of the services described in Subsection 4507.1(a) and included in allowable costs as described in Section 4510. Incidental services and supplies include but are not limited to the following:

(1) Lactation consultation, education and support services that are provided by health care professionals described in Subsection 4507.1(4)(ii);

(2) Medical services ordinarily rendered by an FQHC staff person such as taking patient history, blood pressure measurement or temperatures, and changing dressings;

(3) Medical supplies, equipment or other disposable products such as gauze, bandages, and wrist braces;

(4) Administration of drugs or medication treatments, including administration of contraceptive treatments, that are delivered during a primary care visit, not including the cost of the drugs and medications;

(5) Immunizations;

(6) Electrocardiograms;

(7) Office-based laboratory screenings or tests performed by FQHC employees in conjunction with an encounter, which shall not include lab work performed by an external laboratory or x-ray provider. These services include but are not limited to stool testing for occult blood, dipstick urinalysis, cholesterol screening, and

tuberculosis testing for high-risk beneficiaries; and

(8) Hardware and software systems used to facilitate patient record-keeping.

(c) Enabling services are those services that support an individual's management of their health and social service needs or improve the FQHC's ability to treat the individual and shall include the following:

(1) Health education and promotion services including assisting the individual in developing a self-management plan, executing the plan through self-monitoring and management skills, educating the individual on accessing care in appropriate settings and making healthy lifestyle and wellness choices; connecting the individual to peer and/or recovery supports including self-help and advocacy groups; and providing support for improving an individual's social network. These services shall be provided by health educators, with or without specific degrees in this area, family planning specialists, HIV specialists, or other professionals who provide information about health conditions and guidance about appropriate use of health services;

(2) Translation and interpretation services during an encounter at the FQHC. These services are provided by staff whose full time or dedicated time is devoted to translation and/or interpretation services or by an outside licensed translation and interpretation service provider. Any portion of the time of a physician, nurse, medical assistant, or other support and administrative staff who provides interpretation or translation during the course of his or her other billable activities shall not be included;

(3) Referrals to providers of medical services (including specialty referral when medically indicated) and other health-related services (including substance abuse and mental health services). Such services shall not be reimbursed separately as enabling services where such referrals are provided during the course of other billable treatment activities;

(4) Eligibility assistance services designed to assist individuals in establishing eligibility for and gaining access to Federal, State and District programs that provide or financially support the provision of medical related services;

(5) Health literacy;

(6) Outreach services to identify potential patients and clients and/or

facilitate access or referral of potential health center patients to available health center services, including reminders for upcoming events, brochures and social services; and

(7) Care coordination, which consists of services designed to organize person-centered care activities and information sharing among those involved in the clinical and social aspects of an individual's care to achieve safer and more effective healthcare and improved health outcomes. These services shall be provided by individuals trained as, and with specific titles of care coordinators, case managers, referral coordinators, or other titles such as nurses, social workers, and other professional staff who are specifically allocated to care coordination during assigned hours but not when these services are an integral part of their other duties such as providing direct patient care.

4507.2 Primary care services set forth in this Subsection 4507.1(a) shall be delivered by the following health care professionals who are licensed in accordance with HORA:

(a) A physician;

(b) An Advanced Practiced Registered Nurse (APRN);

(c) A physician assistant working under the supervision of physician; or

(d) A nurse-mid-wife.

4508 BEHAVIORAL HEALTH SERVICES

4508.1 Covered behavioral health services provided by an FQHC shall be limited to ambulatory mental health and substance abuse evaluation, treatment and management services identified by specific Current Procedural Terminology (CPT) codes. Such codes include psychiatric diagnosis, health and behavioral health assessment and treatment, individual and group psychotherapy, family therapy and pharmacologic management. DHCF shall issue a transmittal to the FQHCs which shall include the specific CPT codes including any billing requirements for covered behavioral health services.

4508.2 Covered behavioral health services set forth in this section shall be delivered by the following health care professionals who shall be licensed in accordance with HORA:

(a) A physician, including a psychiatrist;

(b) An APRN;

(c) A psychologist;

(d) A licensed independent clinical social worker;

(e) A licensed independent social worker (LISW);

(f) A graduate social worker, working under the supervision of an LISW;

(g) A licensed professional counselor;

(h) A certified addiction counselor;

(i) A licensed marriage and family therapist; and

(j) A licensed psychologist associate, working under the supervision of a psychologist or psychiatrist.

4509 CHANGE IN THE SCOPE OF SERVICES

4509.1 An FQHC may apply for an adjustment to its APM in any of the following four (4) service categories: (1) primary care; (2) behavioral health, (3) preventive and diagnostic dental services; and (4) comprehensive dental services during any fiscal year, based upon a change in the scope of the services provided by the FQHC subject to the requirements set forth in the section.

4509.2 A change in the scope of services shall consist of a change in the type, intensity, duration or amount of service as described below:

(a) The addition of a new service not previously provided by the FQHC, which has been approved by HRSA within the FQHC's Scope of Project and is consistent with the services described in Sections 4505 through 4508; or

(b) The elimination of an existing service provided by the FQHC.

4509.3 A change in the cost of a service, in and of itself, is not considered a change in the scope of services.

4509.4 A change in the scope of services shall not be based on a change in the number of encounters, or a change in the number of staff that furnish the existing service.

4509.5 DHCF shall review the costs related to the change in the scope of services. Rate changes based on a change in the scope of services provided by an FQHC shall be evaluated in accordance with the Medicare reasonable cost principles set forth in 42 C.F.R., Part 413.

4509.6 The adjustment to the APM shall be determined by dividing the incremental Medicaid allowable costs by the number of Medicaid encounters during the corresponding time period.

4509.7 The adjustment to the APM shall only be granted if the change in scope of services results in at least a five percent (5%) increase or decrease in the FQHC's allowable costs in the core service category for the fiscal year in which the change in scope of service became effective. This percentage shall be calculated by comparing the FQHC's APM at the beginning of the fiscal year in question with the cost per encounter as calculated by a completed Medicaid cost report using data from the same fiscal year.

4509.8 An FQHC shall submit a written request to DHCF within ninety (90) days after the close of one (1) year of operation of the service that has resulted in a change of the scope of service. The FQHC shall submit documentation in support of the request.

4509.9 DHCF shall provide a written notice of its determination to the FQHC within ninety (90) days of receiving all information related to the request described in Subsection 4509.8.

4509.10 If approved, the APM calculated pursuant to Sections 4503 through 4506 shall be adjusted to reflect the adjustment for the change in the scope of service. The adjustment shall be effective on the first day of the first full month after DHCF has approved the request. There shall be no retroactive adjustment.

4509.11 DHCF shall review or audit the subsequently filed annual cost report to verify the costs that have a changed scope. Based upon that review DHCF may adjust the rate in accordance with the requirements set forth in this section.

4510 ALLOWABLE COSTS

4510.1 The standards established in this section are to provide guidance in determining whether certain cost items will be recognized as allowable costs incurred by a FQHC in furnishing primary care, behavioral health and dental services. In the absence or specific instructions or guidelines, each FQHC shall follow the Medicare reasonable cost principles set forth in 42 C.F.R. Part 413 and instructions set forth in the Medicare Provider Reimbursement Manual.

4510.2 Allowable costs, to the extent they are reasonable, necessary and related to patient care shall include but are not limited to the following:

(a) Compensation for the services rendered by each health care professional listed in Subsections 4507.2, 4508.2, 4505.16 and 4506.16 and other supporting health care professionals including but not limited to registered

nurses, licensed practical nurses, nurse aides, medical assistants, physician's assistants, technicians, etc.;

(b) Compensation for services for supervising health care professionals described in Subsections 4507.2, 4508.2, 4505.16 and 4506.16;

(c) Costs of services and supplies incident to the provision of services as described in Subsection 4507.1(b);

(d) Administrative and capital costs that are incurred in furnishing primary care, behavioral health and dental services, including clinic administration, subject to the limitation set forth in this section; and

(e) Costs related to enabling services as described in Subsection 4507.1(c).

4510.3 For the purposes of determining allowable and reasonable costs in the purchase of goods and services from a related party, each FQHC shall identify all related parties.

4510.4 A related party is any individual, organization or entity who currently or within the previous five (5) years has had a business relationship with the owner or operator of an FQHC, either directly or indirectly, or is related by marriage of birth to the owner or operator of the FQHC, or who has a relationship arising from common ownership or control.

4510.5 The cost claimed on the cost report for services, facilities and supplies furnished by a related party shall not exceed the lower of:

(a) The cost incurred by the related party; or

(b) The price of comparable services, facilities, or supplies generally available.

4510.6 Administrative and capital costs shall be allocated and included in determining the total allowable costs for primary care services and behavioral health services.

4510.7 Administrative and general overhead costs shall consist of overhead facility costs as described in Subsection 4510.8 and administrative costs as described in Subsection 4510.9.

4510.8 Capital and facility costs shall include but not be limited to:

(a) Rent;

(b) Insurance;

(c) Interest on mortgages or loans;

(d) Utilities;

(e) Depreciation on buildings;

(f) Depreciation on equipment;

(g) Maintenance, including janitorial services;

(h) Building security services; and

(i) Real estate and property taxes.

4510.9 Administrative costs shall include but not be limited to:

(a) Administrative Salaries (*i.e.*, salary expenditures related to the administrative work of a FQHC);

(b) Fringe benefits and payroll taxes of personnel described in (a) of this subsection;

(c) Depreciation on office equipment;

(d) Office supplies;

(e) Legal expenses;

(f) Accounting expenses;

(g) Training costs;

(h) Telephone expense; and

(i) Hardware and software not related to patient record keeping.

4510.10 Administrative costs shall be subject to a ceiling of twenty percent (20%) as described in Sections 4503 and 4504. Costs in excess of the ceiling shall not be included in allowable costs.

4511 EXCLUSIONS FROM ALLOWABLE COSTS

4511.1 The costs that shall be excluded from allowable costs for purposes of calculating the APM shall include, but not be limited to, the following:

(a) Cost of services provided in settings that are not included in the FQHC's Scope of Project that is approved by HRSA;

(b) Cost of services that are outside the scope of services described in Sections 4505 through 4508;

(c) Graduate Medical Education costs; and

(d) Expenses incurred by the FQHC that are unrelated to the delivery of primary care, behavioral health and dental services as defined in Sections 4505 through 4508, which shall include but are not limited to the following:

(1) Staff educational costs, including student loan reimbursements, except for training and staff development, required to enhance job performance;

(2) Public relations expenses;

(3) Community services that are provided as part of a large scale effort, such as a mass scale community wide immunization program or any other community wide service

(4) Environmental activities;

(5) Research;

(6) Transportation costs;

(7) Indirect costs allocated to unallowable direct health service costs;

(8) Entertainment including costs for office parties and other social functions, retirement gifts, meals, and lodging;

(9) Board of Director fees;

(10) Federal, state and local income taxes;

(11) Excise taxes;

(12) All costs related to physicians and other professional's private practices;

(13) Donations, services and goods and space, except for those that are allowable pursuant to the Office of Management and Budget Circular No. A-122 and the Medicare Provider Reimbursement Manual;

(14) Fines and penalties;

(15) Bad debts, including losses arising from uncollectible accounts receivable and other claims, related collection and legal costs;

(16) Advertising, except for recruitment of personnel, procurement of goods and services, and disposal of medical equipment and supplies;

(17) Contributions to a contingency reserve or any similar provision made for an event, the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of the event taking place;

(18) Over-funding of contributions to self-insurance funds that do not represent payments based on current liabilities;

(19) Fundraising expenses;

(20) Goodwill;

(21) Political contributions, lobby expenses or other related expenses;

(22) Costs attributable to the use of a vehicle or other company equipment for personal use;

(23) Other personal expenses not related to patient care for the core services; and

(24) Charitable contributions.

4511.2 Costs reimbursed or otherwise paid for by locally funded grants or other locally funded sources, shall be offset against expenses in determining allowable cost.

4511.3 An FQHC shall identify each grant by name and funding source in the supplemental data submitted with the cost report.

4511.4 Revenues related to the following categories shall be offset against expense.

(a) Investment Income: Investment income on restricted and unrestricted funds which are commingled with other funds must be applied together against, but should not exceed, the total interest expense included in allowable costs;

(b) Refunds and rebates for expenses;

(c) Rental income for building and office space;

(d) Related organization transactions pursuant to 42 C.F.R. § 413.17;

(e) Sale of drugs to other than patient;

(f) Vending Machines

4511.5 Enabling services described in Subsection 4507.1 shall not include any services that may be or are included as a part of a patient encounter, administrative, facility or other reimbursable cost described in these rules. The costs of enabling services shall be reasonable as determined in accordance with the Medicare reasonable cost principles set forth in 42 C.F.R. Part 413.

4512 REIMBURSEMENT FOR NEW PROVIDERS

4512.1 Each new provider seeking Medicaid reimbursement as an FQHC shall meet all of the requirements set forth in Section 4500.

4512.2 Reimbursement for services furnished by a new provider shall be determined in accordance the PPS methodology set forth in this section.

4512.3 The PPS rate for services furnished during the first year of operation shall be equal to the average of the PPS rates paid to other FQHCs located in the same geographical area with a similar caseload.

4512.4 After the first year of operation, the FQHC shall submit a cost report to DHCF. DHCF shall audit the cost report in accordance with the standards set forth in Sections 4510 and 4511 and establish a PPS for each of the following four categories:

(a) Primary care services as described in Section 4507;

(b) Behavioral health services as described in Section 4508;

(c) Preventive and diagnostic dental services as described in Subsection 4505.7; and

(d) Comprehensive dental services as described in Subsection 4506.7.

4512.5 The PPS shall be calculated for each category described in Subsections 4512.4 (a) through 4512.4(d) by taking the sum of the FQHC's audited allowable cost for the applicable category, and administrative and capital costs and dividing it by the total number of eligible encounters for that category. Administrative costs shall not exceed twenty percent (20%) of total allowable costs.

4512.6 The PPS rate described in Subsection 4512.5 shall remain in effect until all provider rates are rebased in accordance with Section 4515. After rebasing the FQHC shall be have the option of electing an APM in accordance with the procedures set forth in Section 4501.

4512.7 In addition to the PPS rate described in this section, the FQHC shall be entitled to receive a supplemental wrap-around payment as described in Subsections 4502.6 through 4502.8.

4512.8 Each new FQHC provider seeking Medicaid reimbursement shall:

(a) Obtain a separate National Provider Identification number; and

(b) Be screened and enrolled in the Medicaid program pursuant to the requirements set forth in Chapter 94 of Title 29 DCMR.

4512.9 Each new FQHC shall only seek Medicaid reimbursement for services provided in settings that are consistent with the services described in Sections 4505 through 4508.

4512.10 If an FQHC discontinues operations, either as a facility or at one of its sites, the FQHC shall notify DHCF in writing at least ninety days (90) prior to discontinuing services.

4512.11 The new provider will be allowed one encounter on the same day for each of the categories described in Subsection 4512.4.

4513 REIMBURSEMENT FOR OUT OF STATE PROVIDERS

4513.1 An FQHC located outside of the District of Columbia shall be reimbursed:

(a) The lesser of the PPS or the amount of reimbursement determined by the Medicaid agency in the state the FQHC is located; or

(b) The lesser of the APM or the amount of reimbursement determined by the Medicaid agency in the state the FQHC is located.

4514 PERFORMANCE PAYMENT

4514.1 Beginning January 1, 2018, and annually thereafter, each FQHC that elects the APM reimbursement may be eligible to receive an additional payment based upon performance as described in this section.

4514.2 For 2018, the amount of the performance bonus pool available for distribution to all FQHCs shall be the difference between the FQHCs uncapped administrative cost and the capped administrative cost based on 2013 audited cost reports.

4514.3 The performance bonus pool established pursuant to Subsection 4514.2 shall be adjusted annually by the percentage increase in the Medicare Economic Index, established in accordance with Section 1842(i)(3) of the Social Security Act.

4514.4 To participate in the pay-for-performance incentive program, each FQHC shall submit to DHCF by December 31st of each year the following information:

(a) HRSA approved quality improvement plan;

(b) Written policies and procedures that describe the FQHC's twenty-four (24) hours, seven (7) days a week access to clinical advice. These policies and procedures shall comply with DHCF-issued guidance describing standards for twenty-four (24) hours, seven (7) days a week access; and

(c) Proof of National Committee for Quality Assurance (NCQA) Patient-Centered Medical Home (PCMH) Level 2 recognition or proof that the FQHC has begun the application process as demonstrated by either of the following:

(i) An emailed confirmation from NCQA indicating the FQHC's submission of the application; or

(ii) An NCQA score of the FQHC's PCMH submitted application.

4514.5 Each FQHC shall also submit to DHCF on a quarterly basis, its performance on the following measures of care delivery to participate in the pay-for-performance incentive program:

Measure Name	NQF #	Steward	Description
Comprehensive Diabetes Care (CDC): Hemoglobin A1c (HbA1c) Poor Control (>9.0%)	0059	National Committee for Quality Assurance (NCQA)	Percentage of FQHC patients 18-75 years of age with diabetes (type 1 and type 2) who had a Hemoglobin A1c >9.0% during the measurement year.
Comprehensive Diabetes Care (CDC): Hemoglobin A1c (HbA1c) testing	0057	NCQA	Percentage of FQHC patients 18-75 years of age with diabetes (type 1 and type 2) who received an HbA1c test during the measurement year.
Comprehensive Diabetes Care (CDC): Hemoglobin A1c (HbA1c) Control (<8.0%)	0575	NCQA	Percentage of FQHC patients 18 - 75 years of age with diabetes (type 1 and type 2) whose had a HbA1c <8.0% during the measurement year.

Measure Name	NQF #	Steward	Description
Weight Assessment and Counseling for Nutrition and Physical Activity for Children/ Adolescents WCC): Body Mass Index (BMI) Percentile Assessment for Children/ Adolescents	0024	NCQA	Percentage of FQHC patients 3-17 years of age who had an outpatient visit with a primary care practitioner (PCP) or obstetrical/gynecological (OB/GYN) practitioner and who had evidence of a BMI percentile assessment during the measurement year.
Preventive Care and Screening: Body Mass Index (BMI) Screening and Follow-Up	0421	Centers for Medicare and Medicaid Services (CMS)	Percentage of FQHC patients aged 18 years and older with a documented BMI during the current encounter or during the previous six months AND when the BMI is outside of normal parameters, a follow-up plan is documented during the encounter or during the previous six months of the encounter.
Cervical Cancer Screening (CCS)	0032	NCQA	Percentage of FQHC patients (women) 21-64 years of age, who were screened for cervical cancer.
Colorectal Cancer Screening (COL)	0034	NCQA	Percentage of FQHC patients 50-75 years of age who had appropriate screening for colorectal cancer.
Controlling High Blood Pressure (CBP)	0018	NCQA	Percentage of FQHC patients 18-85 years of age who had a diagnosis of hypertension (HTN) and whose blood pressure (BP) was adequately controlled during the measurement year. • Members 18–59 years of age whose BP was <140/90 mm Hg. • Members 60–85 years of age with a diagnosis of diabetes whose BP was <140/90 mm Hg. • Members 60–85 years of age without a diagnosis of diabetes whose BP was <150/90 mm Hg. *Note: Use the Hybrid Method for this measure. A single rate is reported and is the sum of all three groups.*
Linkage to HIV Medical Care	NA	HRSA - HIV/AIDS Bureau	Percentage of FQHC patients who attended a routine HIV medical care visit within 3 months of HIV diagnosis.
Percentage of Low Birthweight Births	1382	Centers for Disease Control and Prevention (CDC)	Percentage of FQHC births with birthweight <2,500 grams during the measurement year.
Trimester of Entry into Prenatal Care	NA	HRSA-Bureau of Primary Health Care	Percentage of prenatal care patients who entered treatment during their first trimester.
Preventive Care and Screening: Screening for Clinical Depression and Follow-Up Plan	0418	CMS	Percentage of FQHC patients aged 12 years and older screened for clinical depression using an age appropriate standardized tool AND a follow up plan is documented.

4514.6 DHCF shall review these measures annually and may update them as needed. If changes are warranted, DHCF shall notify FQHCs of proposed changes through transmittals to the FQHCs describing any changes to the measures set forth in Subsection 4514.5.

4514.7 Each participating FQHC's maximum annual bonus payment shall be based on the number of unique Medicaid beneficiaries that received primary care services from the FQHC within the measurement year, divided by the total number of Medicaid patients that received primary care services within the measurement year, from all FQHCs participating in the pay-for-performance incentive program. The resulting percentage is each participating FQHC's market share.

4514.8 DHCF shall use each participating FQHC's market share for categorization into four (4) distinct bonus payment groups. Each bonus payment group shall be determined by dividing by four (4) the total number of Medicaid patients that received primary care services from the participating FQHCs within the measurement year (*i.e.*, descriptive statistic quartiles). The description statistic quartiles separate the aggregate number of primary care patients served into twenty-five percent (25%) intervals. The market share of each FQHC shall be summed to calculate each quartile's aggregate market share percentage.

4514.9 The aggregate market share percentage described in Subsection 4514.8 shall be multiplied by the total available pay-for-performance incentive program funding pool to determine the maximum bonus payment amount for each quartile. The maximum bonus amount for each quartile shall be distributed evenly among the number of FQHCs in each quartile.

4514.10 Beginning January 1, 2018, in addition to meeting the requirements set forth in Subsections 4514.4 and 4514.5, each qualifying FQHC shall achieve a three percent (3%) reduction on one of the following three (3) key measures to qualify for a pay-for-performance incentive payment:

Measure Name	NQF #	Steward	Description
Plan All-Cause Readmission	1768	NCQA	For FQHC patients 18 years of age and older, the number of acute inpatient stays during the measurement year that were followed by an acute readmission for any diagnosis within 30 days and the predicted probability of an acute readmission. Data is reported in the following categories: 1. Count of Index Hospital Stays (denominator) 2. Count of 30-Day Readmissions (numerator) 3. Average adjusted Probability of Readmission
Potentially Preventable Hospitalization	Not Applicable	AHRQ	Percentage of inpatient admissions among FQHC participants for specific ambulatory care conditions that may have been prevented through appropriate outpatient care.

Measure Name	NQF #	Steward	Description
Low-Acuity Non-Emergent Emergency Department Visits	Not Applicable	DHCF	Percentage of avoidable low-acuity non-emergent ED visits.

4514.11 DHCF shall review the baseline performance annually and may adjust the reduction targets for calendar year 2019 and future years. DHCF shall notify FQHCs of any necessary reduction target adjustments at least one year in advance of their application.

4514.12 Beginning January 1, 2018, the pay-for-performance incentive payment amount each qualifying FQHC shall be eligible to receive shall not exceed the amount that is available for distribution to each FQHC as described in Subsection 4514.7 and shall be subject to the following limitations:

(a) An FQHC shall receive one third (1/3) of their pay-for-performance incentive payment for a three percent (3%) reduction in one (1) key measure;

(b) An FQHC shall receive two-thirds (2/3) of their pay-for-performance incentive payment for a three percent (3%) reduction in two (2) key measures; or

(c) An FQHC shall receive one hundred percent (100%) of their pay-for-performance incentive payment for a three percent (3%) reduction in all three (3) key measures.

4515 REBASING FOR APM

4515.1 Not later than January 1, 2018 and every three (3) years thereafter, the base year data shall be updated based upon audited cost reports that reflect costs that are two (2) years prior to the base year and in accordance with the methodology set forth in these rules.

4516 COST REPORTING AND RECORD MAINTENANCE

4516.1 Each FQHC shall submit to DHCF a Medicaid cost report, prepared based on the accrual basis of accounting, in accordance with Generally Accepted Accounting Principles. In addition FQHCs are required to submit their audited financial statements and any supplemental statements as required by DHCF no later than one hundred and fifty days (150) days after the end of each FQHC's fiscal year, unless DHCF grants an extension or the FQHC discontinues participation in the Medicaid program as a FQHC. In the absence of audited financial statements, the

FQHC may submit unaudited financial statements prepared by the FQHC.

4516.2 Each FQHC shall also submit to DHCF its FQHC Medicare cost report that is filed with its respective Medicare fiscal intermediary, if submission of the Medicare cost report is required by the federal Centers for Medicare and Medicaid Services.

4516.3 Each FQHC shall maintain adequate financial records and statistical data for proper determination of allowable costs and in support of the costs reflected on each line of the cost report. The financial records shall include the FQHC's accounting and related records including the general ledger and books of original entry, all transactions documents, statistical data, lease and rental agreements and any other original documents which pertain to the determination of costs.

4516.4 Each FQHC shall maintain the records pertaining to each cost report for a period of not less than ten (10) years after filing of the cost report. If the records relate to a cost reporting period under audit or appeal, records shall be retained until the audit or appeal is completed.

4516.5 DHCF reserves the right to audit the FQHC's Medicaid cost reports and financial reports at any time. DHCF may review or audit the cost reports to determine allowable costs in the base rate calculation or any rate adjustment as set forth in these rules.

4516.6 If a provider's cost report has not been submitted to DHCF within hundred and fifty (150) days after the end of the FQHC's fiscal year as set forth in Subsection 4516.1, or within the deadline granted pursuant to an extension, DHCF reserves the right not to adjust the FQHC's APM or PPS for services as described in Subsection 4502.3, 4503.7, 4504.8, 4505.4 and 4506.4.

4516.7 Each FQHC shall submit to DHCF a copy of the annual HRSA application submitted to the federal government within thirty (30) calendar days of the filing.

4517 ACCESS TO RECORDS

4517.1 Each FQHC shall grant full access to all records during announced and unannounced audits and reviews by DHCF personnel, representatives of the U.S. Department of Health and Human Services, and any authorized agent(s) or official(s) of the federal or District of Columbia government.

4518 APPEALS

4518.1 At the conclusion of any required audit, the FQHC shall receive a Notice of Audit Findings that includes a description of each audit finding and the reason for any adjustment to allowable costs or to the payment rate.

4518.2 An FQHC may request an administrative review of payment rate calculations, scope of service adjustments or audit adjustments. The FQHC may request administrative review within thirty (30) calendar days of receiving the Notice of Audit Findings by sending a written request for administrative review to the Office of Rates, Reimbursement and Financial Analysis, DHCF.

4518.3 The written request for administrative review shall identify the specific audit adjustment or payment rate calculation to be reviewed, and include an explanation of why the FQHC views the adjustment or calculation to be in error, the requested relief, and supporting documentation.

4518.4 DHCF shall mail a formal response to the FQHC not later than sixty (60) calendar days from the date of receipt of the written request for administrative review.

4518.5 Within thirty (30) calendar days of receipt of DHCF's written determination relative to the administrative review, the FQHC may appeal the determination by filing a written request for appeal with the Office of Administrative Hearings (OAH).

4518.6 The filing of an appeal with OAH shall not stay DHCF's action to adjust the FQHCs payment rate.

4599 DEFINITIONS

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

Alternative Payment Methodology - A reimbursement model other than a Prospective Payment System Rate for services furnished by an FQHC which meets the requirements set forth in Section 1902(bb)(6) of the Social Security Act.

Encounter - A face-to-face visit between a Medicaid beneficiary and a qualified FQHC health care professional as described in Subsections 4507.2, 4508.2, 4505.16 and 4506.16, who exercises independent judgment when providing services for a primary care, behavioral health service or dental service.

FQHC look-alike - A private, charitable, tax-exempt non-profit organization or public entity that is approved by the federal Centers for Medicaid and Medicare Services and authorized to provide Federally Qualified Health Center Services.

New Provider – An FQHC that enrolls in the District's Medicaid Program after the effective date of these rules or after the date that the rates are rebased.

Prospective Payment System Rate – The rate paid for services furnished in a particular fiscal year that is not dependent on actual cost experience during the same year in which the rate is in effect.

Comments on these rules should be submitted in writing to Claudia Schlosberg, J.D., Senior Deputy/State Medicaid Director, Department of Health Care Finance, Government of the District of Columbia, 441 4th Street, N.W., Suite 900, Washington D.C. 20001, via telephone on (202) 442-8742, via email at DHCFPubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of these rules are available from the above address.

DEPARTMENT OF HEALTH

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health ("DOH"), pursuant to the authority set forth in Section 5(a) of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983 ("Act"), effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-504(a) (2016 Supp.)), and in accordance with Mayor's Order 98-137, dated August 20, 1998, hereby gives notice of the adoption, on an emergency basis, of an amendment to Section 2039of Chapter 20 (Hospitals) of Title 22 (Health), Subtitle B (Public Health and Medicine), of the District of Columbia Municipal Regulations ("DCMR").

The emergency rulemaking changes the expiration date from March 31, 2016 to August 31, 2016 for the Testing for Synthetic Cannabinoid Surveillance regulations. Under the regulations, (1) hospitals are required to collect urine samples from patients who present and have symptoms consistent with having taken a synthetic cannabinoid; (2) it is recommended that hospitals collect blood samples from patients who present and have symptoms consistent with having taken a synthetic cannabinoid; (3) hospitals are required to store urine and blood samples in accordance with protocols provided by the Department of Health; and, (4) hospitals are required to turn over the urine and blood samples for testing by the Office of the Chief Medical Examiner.

This emergency rulemaking action is necessary for the Department to continue tracking the use of the illegal synthetic cannabinoid products commonly known as K-2, Spice, ScoobySnax, Bizarro, Synthetic Marijuana, and other names, which are readily available in the District. K-2 is a mixture of herbs, spices or shredded plant material that is typically sprayed with a synthetic compound chemically similar to tetrahydrocannabinol, the psychoactive ingredient in marijuana, but with the potential for a much more powerful and unpredictable effect. The Partnership for Drug-Free Kids lists the effects of using K-2 as increased agitation, pale skin, seizures, vomiting, profuse sweating, uncontrolled/spastic body movements, elevated blood pressure, elevated heart rate, and palpitations. The National Institute on Drug Abuse reports that Spice abusers who have been taken to Poison Control Centers report symptoms that include rapid heart rate, vomiting, agitation, confusion, and hallucinations. Spice can also raise blood pressure and cause reduced blood supply to the heart (myocardial ischemia), and in a few cases it has been associated with heart attacks.

Regular users of synthetic cannabinoids may experience withdrawal and addiction symptoms and often graduate to other, more powerful substances, such as MDMA (3, 4-methylenedioxy-methamphetamine), popularly known as Ecstasy or, more recently, as Molly, with potentially deadly consequences. Multiple incidents linked to use of a synthetic cannabinoids have been reported the District. The District needs to continue to determine the level of synthetic marijuana usage in the District and how to best educate the community of the inherent dangers of synthetic marijuana and implement appropriate measures to treat those who have become habitual users. Enactment of this amendment will immediately allow the Department to continue to better determine the level of use of synthetic marijuana in the District and to determine the locations where use is especially prevalent, in order to better protect the health, welfare and safety of residents of and visitors to the District.

The District experienced an upward spike in the unconfirmed use of illegal synthetic cannabinoids last summer for which the Testing for Synthetic Cannabinoid Surveillance regulations were promulgated. Having the Testing for Synthetic Cannabinoid Surveillance regulations continue until August 31, 2016 will allow the Department to confirm whether an upward spike occurs in this summer.

DOH intends for the testing of the urine samples and the blood samples to be conducted by the Office of the Chief Medical Examiner ("OCME") or its contractor. Because this is only a surveillance program, DOH does not want to receive any individually identifying information. For this reason, it is intended that the OCME will, upon receipt of the samples from the hospitals, assign a unique identifier to each sample to remove individually identifying information from test results that are shared with DOH. Therefore, under this surveillance program, DOH will not have access to any individually identifying information for the tested samples and will only receive de-identified information, which DOH will use solely for surveillance purposes.

This emergency rulemaking was adopted on March 29, 2016 and became effective on that date. The emergency rulemaking will remain in effect for up to one hundred twenty (120) days after the date of adoption, expiring on July 26, 2016, or upon earlier amendment or repeal by the Director or publication of a final rulemaking in the *D.C. Register*, whichever occurs first. A second emergency rulemaking was adopted July 26, 2016, became effective immediately, and will be published in the *D.C. Register* on August 5, 2016.

The Director also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *D.C. Register* and after approval by the Council of the District of Columbia, as specified in Section 5(j) of the Act (D.C. Official Code § 44-504(j)).

Chapter 20, HOSPITALS, of Title 22-B DCMR, PUBLIC HEALTH AND MEDICINE, is amended as follows:

Section 2039, TESTING FOR SYNTHETIC CANNABINOID SURVEILLANCE, Subsection 2039.11, is amended to read as follows:

2039.11 These rules will expire on August 31, 2016.

Copies of the proposed rulemaking can be obtained at www.dcregs.dc.gov or by contacting Phillip Husband, General Counsel of the District of Columbia Department of Health, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002. All persons desiring to file comments on the proposed rulemaking action should submit written comments via e-mail to Angli.Black@dc.gov or by mail to the District of Columbia Department of Health, Attn: Phillip Husband, General Counsel, no later than thirty (30) days after the publication of this notice in the *D.C Register*.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, AUGUST 10, 2016
2000 14TH STREET, N.W., SUITE 400S
WASHINGTON, D.C. 20009

Donovan W. Anderson, Chairperson
Members: Nick Alberti, Mike Silverstein,
Ruthanne Miller, James Short

Protest Hearing (Status) **9:30 AM**
Case # 16-PRO-00021, Chaplin Restaurant DC, LLC, t/a Chaplin, 1501 9th Street NW, License #95700, Retailer CR, ANC 6E
Application to Renew the License

Show Cause Hearing (Status) **9:30 AM**
Case # 16-CMP-00211; Restaurant Enterprises, Inc., t/a Smith Point, 1338 Wisconsin Ave NW, License #60131, Retailer CT, ANC 2E
Substantial Change in Operation Without Board Approval, Provided Entertainment Without an Entertainment Endorsement, Failed to Obtain a Cover Charge Endorsement

Show Cause Hearing (Status) **9:30 AM**
Case # 16-AUD-00020; Shallamar Enterprises, LLC, t/a Capitol Hill Tandor and Grill, 419 8th Street SE, License #60689, Retailer CR, ANC 6B
Failed to File Quarterly Statements

Show Cause Hearing (Status) **9:30 AM**
Case # 16-CMP-00013; Micherie, LLC, t/a Cheerz, 7303 Georgia Ave NW License #95178, Retailer CR, ANC 4B
Provided Entertainment Without an Entertainment Endorsement, No ABC Manager on Duty (Two Counts)

Show Cause Hearing (Status) **9:30 AM**
Case # 16-AUD-00038; Rockfish, LLC, t/a Stonefish Grill and Lounge, 1050 17th Street NW, License #94562, Retailer CR, ANC 2B
Failed to Maintain Books and Records, Failed to Qualify as a Restaurant

Board's Calendar
August 10, 2016

Show Cause Hearing* **10:00 AM**
Case # 16-CMP-00136; Orange Anchor 3050, LLC, t/a Orange Anchor, 3050 K Street NW, License #95194, Retailer CR, ANC 2E
Operating after Hours

Show Cause Hearing* **10:00 AM**
Case # 16-CMP-00361; New Da Hsin Trading, Inc., t/a New Da Hsin Trading, Inc., 811 7th Street NW, License #23501, Retailer A, ANC 2C
No ABC Manager on Duty

Show Cause Hearing* **11:00 AM**
Case # 16-CMP-00155; Langston Bar and Grille, LLC, t/a Langston Bar and Grille, 1831 Benning Road NE, License #86271, Retailer Caterer, ANC 6A
Failed to File Caterer's Semiannual Report, No ABC Manager on Duty

Show Cause Hearing* **11:30 AM**
Case # 16-CMP-00039; The Griffin Group, LLC, t/a Policy, 1904 14th Street NW, License #76804, Retailer CR, ANC 2B
Provided Entertainment Without an Entertainment Endorsement

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

Protest Hearing* **1:30 PM**
Case # 16-PRO-00036; 1001 H St, LLC, t/a Ben's Upstairs/Ten 01, 1001 H Street NE, License #93103, Retailer CR, ANC 6A
Application to Renew the License

Protest Hearing* **1:30 PM**
Case # 16-PRO-00035; Gordon Restaurant Group, LLC, t/a Drafting Table 1529 14th Street NW, License #89190, Retailer CR, ANC 2F
Application to Renew the License

Protest Hearing* **1:30 PM**
Case # 16-PRO-00025; GRGDC3, LLC, t/a Village Whiskey, 920 N Street NW License #102077, Retailer CR, ANC 2F
Application for a New License

Protest Hearing **4:30 PM**
Case # 16-PRO-00038; Spo-dee-o-dee, LLC, t/a The Showtime, 113 Rhode Island Ave NW, License #89186, Retailer CT, ANC 5E
Substantial Change (Expansion to Include a Total Occupancy Load of 78 with 46 seats)

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
INVESTIGATIVE AGENDA

WEDNESDAY, AUGUST 10, 2016
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

On August 10, 2016 at 4:00 pm, the Alcoholic Beverage Control Board will hold a closed meeting regarding the matters identified below. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed "to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations."

1. Case#16-AUD-00039 (A) Red Light, 1401 R St. N.W., Retailer CR, License # ABRA-090488

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2. Case#16-CC-00073 Giant, 1050 Brentwood Road N.E. Retailer B, License #ABRA-060569

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3. Case#16-CC-00069, Bloomingdale Wine and Spirits, 1836 1st St. N.W., Retailer A, License # ABRA-060424

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4. Case#16-CMP-00065, Vendetta, 1210 H St. N.E., Retailer CT, License # ABRA-072734

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5. Case#16-CC-00076, Strand Liquors, 605 Division Avenue N.E., Retailer B, License # ABRA-009272

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6. Case#16-CC-00077, Safeway, 322 40th St. N.E., Retailer B, License # ABRA-060647

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7. Case#16-CC-00072, Woodbridge Vet's Liquors, 1358 Brentwood Road N.E. Retailer A, License #ABRA-080559

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8. Case#16-AUD-00050, Cactus Cantina, 3300 Wisconsin Avenue N.W., Retailer CR, License # ABRA-014225

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9. Case#16-CC-00045, King's Deli and Grocery, 3651 Georgia Avenue N.W., Retailer A, License # ABRA-087806

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10. Case#16-CC-00050, Midnight Delicatessen, 4701 Georgia Avenue N.W., Retailer B, License # ABRA-075893

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11. Case#16-CC-00066, TD Burger, 250 K St. N.W., Retailer CT, License # ABRA-092242

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12. Case#16-CC-00087, Argyle Market, 3220 17th St. N.W. Retailer A, License #ABRA-093257

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, AUGUST 10, 2016 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for Class Change from C Restaurant to C Tavern. ANC 2B. SMD 2B05. Pending Show Cause Hearing. No outstanding fines/citations. No outstanding violations. No conflict with Settlement Agreement. ***Stonefish Grill & Lounge***, 1050 17th Street NW, Retailer CR, License No. 094562.

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2. Review Request for Change of Hours. ***Approved Hours of Operation:*** Sunday-Saturday 7am to 11pm. ***Approved Hours of Alcoholic Beverage Sales and Consumption:*** Sunday-Saturday 11am to 11pm. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption:*** Sunday-Thursday 11am to 1:30am, Friday-Saturday 11am to 2:30am. ANC 4D. SMD 4D06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Mignot***, 4815 Georgia Avenue NW, Retailer CR, License No. 100407.

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3. Review Application for Summer Garden with seating for 346 patrons. ***Proposed Hours of Operation for Summer Garden:*** Sunday-Saturday 6am to 11pm. ***Proposed Hours of Alcoholic Beverage Sales and Consumption for Summer Garden:*** Sunday-Saturday 11am to 11pm. ANC 3C. SMD 3C02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Washington DC Marriott Wardman Park Hotel***, 2660 Woodley Road NW, Retailer CH, License No. 073292.

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4. Review Application for a new (additional) Summer Garden with seating for 50 patrons. ***Proposed Hours of Operation for Summer Garden:*** Sunday-Saturday 12am to 12am (24 hour operations). ***Proposed Hours Alcoholic Beverage Sales and Consumption for Summer Garden:*** Sunday-Thursday 8am to 2am, Friday-Saturday 8am to 3am. ANC 2E. SMD 2E05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Ritz Carlton Georgetown***, 3100 South Street NW, Retailer CH, License No. 101200.

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5. Review Application to increase capacity of existing Summer Garden from 20 patrons to 60 patrons. ***Approved Hours of Operation for Summer Garden:*** Sunday-Saturday 12am to 12am (24 hour operations). ***Approved Hours Alcoholic Beverage Sales and Consumption for Summer Garden:*** Sunday-Thursday 8am to 2am, Friday-Saturday 8am to 3am. ANC 2E. SMD 2E05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Ritz Carlton Georgetown***, 3100 South Street NW, Retailer CH, License No. 101200.

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6. Review Application for Entertainment Endorsement to provide Live Entertainment. ***Proposed Hours of Live Entertainment:*** Sunday-Thursday 6pm to 2am, Friday-Saturday 6pm to 3am. ANC 2C. SMD 2C01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Bar Louie***, 701 7th Street NW, Retailer CR, License No. 084428.

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7. Review Application for Entertainment Endorsement to provide Live Entertainment. ***Proposed Hours of Live Entertainment:*** Sunday-Thursday 6pm to 2am, Friday-Saturday 6pm to 3am. ANC 2B. SMD 2B08. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Exiles***, 1610 U Street NW, Retailer CT, License No. 102051.

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8. Review Request to add Cover Charge to existing Entertainment Endorsement. ***Approved Hours of Live Entertainment:*** Sunday-Thursday 10pm to 2am, Friday-Saturday 9pm to 3am. ANC 1B. SMD 1B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Yegna,*** 1920 9th Street NW, Retailer CT, License No. 074241.

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9. Review Request to add Cover Charge to existing Entertainment Endorsement. ***Approved Hours of Live Entertainment:*** Sunday-Thursday 6pm to 2am, Friday-Saturday 6pm to 3am. ANC 6D. SMD 6D07. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Penthouse Pool and Lounge,*** 1212 4th Street SE**,** Retailer CT, License No. 093303.

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10. Review Request to expand Premises to include second floor of building, thus adding an additional 30 seats and increasing the Total Occupancy Load inside the premises from 101 to 141. ANC 1B. SMD 1B01. No outstanding fines/citations. No outstanding violations. No pending

enforcement matters. No Settlement Agreement. ***Uproar DC***, 639 Florida Avenue NW, Retailer CT, License No. 092012.

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11. Review Request to expand Premises to include a portion of the interior first floor lobby, thus adding an additional 65 seats and increasing the Total Occupancy Load inside the premises from 225 to 345. ANC 5D. SMD 5D01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Homewood Suites by Hilton Washington, D.C./New York Avenue and Hampton Inn & Suites Washington D.C./New York Avenue at 4th St. NE***, 501 New York Avenue NE, Retailer CT, License No. 101534.

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12. Review Application for Tasting Permit. ANC 6B. SMD 6B10. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***S.E. Market***, 1500 Independence Avenue SE, Retailer A Liquor Store, License No. 089011.

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

CREATIVE MINDS INTERNATIONAL PUBLIC CHARTER SCHOOL

NOTICE OF INTENT TO ENTER INTO A SOLE SOURCE CONTRACT

Pursuant to the School Reform Act, D.C. 38-1802 (SRA) and the D.C. Public Charter Schools procurement policy, Creative Minds International Public Charter School (CMIPCS) hereby submits this notice of intent to award the following sole source contract:

Dell Inc. - CMIPCS intends to enter into a sole source contract with Dell Inc. for laptop and PC desktop computers (with 3 year extended warranties), and relevant accessories amounting to over $25,000 during school year 2016-17. CMIPCS will use these products for administrative and instructional purposes. Dell Inc. constitutes the sole source for all Dell Inc. products with preferred pricing and available discounts for educational institutions.

For further information regarding this notice please contact James Lafferty-Furphy no later than 1:00 pm August 12th, 2016.

James Lafferty-Furphy, Director of Operations
Creative Minds International Public Charter School
3700 N Capitol Street NW Sherman Building
Washington, D.C. 20011
tel: 202-588-0370 x112
fax: 202-588-0263
james.lafferty-furphy@creativemindspcs.org
www.creativemindspcs.org

DEPARTMENT OF ENERGY AND ENVIRONMENT

PUBLIC NOTICE

AIR QUALITY TITLE V OPERATING PERMIT AND GENERAL PERMIT FOR SIBLEY MEMORIAL HOSPITAL – JOHNS HOPKINS MEDICINE

Notice is hereby given that Sibley Memorial Hospital – Johns Hopkins Medicine has applied for a Title V air quality permit pursuant to the requirements of Title 20 of the District of Columbia Municipal Regulations, Chapters 2 and 3 (20 DCMR Chapters 2 and 3) to operate two (2) 38.532 MMBTU/hr dual fuel-fired (natural gas and No. 2 fuel oil) boilers, one 12.247 MMBTU/hr dual fuel-fired boiler, three 14.7 MMBTU/hr dual fuel-fired boilers, four 1,500 kWe (2,328 hp) and one 500 kWe (760 hp) diesel-fired emergency generator sets covered by New Source Performance Standard (NSPS) Subpart IIII, one 750 kWe (1,109 hp) diesel-fired non-NSPS emergency generator set, five underground storage tanks for No. 2 fuel oil or diesel fuel ranging in capacity between 5,000 and 25,000 gallons, six aboveground storage tanks for No. 2 fuel oil or diesel fuel ranging in capacity from 100 to 875 gallons, and eight cooling towers at its facility located at 5255 Loughboro Road NW, Washington DC. The contact person for the facility is William J. Vroom, Director of Plant Operation & Maintenance at (202) 537-4066.

Sibley Memorial Hospital – Johns Hopkins Medicine has the potential to emit approximately 88.07 tons per year of oxides of nitrogen (NOx), 4.64 tons per year of volatile organic compounds (VOC), 21.37 tons per year of total particulate matter, 198.6 tons per year of sulfur dioxide (SO_2), and 44.22 tons per year of carbon monoxide (CO). The NO_x emissions exceed the major source threshold in the District of 25 tons per year of NO_x and the SO_2 emissions exceed the major source threshold in the District of 100 tons per year of SO_2. Therefore, the facility is classified as a major source of air pollution and is subject to 20 DCMR Chapter 3 and must obtain an operating permit under the regulation.

The Department of Energy and Environment (DOEE) has reviewed the permit application and related documents and has made a preliminary determination that the applicant meets all applicable air quality requirements promulgated by the U.S. Environmental Protection Agency (EPA) and the District. Therefore, draft Title V Permit No. 002-R2 has been prepared.

The application, the draft permit, and all other materials submitted by the applicant [except those entitled to confidential treatment under 20 DCMR 301.1(c)] considered in making this preliminary determination are available for public review during normal business hours at the offices of the Department of Energy and Environment, 1200 First Street NE, 5th Floor, Washington DC 20002. Copies of the draft permit and related fact sheet are available at http://doee.dc.gov.

A public hearing on this permitting action will not be held unless DOEE has received a request for such a hearing within 30 days of the publication of this notice. Interested parties may also submit written comments on the permitting action. Hearing requests or comments should be directed to Stephen S. Ours, DOEE Air Quality Division, 1200 First Street NE, 5th Floor, Washington DC 20002. Questions about this permitting action should be directed to Abraham T. Hagos at (202) 535-1354 or abraham.hagos@dc.gov. No comments or hearing requests submitted after September 5, 2016 will be accepted.

HEALTH BENEFIT EXCHANGE AUTHORITY

NOTICE OF PUBLIC MEETING

Executive Board of the Health Benefit Exchange Authority

The Executive Board of the Health Benefit Exchange Authority, pursuant to the requirements of Section 6 of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-0094), hereby announces a public meeting of the Executive Board. The meeting will be held at 1225 I Street, NW, 4th Floor, Washington, DC 20005 on **Wednesday, August 10, 2016 at 5:30 pm**. The call in number is 1-877-668-4493, Access code 732 616 982. The Executive Board meeting is open to the public.

If you have any questions, please contact Debra Curtis at (202) 741-0899.

DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Respiratory Care ("Board") hereby gives notice of a change in its regular meeting, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2012 Repl.).

The Board's regular meeting has been held bi-monthly on the second Monday of the month from 9:00 AM to 12:00 PM. The meeting has been open to the public from 9:00 AM until 10:00 AM to discuss various agenda items and any comments and/or concerns from the public. The new meeting schedule will continue on a bi-monthly basis with the time changed to 9:00 AM – 11:00 AM. The meeting will be open to the public from 9:00 AM until 9:30 AM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, D.C. Official Code § 2-574(b) (2012 Repl.), the meeting will be closed from 9:30 AM to 11:00 AM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The Board's next meetings schedule for the remainder of 2016 will be as follows:

August 8, 2016
October 3, 2016 (date moved up due to Columbus Day holiday on October 10, 2016)
December 12, 2016

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Health Professional Licensing Administration website at http://doh.dc.gov/events and to view additional information and agenda.

DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Veterinary Medicine ("Board") hereby gives notice of a change in its regular meeting, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2012 Repl.)

The Board will be in recess in August 2014 and its regularly scheduled meeting on the third Thursday of the month will be canceled. The regular meeting of the Board will resume on Thursday, September 15, 2016. The meeting will be open to the public from 9:30 am until 10:00 am to discuss various agenda items and any comments and/or concerns from the public. In accordance with section 405(b) of the Open Meetings Amendment Act of 2010, D.C. Official Code § 2-575(b), the meeting will be closed from 10:00 am to 12:30 pm to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health Events link at http://doh.dc.gov/events for additional information.

DEPARTMENT OF HEALTH

MARIJUANA PRIVATE CLUB TASK FORCE

NOTICE OF TASK FORCE MEETING

Pursuant to Mayor's Order 2016-032, dated March 3, 2016, the Director of the Department of Health, as Chairperson of the Marijuana Private Club Task Force (Task Force), will hold its monthly meeting to provide a report making recommendations regarding the potential licensing and operation of venues at which marijuana may be consumed that are within the lawful parameters for the possession, use, and transfer of marijuana set forth in section 401(a)(1) of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-904.01(a)(1). The meeting will be held on Friday, August 19, from 10:00 a.m. to 11:30 am at 899 North Capitol Street, N.E., 2nd Floor, Room 216, Washington, D.C. 20002.

The Task Force consists of the Directors of the Department of Health, Department of Consumer and Regulatory Affairs, and Alcoholic Beverage Regulation Administration, the Chief of the Metropolitan Police Department, the Attorney General, two members of the Council of the District of Columbia, or their designees. The agenda for the meeting is as follows:

1. Review Draft Marijuana Private Club Task Force Report

2. Final Recommendations Discussion

3. Next Steps

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 following two certificate of need applications:

1) Proposal by MedStar Surgery Center at Lafayette Centre, LLC for the Acquisition of the Assets of MedStar Surgery Center, Inc. - Certificate of Need Registration No. 16-2-11; and

2) Proposal by Physician Imaging of Washington Hospital Center, LLC d/b/a MedStar Radiology Network for the Acquisition of Diagnostic Equipment from MedStar Ambulatory Services, Inc. - Certificate of Need Registration No. 16-2-10.

The hearing will be held on Tuesday, August 9, 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 presentations by the Applicants, describing their plans and addressing the certifications provided pursuant to D.C. Official Code § 44-406(b)(1), and an opportunity for affected persons to testify. Persons who wish to testify should contact the SHPDA on (202) 442-5875 before 4:45 p.m., by Monday, August 8, 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 Tuesday, August 16, 2016. Persons who would like to review the Certificate of Need applications or who have questions relative to the hearing may contact the SHPDA on (202) 442-5875.

DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF UPDATED PUBLIC MEETINGS SCHEDULE

Board of Commissioners

1133 North Capitol Street, Northeast
Washington, D.C. 20002-7549
202-535-1000

The Regular Meeting and Brown Bag Meeting of the Board of Commissioners of the District of Columbia Housing Authority previously scheduled for Wednesday, August 10, 2016, have been cancelled.

The following dates and times of the Regular and Brown Bag Meetings are for the remainder of calendar year 2016.

August 10, 2016	CANCELLED	
September 14, 2016	1133 North Capitol St., NE	
	Brown Bag Meeting	11:00 a.m.
	Regular Meeting	1:00 p.m.
October 12, 2016	Potomac Gardens – 1225 G St., SE	
	Brown Bag Meeting	11:00 a.m.
	Regular Meeting	1:00 p.m.
November 9, 2016	Benning Terrace – 4450 G St., SE	
	Brown Bag Meeting	11:00 a.m.
	Regular Meeting	1:00 p.m.
December 14, 2016	1133 North Capitol St., NE	
	Brown Bag Meeting	11:00 a.m.
	Regular Meeting	1:00 p.m.

Updated July 26, 2016

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HUMAN SERVICES (DHS)
ECONOMIC SECURITY ADMINISTRATION (ESA)
SNAP EMPLOYMENT & TRAINING PROGRAM (SNAP E&T)

REQUEST FOR APPLICATIONS (RFA): SNAP E&T-2017-01

FY2017 GRANTS TO COMMUNITY-BASED ORGANIZATIONS FOR SNAP EMPLOYMENT AND TRAINING

Program Description

The Department of Human Services (DHS), Economic Security Administration (ESA), is the lead agency in the District of Columbia for SNAP Employment and Training (SNAP E&T), as authorized by the Food and Nutrition Act of 2008 (Pub. L. No 110-246, §6(d)(4); 7 U.S.C. §2015(d)(4). The purpose of SNAP E&T is to provide SNAP participants opportunities to gain skills, training or experience that will improve their employment prospects and reduce their reliance on public benefits.

Purpose/Description of Project

This Request for Applications (RFA) seeks to identify potential applicants with ESA that can provide allowable SNAP E&T services to SNAP participants. The scope of allowable services under this RFA is outlined in Section II of the RFA and includes outreach, planning, administration, and operation of an allowable SNAP E&T component. It also includes participant expenses, such as transportation, dependent care, licenses, uniforms and tools for a job, test fees, books, and tuition expenses. **The entire cost of allowable expenditures must be borne initially by the grantee. However, DHS will reimburse awardees 40 cents for every dollar expended on allowable SNAP E&T programs and activities. DHS will retain 10 cents for every dollar expended for program administration.**

Eligibility

Applications are requested from community-based organizations, SNAP E&T grantees, and government agencies located in the District of Columbia that have demonstrated experience working with individuals and families receiving public benefits. Faith-based organizations, such as churches, synagogues, mosques, or religiously based social service affiliates of such organizations are encouraged to apply. Applications are also encouraged from collaborating community-based and faith-based organizations. Applicants must demonstrate an outstanding track-record of providing employment and training services and job placements to SNAP recipients and other low-income populations. Applicants must provide services that compliment ESA's current in-house SNAP E&T program, which currently include job search, transportation, and dependent care subsidies.

Review Factors

All applications will be objectively reviewed and scored against the criteria specified in the Request for Applications (RFA).

Length of Grant Award

The award period for the grant will be through September 30, 2017 at which time all funds must be invoiced. Upon satisfactory performance and subject to the availability of funds, two one-year renewable options may be offered. Please see the RFA for reporting requirements adjacent grant awards.

Available Funding

The entire cost of allowable expenditures must be borne initially by the grantee. While there is no maximum award level per grantee, all costs must be reasonable and necessary to carry out SNAP E&T programs and services.

Anticipated Number of Grant Awards

ESA intends to award up to three (3) grants to organizations that will provide allowable SNAP E&T services to SNAP E&T participants.

Request for Application (RFA) Release

The RFA will be released on Monday, August 8, 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

The Pre-Application Conference will be held on Friday, August 12, 2016 at the SNAP Employment and Training office located at 2100 Martin Luther King Jr. Avenue, SE, Suite 310, Washington, DC 20020. Applicants interested in attending the conference should RSVP to Carlous Price at (202) 299-3544. **We encourage the applying organizations to attend the pre-application conference.**

Deadline for Applications

The deadline for submission is Friday, August 19, 2016 at 3:00 p.m., Eastern Time (EST). Late or incomplete applications will not be forwarded for review.

MAYOR'S OFFICE ON LATINO AFFAIRS

NOTICE OF FUNDING AVAILABILITY (NOFA)

FY 2016 Latino Community Engagement Grant

Background Information:

The District of Columbia's Mayor's Office on Latino Affairs (MOLA) is pleased to announce the FY 2016 Community Engagement Grant. This opportunity is for nonprofit organizations that serve Latino DC youth and their families to address key community priorities across the District. The FY 2016 Latino Community Engagement Grant Program offers a one-time grant in amounts up to $50,000 to organizations that develop partnerships that expand and improve programs, services and opportunities for youth and families in communities across the District of Columbia

Funding priority areas identified for FY 2016 are aligned with Mayor Muriel Bowser's administration budget priorities:

- Education
- Jobs & Economic Development
- Public Safety
- Civic Engagement
- Health & Wellness
- Youth Engagement
- Arts & Creative Economy

Eligibility Criteria:

Organizations who meet the following eligibility requirements at the time of application may apply:

- be a Community-Based Organization with a Federal 501(c)(3) tax-exempt status or evidence of fiscal agent relationship with a 501 (c)(3) organization;
- the organization or program serves the District's Latino residents or business owners;
- the organization's principal place of business is located in the District of Columbia;
- the organization is currently registered in good standing with the DC Department of Consumer & Regulatory Affairs, Corporation Division, and the Office of Tax and Revenue;
- Current grantees must be current on any reporting obligations for the FY16 grant cycle.

Program Scope:

In FY 2016, MOLA's Latino Community Grant will fund culturally and linguistically appropriate programs with demonstrated ties to Mayor Bowser's priority areas and community needs in the following program areas: economic and workforce development, youth engagement and education, health education and linkage to human services, and promotion of the arts and humanities [see RFA for details].

Release Date of RFA:	Monday, August 1, 2016
Availability of RFA:	The RFA will be posted on MOLA's website (www.ola.dc.gov) & on the District's Grant Clearinghouse Website
Amount of Awards:	Eligible organizations can be awarded up to $50,000.
Length of Awards:	Grant awards are for FY 2016 October 1, 2015 – September 30, 2016
MOLA Contact:	Eduardo Perdomo, Grants Manager Phone: 202-671-2826 Email: grants.mola@dc.gov

Deadline for Electronic Submission: 5:00PM on Monday, August 15, 2016
|grants.mola@dc.gov

MUNDO VERDE PUBLIC CHARTER SCHOOL

NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT

EL Education

Mundo Verde Public Charter School intends to enter into a sole source contract with EL Education for professional development training for approximately $60,000 for the upcoming school year.

- As an Expeditionary Learning school, Mundo Verde PCS has a need for continuing professional development around the EL Learning principles
- EL Schools constitutes the sole source for expeditionary learning professional development services

For further information regarding this notice contact Elle Carne at 202-750-7060 or ecarne@mudoverdepcs.org no later than 4pm August 19, 2016.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL TARIFF

GAS TARIFF 2014-03, IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY'S APPLICATION TO AMEND RATE SCHEDULE NO. 5

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to section 34-802 of the District of Columbia Official Code ("D.C. Code") and in accordance with section 2-505 of the D.C. Code,[1] of its final tariff action to approve the Application of Washington Gas Light Company ("WGL" or "Company")[2] to enhance the terms and conditions of WGL's Interruptible Sales and Delivery Service in the District of Columbia. The Commission issued a Notice of Proposed Tariff ("NOPT"), which was published in the D.C. Register on October 2, 2015,[3] giving notice of the Commission's intent to act on WGL's proposed tariff amendments. No comments were filed in response to the NOPT.

2. WGL proposes to amend the following tariff pages:

NATURAL GAS TARIFF, P.S.C. of D.C. No. 3
Twelfth Revised Page No. 27A
Superseding Eleventh Revised Page No. 27A

P.S.C. of D.C. No. 3
Tenth Revised Page No. 27B
Superseding Ninth Revised Page No. 27B

P.S.C. of D.C. No. 3
Fifth Revised Page No. 27C
Superseding Fourth Revised Page No. 27C

P.S.C. of D.C. No. 3
Second Revised Page No. 27D
Superseding First Revised Page No. 27D

P.S.C. of D.C. No. 3
Eighth Revised Page No. 27G
Superseding Seventh Revised Page No. 27G

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1 D.C. Code § 34-802 (2001); D.C. Code § 2-505 (2001).

2 Gas Tariff 2014-03, *In the Matter of Washington Gas Light Company's Application to Amend Rate Schedule No. 5* ("*Gas Tariff 2014-03*"), Letter from Cathy Thurston-Seignious, Supervisor, Administrative and Associate General Counsel, Washington Gas Light Company, to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, filed August 21, 2015 ("WGL's Joint Motion for Approval of the Unanimous Agreement of Stipulation and Full Settlement").

3 62 *D.C. Reg.* 013139-013141 (2015).

P.S.C. of D.C. No. 3
Seventh Revised Page No. 27H
Superseding Sixth Revised Page No. 27H

3. On September 10, 2014, WGL filed an Application, pursuant to 15 DCMR § 3500 *et seq.*, for authority to amend its Rate Schedule Nos. 3, 3A and 5 "to implement enhanced terms and conditions for Interruptible Sales Service, Interruptible Delivery Service, and Firm Delivery Service."[4]

4. Ultimately, the Commission established a Working Group comprised of WGL, the Joint Suppliers, Apartment and Office Building Association of Metropolitan Washington, and any other interested parties to discuss the problematic issues raised in this matter and to explore possible solutions.[5]

5. During the same period of time, the Commission opened Formal Case No. 1128 to investigate a Formal Complaint by Integrys Energy Services-Natural Gas, LLC, for itself and in its capacity as agent for Pepco Energy Services, Inc., Direct Energy Services, LLC, NOVEC Energy Solutions, Inc., and Bollinger Energy, LLC's (together, the "Joint Suppliers") pertaining to certain penalties assessed against them by WGL under the Company's Rate Schedule No. 5, Firm Delivery Service Gas Supplier Agreement.[6] The Commission established a procedural schedule but later suspended it to allow the parties an opportunity to consider settling both FC 1128 as well as certain issues in GT2014-03 related to WGL's Rate Schedule No. 5 tariff.[7]

6. On August 21, 2015, the Working Group filed a Joint Motion for Approval of the Unanimous Agreement of Stipulation and Full Settlement which resolves all of the disputed issues related to the Joint Suppliers' Formal Complainant and provides revisions to Rate Schedule No. 5.[8] According to the Joint Suppliers and WGL, "This Settlement Agreement is contingent upon Commission acceptance of the revised tariff pages attached hereto for the

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4 *Gas Tariff 2014-03, In the Matter of Washington Gas Light Company's Application to Amend Rate Schedule Nos. 3, 3A and 5* ("*Gas Tariff 2014-03*"), Letter from Cathy Thurston-Seignious, Supervisor, Administrative and Associate General Counsel, Washington Gas Light Company to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, filed September 9, 2014. WGL corrected its Application on September 10, 2014.

5 *Gas Tariff 2014-03*, Order No. 17698, rel. November 7, 2014 at 9.

6 *Formal Case No. 1128, In the Matter of the Formal Complaint of Integrys Energy Services-Natural Gas, LLC for Itself and in its Capacity as Agent for Pepco Energy Services, Inc.; Direct Energy Services, LLC; NOVEC Energy Solutions, Inc.; and Bollinger Energy, LLC, Regarding Operational Flow Order Noncompliance Penalties Levied by Washington Gas Light Company for the Period January through March 2014* ("*Formal Case No. 1128*"), filed September 16, 2014 ("Joint Suppliers' Complaint"). Stand Energy Corporation was not a complainant.

7 *Formal Case No. 1128*, Order No. 17867, rel. April 24, 2015. On May 26, 2015, the Working Group filed its Final Report along with agreed-upon revisions to WGL Rate Schedule Nos. 3 and 3A.[7] These tariff revisions were published for public comment in the D.C. Register on July 24, 2015.

8 *Formal Case No. 1128 and GT 2014-03*, WGL's Joint Motion for Approval of the Unanimous Agreement of Stipulation and Full Settlement.

Company's Rate Schedule No. 5 as well as all of the other terms of the Settlement."[9] On October 2, 2015, the Commission issued a NOPT which was published in the D.C. Register giving notice of the Commission's intent to act on WGL's proposed tariff amendments. No comments were filed in response to the NOPT.

7. On March 15, 2016, WGL on behalf of the Settling Parties filed corrected tariff pages to the agreed-upon tariff revisions under the Company's Rate Schedule No. 5, reflecting the terms and conditions of the Settlement Agreement. The Settling Parties filed the corrected tariff pages to correct a typographical error. The Settling Parties stated that "Pursuant to D.C. Code § 2-505(a)…, these corrections may be approved by the Commission without a notice and comment period or any further proceedings."[10] The "first correction on page 27C of the tariff deletes the last sentence in the definition of "Critical Day", which language is inconsistent with the Settling Parties' agreed-upon terms" and the "second correction is on page 27D, which changes the reference from Rate Schedule No. 9 to Rate Schedule No. 5. The third and final correction is on page 27G, to reflect the Settling Parties' agreement that a capacity assignment will be made by WGL to approximate 50% of each customer's design day requirements.

8. The Commission at its regularly scheduled open meeting held on July 20, 2016, took final action approving WGL's proposed Rate Schedule No. 5 tariff amendments and corrected tariff pages concluding that they implement the terms of the Settlement Agreement and are in the public interest. The amendments will become effective upon publication of this Notice of Final Tariff in the *D.C. Register*.

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[9] *Formal Case No. 1128 and GT 2014-03*, Joint Motion for Approval of the Unanimous Agreement of Stipulation and Full Settlement at 8. Also, the Joint Suppliers and WGL state that "The Settlement Agreement is also contingent upon acceptance of the terms of the Settlement Agreement and the applicable revised tariff sheets by the Maryland Public Service Commission and the Virginia State Corporation Commission." The Maryland Public Service Commission and the Virginia State Corporation Commission have approved the Unanimous Settlement Agreement. *See Case No.PUE-2014-00095, Integry's Energy Services Natural Gas, LLLC; Compass Energy Gas Services, LLC; Direct Energy Services, LLC; Novec Energy Solutions, Inc.; and Bollinger Energy, LLC v. Washington Gas Light Company, Order Approving Settlement Agreement,* rel. October 26, 2015; Also, *see Case No. 9364, In the Matter of the Complaint of Integrys Energy Services-Natural Gas, LLC; Compass Energy Services, LLC; Novec Energy Solutions, Inc., Direct Energy Services, LLC; and Bollinger Energy LLC v. Washington Gas Light Company*, rel. November 24, 2015.

[10] D.C. Code § 2-505 (a) states that "The Mayor and each independent agency shall, prior to the adoption of any rule or the amendment or repeal thereof, publish in the District of Columbia Register *(unless all persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law) notice of the intended action…."* Although not expressly stated, we assume the Joint Applicants believe that no further notice is required because the persons subject to the tariff corrections (Settling Parties) are named and have actual notice of the amendment.

SHINING STARS MONTESSORI ACADEMY PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Custodial Services

Shining Stars Montessori Academy PCS is seeking competitive custodial bids for their building at 1240 Randolph St NE, Washington, DC 20017.

The vendor will be an independent contractor and shall provide professional, high-quality and environmentally preferable custodial services to maintain the building in a neat, sanitary, and orderly condition for Shining Stars Montessori Academy PCS. Job requirements will include:

- Daily vacuuming, mopping, sweeping, dusting, cleaning and buffing
- Cleaning and sanitization of bathrooms, classrooms, food preparation area and offices
- Daily removal of trash to outside receptacles
- Saturday cleaning is required once per month
- Clean carpets and floors as well as thorough building cleaning including: windows, trash cans, etc. at least three (3) times a year

The bid quote should provide a separate line item, which will reflect the additional cost of supplies and materials necessary to maintain adequate paper products and soap for school facility that will cover a property space of 21,787 square feet.

The use of environmentally friendly cleaning products is preferable. Proposals must include evidence of experience and estimated fees. Shining Stars Montessori Academy PCS reserves the right to cancel this RFP at any time.

For the scope of work, please contact staffops@shiningstarspcs.org.

Final bids are due by 3pm on Friday, August 12, 2016.

THE CHILDREN'S GUILD DC PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Multiple Services

The Children's Guild DC Public Charter School seeks qualified vendors for our charter school. The vendor must have experience in charter schools and special education.

1. Transportation Services
2. Janitorial Services

For deadlines, specifications and other bid requirements pertaining to the RFP visit http://www.childrensguild.org/rfp/.

THURGOOD MARSHALL ACADEMY PUBLIC CHARTER HIGH SCHOOL

REQUEST FOR PROPOSALS

Strategic Support of Replication Planning (Growth "Greenlighting")

Thurgood Marshall Academy—a nonprofit, college-preparatory, public charter high school—seeks a contractor to partner with the school to support planning and implementation of growth, focusing on the decision-making or "greenlighting" process.

Prospective vendors must provide details of scope and services as well as itemized costs for all of the following services (details appear in the full RFP):

- Greenlighting Plan: The consultant will study current systems and procedures, and then develop a formal plan for use in the Executive Director's replication work and the Board of Trustee's decision making regarding growth.
- Greenlighting Implementation: The consultants will then support implementation of the plan.

The school seeks a consulting firm able to begin the project in August 2016 and deliver the Greenlighting Plan in October 2016.

The **full RFP** is available on the **Employment Opportunities** page under the About tab of **www.thurgoodmarshallacademy.org**. Alternatively, e-mail a request for the full RFP to **dschlossman@tmapchs.org** no later than 5 pm on Thursday, August 11, 2016.

Amendments to or extension of the RFP, if any, will be posted exclusively on the web page described above.

Contact: For further information regarding the RFP contact **David Schlossman, 202-276-4722, dschlossman@tmapchs.org**. Further information about Thurgood Marshall Academy—including our nondiscrimination policy—may be found at www.thurgoodmarshallacademy.org.

Deadline & Submission: Submit bids responsive to the full RFP via **email to dschlossman@tmapchs.org** no later than **Friday, August 12, 2016.**

WASHINGTON GLOBAL PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

The Washington Global 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:

- Human Resource Services

Please email bids@washingtonglobal.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, August 12, 2016.

Prospective Firms shall submit one electronic submission via e-mail to the following address:

Bid Administrator
bids@washingtonglobal.org

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19293 of Gonzaga College High School, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for variances from the limitation on number of stories requirements under § 400.1, and the height requirements under § 770.1, and a special exception from the private school requirements under § 206.1, to permit the installation of four monopole light arrays to serve existing athletic fields on the campus of a private school in the R-4/C-2-A District at premises 19 I Street N.W. (Square 622, Lots 93, 844-845).

HEARING DATE: July 19, 2016
DECISION DATE: July 19, 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") 6E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6E, which is automatically a party to this application. ANC 6E submitted a report in support of the application, which indicated that at a duly noticed and regularly scheduled meeting of the ANC on May 3, 2016, at which a quorum was present, the ANC voted 6:0:0 to approve the application with the condition that the lights be turned off each evening by 10:00 p.m. (Exhibit 30.)

The Office of Planning ("OP") submitted a timely report and testified in support of the application with one condition. (Exhibit 26.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 27.)

A resident of the neighboring apartment building, James Wright, testified in opposition to the application. A statement in opposition was submitted by Alana Toabe, a tenant at an abutting property. (Exhibit 34.)

Variance Relief

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 area variances from the limitation on number of stories requirements under § 400.1, and the height requirements under § 770.1, to permit the installation of four monopole light arrays to serve existing athletic fields on the campus of a private school. 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 ANC and OP reports filed in this case, the Board concludes that in seeking a variance from 11 DCMR §§ 400.1 and 770.1, the Applicant has met the burden of proof under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception from the private school requirements under § 206.1. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be 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 206.1, 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 REVISED PLANS AT EXHIBITS 25A1-25A2 AND THE FOLLOWING CONDITION:**

1. The athletic field lights shall be turned off no later than 10:00 PM.

VOTE: **4-0-1** (Anita Butani D'Souza, Frederick L. Hill, Jeffrey L. Hinkle, and Marcie I. Cohen, to APPROVE; Marnique Y. Heath, not present or 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: July 25, 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 BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT

DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19294 of Andrew Devine, 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 side yard requirements under § 405.9, the court requirements under §406.1 and the nonconforming structure requirements under § 2001.3, to construct a rear addition to an existing one-family dwelling in the CAP/R-4 District at premises 328 D Street S.E. (Square 792, Lot 801).

HEARING DATE: Applicant waived right to a public hearing
DECISION DATE: July 12, 2016

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 2 (original) and 25 (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.

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. (Exhibit 8.)

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") 6B, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. The ANC submitted a report indicating that at a regularly scheduled and properly noticed meeting on June 14, 2016, at which a quorum was in attendance, ANC 6B voted 9-0-0 to support the application. (Exhibit 21.)

[1] The Applicant initially filed an application for special exception relief under § 223, not meeting the lot occupancy requirements under § 403.2, the side yard requirements under § 405.9, and the court requirements under § 406.1. (Exhibit 7.) Based on a recommendation by the Office of Planning, the Applicant amended the application by adding a request for special exception relief from the nonconforming structure requirements under § 2001.3 and filed a revised Self-Certification form to reflect that amendment. (Exhibit 25.) The caption has been changed accordingly.
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The Office of Planning ("OP") submitted a timely report (Exhibit 22) and testified at the hearing in support of the application. The District Department of Transportation ("DDOT") submitted a report of no objection to the approval of the application. (Exhibit 23.)

No objections to expedited calendar consideration were made by any person or entity entitled to do so by §§ 2118.6 and 2118.7. The matter was therefore called on the Board's expedited calendar for the date referenced above and the Board voted to grant the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under §§ 223, 403.2, 405.9, 406.1, and 2001.3. No parties appeared at the public meeting in opposition to this application. Accordingly, a decision by the Board to grant this application would not be averse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 223, 403.2, 405.9, 406.1, and 2001.3, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 4.**

VOTE: **4-0-1** (Marnique Y. Heath, Anita Butani D'Souza, Jeffrey L. Hinkle, and Peter G. May to APPROVE; Frederick L. Hill, not participating, not voting).

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: July 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 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. 19295 of Michael Maddox, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, and the rear yard requirements under § 404.1, to construct a rear deck addition to an existing one-family dwelling in the R-3 District at premises 1363 Rittenhouse Street, N.W. (Square 2789, Lot 118).

HEARING DATE: July 19, 2016
DECISION DATE: July 19, 2016

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated March 28, 2016, from the Zoning Administrator certifying the required relief. (Exhibit 5.).

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") 4A, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4A, which is automatically a party to this application. The ANC did not submit a report for this application. However, at the hearing, the Applicant testified and submitted an email from Single Member District ("SMD") ANC4A04, stating that ANC 4A decided not to oppose the application and would not be providing a report. (Exhibit 28.)

The Office of Planning ("OP") submitted a timely report (Exhibit 26) and testified at the hearing in support of the application. The District Department of Transportation ("DDOT") submitted a report of no objection to the approval of the application. (Exhibit 27.)

A neighbor, Renee Mathieu, submitted a letter to the record that was generally supportive of the Applicant's project, but which raised concerns about whether the project would make the adjacent alley narrower and cause loss of permeable land. (Exhibit 21.) The Applicant submitted a letter to address the neighbor's concerns. (Exhibit 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 § 3104.1, for a special exception under §§ 223, 403.2, and 404.1. No parties appeared at the public meeting in opposition to this application. Accordingly, a decision by the Board to grant this application would not be averse to any party.
Based upon the record before the Board and having given great weight to the OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 223, 403.2, and 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 this application is hereby **GRANTED AND, PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 4.**

VOTE: **4-0-1** (Anita Butani D'Souza, Frederick L. Hill**,** Jeffrey L. Hinkle, and Marcie I. Cohen to APPROVE; Marnique Y. Heath, not present, not voting).

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: July 27, 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.

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. 19297 of Thor 3000 M Street LLC, pursuant to 11 DCMR §§ 3103.2, 3104.1, and 411, for variances from the penthouse height requirements under § 770.6, the rear yard requirements under § 933, the off-street parking requirements under § 2101.1, the size of parking space requirements under § 2115, the access, maintenance, and operation requirements under § 2117, and the loading requirements under § 2201.1, and special exceptions from the penthouse use requirements under § 411.4(c), and the penthouse setback requirements under § 771, to permit the renovation and modernization of an existing hotel with additional retail uses in the C-2-A and W-1 Districts at premises 3000 M Street N.W. (Square 1197, Lot 70).

HEARING DATE: June 21, 2016
DECISION DATES: June 21 and July 19, 2016[1]

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.) 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") 2E and to owners of property located 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 on June 6, 2016 indicating that at a duly noticed and regularly scheduled

[1] At its public hearing on June 21, 2016, the Board voted to approve variance relief from the rear yard requirements under § 933, the off-street parking requirements under § 2101.1, the size of parking space requirements under § 2115, the access, maintenance, and operation requirements under § 2117, and the loading requirements under § 2201.1, as well as special exceptions from the penthouse use requirements under § 411.4(c), and the penthouse setback requirements under § 771. The Board deferred its decision on the variance for penthouse height requirements under § 770.6 and requested that the Applicant amend its plans to withdraw the height variance or provide additional justification for that relief. In advance of the Board's public meeting on July 19, 2016, the Applicant submitted revised plans that lessened the degree of penthouse height relief necessary and provided a memorandum from a vertical transportation consultant to support its request for variance relief. (Exhibits 39A and 39B.)

public meeting on May 31, 2016, at which a quorum was in attendance, ANC 2E voted unanimously (6-0) in support, with conditions attached. (Exhibit 28.) The Applicant submitted the same list of proposed conditions in a pre-hearing submission (Exhibit 30C) and testified at the hearing that it accepts the conditions.

The Office of Planning ("OP") submitted a timely report recommending approval of the application, subject to the conditions proposed by the ANC and accepted by the Applicant. (Exhibit 32.) OP also testified at the hearing in support of the application. The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the granting of the application, with conditions. (Exhibit 33.) Specifically, DDOT requested that the Applicant:

1. Offer daily Capital Bikeshare passes to hotel guests.

2. Unbundle parking costs from the cost of hotel rooms.

3. Remove the following elements from the Transportation Demand Management ("TDM") plan, which are not specifically designed to discourage auto use and/or encourage non-auto transportation modes:
    a. Engage in discussions with the community and DDOT regarding converting a portion of 30th Street to two-way operations.
    b. Work with off-site parking facilities to utilize unoccupied spaces if needed

At the public hearing on June 21, the Applicant testified that it agreed to DDOT's first two conditions. With regard to DDOT's request to remove elements from the TDM plans, the Applicant testified that DDOT would be satisfied with removing the elements from the "TDM" section of the conditions and placing them under a separate heading. A representative from DDOT confirmed that this would address their concerns about the provisions not being designed to discourage single-occupancy vehicle travel and, therefore, not TDM measures.

Special Exception

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 exceptions from the penthouse use requirements under § 411.4(c), and the penthouse setback requirements under §§ 771, to permit the renovation and modernization of an existing hotel with additional retail uses in the C-2-A and W-1 Districts. 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 the Applicant has met the burden of proof,

pursuant to §§ 3104.1, 411.4(c) and 771, 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.

Variance

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 11 DCMR § 3103.2, for variances from the penthouse height requirements under § 770.6, the rear yard requirements under § 933, the off-street parking requirements under § 2101.1, the size of parking space requirements under § 2115, the access, maintenance, and operation requirements under § 2117, and the loading requirements under § 2201.1, to permit the renovation and modernization of an existing hotel with additional retail uses in the C-2-A and W-1 Districts. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking a variance from §§ 770.6, 933, 2101.1, 2115, 2117, and 2201.1, the Applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 39A AND THE FOLLOWING CONDITIONS:**

I. Use of Private Outdoor Space for Lounge/Restaurant Use

A. Private Outdoor Space is any privately owned space associated with the 3000 M Street, NW project (the "Project") including but not limited to sidewalks, roof decks, side or back yards, patios, summer gardens, and balconies.

B. Regulation of Noise Impacts

1. The Applicant shall not create any noise from live entertainment within the Project that can be heard outside of the Project.

2. There shall be no dumping of bottles between the hours of 10:00 p.m. and 7:00 a.m. for any uses located within the Project.

3. There shall be no amplified entertainment, including temporary speakers, and no special lighting associated with any private outdoor space operated by the Applicant unless specifically agreed to under a special provision by the ANC or CAG through the ABRA and/or BZA process.

4. The Applicant shall not allow any noise to be generated by a private outdoor space that can be heard from a point that is 149 feet to the north of the proposed private outdoor space, or a point that that is 60 feet to the south of the proposed private outdoor space, unless specifically agreed to under a special provision by the ANC or CAG through the ABRA process.

5. The Applicant shall not allow any noise to be generated in a private outdoor space related to the operation of the Project that can be heard inside a nearby residence.

6. There shall be no amplified entertainment located within the Project that produces bass that can be heard or felt in any nearby residential property.

7. The Applicant shall hire an acoustical engineer to address the potential noise impacts from the use of the private outdoor space. The acoustical engineer shall provide the Applicant and members of the community with advice regarding appropriate measures that may need to be taken to ensure that the use of the private outdoor space does not create any adverse impacts on surrounding residences.

8. No plastic furniture shall be permitted to be used in any of the private outdoor spaces.

II. Transportation Demand Management. The Applicant's Transportation Demand Management plan shall include the following components:

A. Designate a member of the property management team as a Transportation Management Coordinator (TMC). Specific duties of the TMC shall include:

i. Serving as the worksite coordinator between transportation providers and the management of the hotel and its employees;

ii. Serving as the central source of commute information and assistance to hotel employees;

iii. Preparing and distributing material on commute options, including rideshare, bikeshare and transportation access information to the hotel;

iv. Ensuring that transportation orientation information is presented to new employees;

v. Offering daily Capital Bikeshare passes to hotel guests;

vi. Unbundling parking costs from the cost of hotel rooms; and

vii. Monitoring the TDM plan and helping to implement new strategies as required.

B. Provide a transportation information screen (such as TransitScreen or other similar product) in a common, shared space in the building that will show real-time availability information for nearby trains, buses, and other transportation alternatives.

C. Provide at least 16 secured, covered bicycle parking spaces within the building with associated locker rooms and showers. The Applicant shall install 10 DDOT standard bicycle parking racks (providing 20 short-term bicycle parking spaces) in public space near the building's entrance, the latter subject to approval by public space officials. The Applicant shall work with public space officials to ensure that the placement of the bicycle racks does not cause pedestrian conflicts along 30th Street.

D. A WMATA SmarTrip card, preloaded with $20, shall be provided to all new employees of the hotel and retail establishments.

III. Loading Management Plan. The Applicant's Loading Management Plan shall include the following components:

A. The Applicant shall designate a loading management coordinator to coordinate all loading activities associated with the project. The loading management coordinator will be on duty during all delivery hours noted below.

B. The Applicant shall require all retail tenants and the hotel to schedule deliveries that utilize the loading dock (defined as any loading operation conducted using a truck 20 feet in length or larger) with the loading management coordinator. If the

retail tenant includes a restaurant or food store of greater than 10,000 square feet, the Applicant shall require that such tenant designate its own loading manager to coordinate with the project's loading management coordinator.

C. The loading management coordinator shall schedule deliveries so that deliveries do not exceed the dock's capacity. In the event that an unscheduled delivery vehicle arrives when the dock is full, the driver shall be directed to return at a later time when a delivery space is available so as not to impede the 30th Street roadway that passes in front of the loading dock.

D. The loading management coordinator shall monitor inbound and outbound truck maneuvers and shall ensure that trucks accessing the loading dock do not block vehicular traffic from accessing 30th Street or adjacent driveways except during those times when a truck is actively entering or exiting a loading berth.

E. The loading dock shall be open seven days a week. The potential overlap of service vehicle traffic with 30th Street traffic shall be monitored at all times, and management measures shall be taken if necessary to reduce conflicts between truck, vehicular, and pedestrian movements.

F. Trucks using the loading dock shall not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to 20 DCMR Chapter 9, Section 900 (engine idling), 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. The loading management coordinator shall also distribute flyers and other written materials, such as DDOT's Freight Management and Commercial Vehicle Operations document to drivers, as needed, to encourage compliance with idling laws.

G. The loading management coordinator shall be responsible for providing suggested truck routing maps to the building's tenants and to drivers for delivery services that frequently use the loading dock. The loading management coordinator shall also post these documents in a prominent location within the service area.

H. The loading management coordinator shall coordinate with the community quarterly to discuss any specific issues regarding the loading dock or loading operations.

I. The loading management coordinator shall ensure that bicycle access to the service elevator remains available at all times and is not blocked by trucks or delivery vehicles.

IV. Trash Operations. The Applicant shall require that all trash operations will be conducted in accordance with the following conditions:

A. All hotel trash shall be collected and compacted in a trash room that is adjacent to the loading area. All trash from the retail/restaurant uses shall be collected and compacted in a trash room located in the basement of the Project. Noise associated with collection and compaction from trash shall not be audible outside the building.

B. Building personnel shall wheel all dumpsters up to the loading dock, and will utilize the car elevator as necessary, for trash servicing.

C. The dumpsters shall be picked up by a rear-end loading style truck.

D. Trash pickups shall not be made between the hours of 9:00 PM and 7:00 AM.

V. Miscellaneous.

A. The Applicant shall work with ANC 2E, the Citizens Association of Georgetown, the Georgetown Business Improvement District, and members of the community to engage the District Department of Transportation in discussions to allow for two-way traffic on the portion of 30th Street, N.W. that is located north of the entrance to the loading area and the parking garage elevator.

B. The Applicant has noted that there are five existing parking facilities within 600 feet of the property that include over 1,000 parking spaces and that those facilities are on average only 80% occupied. The Applicant shall work with those facilities to allow for the use of those unoccupied spaces by the hotel, when the operator of the hotel expects periods of peak parking demand.

VOTE: 4-0-1 (Anita Butani D'Souza, Frederick L. Hill, Jeffrey L. Hinkle, and Peter G. May (by absentee ballot) to APPROVE; Marnique Y. Heath 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: July 25, 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.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL

AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19299 of Peet's Coffee & Tea, pursuant to 11 DCMR § 3104.1, for a special exception from the prepared food shop requirements under §§ 712 and 721.3(t), to operate a prepared food (coffee) shop with greater than 18 seats in the C-2-A District at premises 3299 M Street N.W. (Square 1206, Lot 34).

HEARING DATE: July 12, 2016
DECISION DATE: July 12, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 4.) 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") 2E and to owners of property located 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, dated July 11, 2016, indicating that at a duly noticed and regularly scheduled public meeting on July 5, 2016, at which a quorum was in attendance, ANC 2E voted 6-0-0 in support, with the conditions noted in the Applicant's Pre-Hearing Statement.[1] The ANC's report also indicated that at a properly noticed and scheduled ANC meeting on May 31, 2016, at which a quorum was present, a vote of 7-0-0 in support with conditions was taken. (Exhibit 32.) The ANC's conditions from the May 31 meeting were listed in the Office of Planning's report. (Exhibit 31.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application, subject to conditions. (Exhibit 31.) OP also testified at the hearing in support of the application. The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application, with one condition regarding a bicycle parking rack. (Exhibit 30.) The Board declined to adopt DDOT's condition; however, the Applicant agreed to explore the feasibility of installing a bicycle rack on 33rd Street, N.W.

[1] In its Pre-Hearing Statement as well as in testimony at the public hearing on this case, the Applicant indicated that it accepted the conditions and clarified details regarding the exhaust system and trash storage.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception from the prepared food shop requirements under §§ 712 and 721.3(t), to operate a prepared food (coffee) shop with greater than 18 seats in the C-2-A District. No parties appeared in opposition at the public hearing. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 712, and 721.3(t) 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 REVISED PLANS AT EXHIBIT 28B AND THE FOLLOWING CONDITIONS:**

1. There shall be no deep fryer.

2. Any meats cooked shall be grilled only, with vent hoods that exhaust through the roof only.

3. Food shall be prepared primarily for on-site consumption and take-out orders will be secondary.

4. Pest control shall be monthly, or more often if necessary.

5. Refuse shall not be stored on the sidewalk or within public view. Refuse shall be stored securely on site so that odors do not reach a residence district.

VOTE: 4-0-1 (Marnique Y. Heath, Peter G. May, Anita Butani D'Souza, and Jeffrey L. Hinkle to APPROVE; Frederick L. Hill 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: July 25, 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.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19307 of Lock7 Development, LLC, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under § 2101.1, to renovate and expand an existing apartment house in the C-2-A District at premises 11 15th Street, N.E. (Square 1070, Lot 93).

HEARING DATE: July 12, 2016
DECISION DATE: July 19, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.) 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 within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A, which is automatically a party to this application. The ANC submitted a report dated June 10, 2016 indicating that at a regularly scheduled and properly noticed public meeting on June 9, 2016, at which a quorum was in attendance, the ANC voted 7-0 to support the application on the conditions that:

1. There be RPP[1] restrictions placed on two of the units to be determined by the developer;
2. Traffic mitigation efforts be installed within the building;
3. A shadow study completed showing no impact on the lighting on neighboring properties; and
4. Best attempts made to get letters of support from neighbors.

(Exhibit 30.)

[1] "RPP" means *residential permit parking*.

The Board discussed with the Applicant the issues involved in the first two conditions, revised the language and ultimately adopted conditions as indicated on page 3 herein. The Board noted that the ANC's proposed conditions 3 and 4 are actually prerequisites to approval rather than conditions of approval. Regarding condition #3, the Applicant's representative stated that a shadow study was being entered into the record for the Board's consideration. (See Exhibit 28, SD 2.5-SD 2.10.) Regarding condition #4, the Applicant's representative stated that she had received letters in support from the two adjacent neighbors.

The Board requested that the Applicant provide revised conditions, as discussed, for the Board's consideration prior to the Board making a decision on the application. The Applicant complied with the Board's request. (*See*, Post-Hearing Submission: Revised Conditions, Exhibit 46.)

The Office of Planning ("OP") submitted a report dated July 5, 2016 recommending conditional approval of the application. (Exhibit 39.) The conditions related to the restriction of residential permit parking for two units, and the provision of off-street parking spaces nearby for use by residents of the building. At the hearing, OP's representative testified in support of the application and had no issues with the conditions as discussed between the Board and the Applicant.

The District Department of Transportation filed a report dated July 5, 2016 expressing no objection to the application. (Exhibit 40.)

Five letters in support of the application were filed in the record from the following area residents: Calvin Ward of 11 15th Street, N.E. (Exhibit 34); Candice Wise of 9 15th Street, N.E. (Exhibit 35); Jane Pyle of 1536 Independence Ave. (Exhibit 36); Erin Omara of 1313 D Street, N.E. (Exhibit 41); and Dena K. Tompros of 15 15th Street, N.E. (Exhibit 45). The Board also received a letter of support from the Capitol Hill Restoration Society. (Exhibit 44.)

One letter in opposition to the application was filed in the record by Kelly Boyer, a resident of 1449 A Street, N.E., Apt E, expressing a concern for traffic safety and the lack of parking. (Exhibit 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 a variance from § 2101.1. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be 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 § 2101.1, the Applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case. It is therefore **ORDERED** that the application is hereby **GRANTED, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 7, AND SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The Project shall include a transit screen.

2. The Project shall include nine secured bicycle parking spaces.

3. The Applicant[2] shall include in the condominium documents, public offering statement, and bylaws (collectively the "Condominium Documents") special language pertaining to the requirement that the condominium retain, for the life of the Project, two off-street parking spaces ("Off-Street Parking Spaces) for lease or purchase by the owners of condominium units in the condominium, including any tenants or subtenants and successors and assigns ("Condo Unit Owners"). The Applicant shall record a covenant in the land records providing that the provisions in the Condominium Documents related to the Off-Street Parking Spaces may not be amended or removed.

4. Prior to obtaining a Certificate of Occupancy for the Project, the Applicant shall record a covenant against the Property among the Land Records of the District of Columbia requiring the Condominium to retain the Off-Street Parking Spaces for lease or purchase by the Condo Unit Owners for the life of the Project.

5. The condominium board, for the life of the Project, shall monitor compliance with these conditions, and shall provide copies of the leases and/or purchase and sale agreements, as applicable, for the Off-Street Parking Spaces to the Advisory Neighborhood Commission 6A annually.

VOTE: 4-0-1 **(**Anita Butani D'Souza, Jeffrey L. Hinkle, Frederick L Hill, and Peter G. May (by absentee ballot) to APPROVE; Marnique Y. Heath 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: July 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.

[2] For purposes of the Off-Street Parking conditions, the term "Applicant" also applies to any and all successors and assigns of the Applicant, including the condominium board.

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.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19308 of 1111 H Street, LLC, as amended, pursuant to 11 DCMR §§ 3103.2, 3104.1, and 411, for variances from the court requirements under § 776, the off-street parking requirements under § 2101.1, and the HS overlay design requirements under § 1324.4, and a special exception from the single-enclosure penthouse requirements under § 411.6, to renovate an existing structure into an apartment building containing up to eight dwelling units with ground-floor retail in the HS-R/C-2-C District at premises 1111 H Street N.E. (Square 982, Lot 57).[1]

HEARING DATE: July 19, 2016
DECISION DATE: July 19, 2016[2]

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Original - Exhibit 6; Revised – Exhibit 34B.) 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 within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A, which is automatically a party to this application. The ANC submitted a report, dated July 15, 2016, indicating that at a duly noticed and regularly scheduled public meeting on July 14, 2016, at which a quorum was in attendance, ANC 6A voted 5-2 in support of the application with two conditions. (Exhibit 41.) In advance of the public hearing on July 19, 2016, the Applicant filed a supplemental submission to the record, accepting the ANC's conditions and requesting that the Board adopt the conditions as part of its order. (Exhibit 40.)

The Office of Planning ("OP") submitted a timely report dated July 12, 2016, recommending

[1] The original application was amended to remove a variance from the rear yard requirements of § 774 based on revised plans. (Exhibits 34A and 34B.)

[2] This application was originally scheduled for public hearing on July 12, 2016 and postponed to July 19, 2016 at the Applicant's request. (Exhibit 29.)

approval of the application. (Exhibit 36.) OP also testified in support of the application at the public hearing. The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application. (Exhibit 37.)

Variances

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 11 DCMR § 3103.2, for variances from the court requirements under § 776, the off-street parking requirements under § 2101.1, and the HS overlay design requirements under § 1324.4, to renovate an existing structure into an apartment building containing up to eight dwelling units with ground-floor retail in the HS-R/C-2-C 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 a variance from §§ 776, 2101.1, and 1324.4, the Applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception

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 a special exception from the single-enclosure penthouse requirements under § 411.6, to renovate an existing structure into an apartment building containing up to eight dwelling units with ground-floor retail in the HS-R/C-2-C 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 the Applicant has met the burden of proof, pursuant to §§ 3104.1, 411, and 411.6, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application is hereby **GRANTED, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 34A AND THE FOLLOWING CONDITIONS:**

1. The Applicant shall contribute $25,000 to the creation or expansion of a Capital Bikeshare station at the corner of H and 11th Streets, N.E. or in the immediate area, with the funds to be paid 60 days after the issuance of the building permit for the Project.

2. The Applicant shall install a security camera in the block, with temporary signs and a camera located at the Property and the final location of the camera to be determined within 60 days after the issuance of the building permit for the Project.

VOTE: 4-0-1 (Anita Butani D'Souza, Frederick L. Hill, Jeffrey L. Hinkle, and Marcie I. Cohen to Approve; Marnique Y. Heath, not present, not voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
The majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: July 26, 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.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL

COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ*. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19310 of Kenneth A. Golding, as amended, pursuant to 11 DCMR §§ 3103.2, 3104.1, and 411, for variances from the apartment house expansion requirements under § 336.5, the lot occupancy requirements under § 403.2, and the nonconforming structure requirements under § 2001.3, and special exceptions from the apartment house expansion requirements under § 336, and the penthouse setback requirements under § 411.11, to renovate and expand an existing apartment house in the R-4 District at premises 622-624 North Carolina Avenue S.E. (Square 871, Lot 42).[1]

HEARING DATE: July 19, 2016
DECISION DATE: July 19, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Original - Exhibit 5; Revised – Exhibit 38C.) 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") 6B, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. The ANC submitted a report, dated July 13, 2016, indicating that at a duly noticed and regularly scheduled public meeting on July 12, 2016, at which a quorum was in attendance, ANC 6B voted 8-0-0 in support of the application. (Exhibit 37.)

The Office of Planning ("OP") submitted a timely report dated July 12, 2016, recommending approval of the application. (Exhibit 35.) OP also testified in support of the application at the public hearing. The District Department of Transportation ("DDOT") submitted a timely report dated July 12, 2016, indicating that it had no objection to the application. (Exhibit 36.)

Nine letters in support were filed to the record for this application, including a letter

[1] The original application was amended to remove a variance for penthouse height under § 400.5, to add a variance for lot occupancy under § 403.2, and to clarify the relief related to § 336, based on a request for technical correction of Order No. 14-11 brought before the Zoning Commission by the Office of Planning. (Exhibit 38C.) The caption has been revised accordingly.

recommending approval from Capitol Hill Restoration Society. (Exhibits 25-27, 34B, 40 and 41.)

Special Exception

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 exceptions from the apartment house expansion requirements under § 336, and the penthouse setback requirements under § 411.11, to renovate and expand an existing apartment house 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 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 the Applicant has met the burden of proof, pursuant to §§ 3104.1, 336, and 411.11, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Variance

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 11 DCMR § 3103.2, for variances from the apartment house expansion requirements under § 336.5, the lot occupancy requirements under § 403.2, and the nonconforming structure requirements under § 2001.3 to renovate and expand an existing apartment house 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 adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking a variance from §§ 336.5, 403.2, and 2001.3, the Applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application is hereby **GRANTED, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 38B.**

VOTE: 4-0-1 (Anita Butani D'Souza, Frederick L. Hill, Jeffrey L. Hinkle, and Marcie I.

Cohen to Approve; Marnique Y. Heath, not present, not voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
The majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: July 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 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. 19311 of Manna, Inc., pursuant to 11 DCMR §§ 3103.2 and 3104.1, for variances from the FAR requirements under § 402.4, the lot occupancy requirements under § 403.2, and the rear yard requirements under § 404.1, and a special exception from the residential development requirements under § 353, to construct 12 row dwellings in the R-5-A District at premises 2200-2210 Hunter Place, S.E. (Square 5812, Lot 118).

HEARING DATES: July 6, 2016 and July 12, 2016[1]
DECISION DATE: July 19, 2016

SUMMARY ORDER

SELF-CERTIFIED

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.

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") 8A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8A, which is automatically a party to this application. ANC 8A did not submit an official report regarding this application. However, at the hearing on July 12, 2016, the Applicant stated that they met with the ANC's Executive Committee in May a year ago, attended a constituent meeting last fall, and was scheduled to present before the full ANC in June but the ANC meeting was cancelled. The Applicant noted that the ANC members did not have questions regarding the project. The Applicant was scheduled to attend the ANC meeting to be held on July 18, 2016. The Board left the record open to receive an ANC report or some communication about the ANC's position on the application after that meeting.

On July 18, 2016, an email memorandum from the Single Member District Commissioner for ANC 8A-04 was filed into the record. The email stated that the Applicant

> attended ANC 8A's Executive Meeting on Monday, July 18 to present the organization's updated BZA Application…. At the conclusion of the

[1] The Applicant requested a postponement of the July 6, 2016 hearing, and the hearing was held on July 12, 2016.

> presentation, Commissioners expressed general support for the updated application and moved to put a Letter of Support on the agenda for its August 2016 public meeting….

(See Exhibit 48.)

At the BZA Public Meeting of July 19, 2016, the Board acknowledged receipt of the ANC email and decided not to hold its decision in abeyance to wait for the official ANC report to be filed in August.

The Office of Planning ("OP") submitted a report dated June 28, 2016 recommending approval of the application subject to two conditions: "1. Provision of solar panels on the flat roofs of the row houses; 2. The applicant work [sic] with DC Water to resolve the issue of the proposed storm sewer extension across Pomeroy Road." (Exhibit 44.) At the hearing on July 12, 2016, OP testified in support of the application. On July 7, 2016, counsel for the Applicant filed a statement addressed to OP stating that the Applicant would be willing to comply with the conditions. (Exhibit 46.)

The D.C. Department of Transportation submitted a report dated July 6, 2016 expressing no objection to the application. (Exhibit 45.)

Variance Relief:

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for variances from the floor area ratio requirements under § 402.4, the lot occupancy requirements under § 403.2, and the rear yard requirements under § 404.1. The only parties to this case were the Applicant and ANC 8A 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 report filed in this case, the Board concludes that in seeking variances from §§ 402.4, 403.2, and 404.1, 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, for special exception relief under § 353 - the residential development requirements. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be averse to any party.

Based upon the record before the Board and having given great weight to the OP report filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 353, 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 41B1-41B2 – REVISED ARCHITECTURAL DRAWINGS – PART 1 AND PART 2, AND THE FOLLOWING CONDITIONS:**

1. The Applicant shall provide solar panels on the flat roofs of the row houses.

2. The Applicant shall work with DC Water to resolve the issue of the proposed storm sewer extension across Pomeroy Road.

VOTE: 4-0-1 (Anita Butani D'Souza; Frederick L. Hill, and Jeffrey L. Hinkle to APPROVE; Marnique Y. Heath and Peter G. May not present, not voting.)

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: July 25, 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.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Order No. 19311-A in Application No. 19311 of Manna, Inc., pursuant to 11 DCMR §§ 3103.2 and 3104.1, for variances from the FAR requirements under § 402.4, the lot occupancy requirements under § 403.2, and the rear yard requirements under § 404.1, and a special exception from the residential development requirements under § 353, to construct 12 row dwellings in the R-5-A District at premises 2200-2210 Hunter Place, S.E. (Square 5812, Lot 118).

HEARING DATES: July 6, 2016 and July 12, 2016[1]
DECISION DATE: July 19, 2016

CORRECTED SUMMARY ORDER[2]

SELF-CERTIFIED

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.

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") 8A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8A, which is automatically a party to this application. ANC 8A did not submit an official report regarding this application. However, at the hearing on July 12, 2016, the Applicant stated that they met with the ANC's Executive Committee in May a year ago, attended a constituent meeting last fall, and was scheduled to present before the full ANC in June but the ANC meeting was cancelled. The Applicant noted that the ANC members did not have questions regarding the project. The Applicant was scheduled to attend the ANC meeting to be held on July 18, 2016. The Board left the record open to receive an ANC report or some communication about the ANC's position on the application after that meeting.

[1] The Applicant requested a postponement of the July 6, 2016 hearing, and the hearing was held on July 12, 2016.

[2] This order corrects the final order in Application No. 19311 which erroneously recorded the vote as 4-0-1 on page 3. The correct vote is 3-0-2 as noted herein. In all other respects, the order remains the same.

On July 18, 2016, an email memorandum from the Single Member District Commissioner for ANC 8A-04 was filed into the record. The email stated that the Applicant

> attended ANC 8A's Executive Meeting on Monday, July 18 to present the organization's updated BZA Application…. At the conclusion of the presentation, Commissioners expressed general support for the updated application and moved to put a Letter of Support on the agenda for its August 2016 public meeting….

(See Exhibit 48.)

At the BZA Public Meeting of July 19, 2016, the Board acknowledged receipt of the ANC email and decided not to hold its decision in abeyance to wait for the official ANC report to be filed in August.

The Office of Planning ("OP") submitted a report dated June 28, 2016 recommending approval of the application subject to two conditions: "1. Provision of solar panels on the flat roofs of the row houses; 2. The applicant work [sic] with DC Water to resolve the issue of the proposed storm sewer extension across Pomeroy Road." (Exhibit 44.) At the hearing on July 12, 2016, OP testified in support of the application. On July 7, 2016, counsel for the Applicant filed a statement addressed to OP stating that the Applicant would be willing to comply with the conditions. (Exhibit 46.)

The D.C. Department of Transportation submitted a report dated July 6, 2016 expressing no objection to the application. (Exhibit 45.)

Variance Relief:

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for variances from the floor area ratio requirements under § 402.4, the lot occupancy requirements under § 403.2, and the rear yard requirements under § 404.1. The only parties to this case were the Applicant and ANC 8A 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 report filed in this case, the Board concludes that in seeking variances from §§ 402.4, 403.2, and 404.1, 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, for special exception relief under § 353 - the residential development requirements. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be averse to any party.

Based upon the record before the Board and having given great weight to the OP report filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 353, 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 41B1-41B2 – REVISED ARCHITECTURAL DRAWINGS – PART 1 AND PART 2, AND THE FOLLOWING CONDITIONS:**

1. The Applicant shall provide solar panels on the flat roofs of the row houses.

2. The Applicant shall work with DC Water to resolve the issue of the proposed storm sewer extension across Pomeroy Road.

VOTE: 3-0-2 (Anita Butani D'Souza; Frederick L. Hill, and Jeffrey L. Hinkle to APPROVE; Marnique Y. Heath and Peter G. May not present, not voting.)

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: July 25, 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.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19312 of Allegro II, LLC, pursuant to 11 DCMR §§ 3103.2, 3104.1, and 411, for variances from the FAR requirements under § 531.1, and the nonconforming structure requirements under § 2001.3, and a special exception from the penthouse setback requirements under § 411.18(b), to renovate existing offices in the DC/SP-1 District at premises 1714-1716 N Street N.W. (Square 159, Lots 829-830).

HEARING DATE: July 6, 2016
DECISION DATE: July 19, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 9.) 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") 2B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2B, which is automatically a party to this application. ANC 2B submitted a report in support of the application, which indicated that at a duly noticed and regularly scheduled meeting on June 8, 2016, at which a quorum was present, the ANC voted 8:0:0 to approve the application. (Exhibit 32.)

The Office of Planning ("OP") submitted a timely report and testified in support of the application. In its report, OP noted that it recommended approval of the penthouse setback relief only up to a minimum setback of three feet from the main rear wall of the existing structure.[1] (Exhibit 35.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 36.)

A petition in support of the application from three nearby businesses was submitted to the record. (Exhibit 26A.)

[1] At the hearing, the Applicant testified that it agreed to these setbacks and would revise plans accordingly. (See, Exhibit 43B.)

At the July 6 hearing, the Board denied the late-filed request for party status of Kristen Cummins, finding that the issues raised in her request pertained to construction rather than zoning. (Exhibits 38-41.) Ms. Cummins testified in opposition, raising concerns about construction issues. The Board encouraged the Applicant to work with adjacent neighbors during the construction planning phase of the project to address Ms. Cummins' concerns.

Variance Relief

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 area variances from the FAR requirements under § 531.1, and the nonconforming structure requirements under § 2001.3, to renovate existing offices in the DC/SP-1 District. The only parties to the case were the ANC, which was in support, 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 ANC and OP reports filed in this case, the Board concludes that in seeking a variance from 11 DCMR §§ 531.1 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.

Special Exception Relief

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception from the penthouse setback requirements under § 411.18(b). 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 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 REVISED PLANS AT EXHIBIT 43B.**

VOTE: **4-0-1** (Frederick L. Hill, Anita Butani D'Souza, Jeffrey L. Hinkle, and Robert E. Miller (by absentee ballot), to APPROVE; Marnique Y. Heath, not present or 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: July 25, 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 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. 19314 of American Geophysical Union, pursuant to 11 DCMR §§ 3103.2, 3104.1, and 411, for a variance from the off-street parking requirements under § 2101.1, and a special exception from the penthouse setback requirements under §§ 777 and 411.18, to renovate an existing office building including the installation of a rooftop solar array in the DC/C-3-B District at premises 2000 Florida Avenue N.W. (Square 90, Lot 33).

HEARING DATE: July 19, 2016

DECISION DATE: July 19, 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") 2B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2B, which is automatically a party to this application. ANC 2B submitted a report in support of the application, which indicated that at a duly noticed and regularly scheduled meeting on July 13, 2016, at which a quorum was present, the ANC voted 7:0:0 to approve the application. (Exhibit 41.)

The Office of Planning ("OP") submitted a timely report and testified in support of the application. (Exhibit 36.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application, provided that the Applicant's Transportation Demand Management ("TDM") plan is submitted to the record. (Exhibit 37.) The Applicant submitted its TDM plan to the record at Exhibit 39.
Letters in support were submitted to the record from Councilmember Jack Evans (Exhibit 30), the American Geophysical Union (Exhibit 31), and Tommy Wells, Director of the D.C. Department of the Energy and Environment ("DOEE") (Exhibit 38.)

Variance Relief

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 off-street parking requirements under § 2101.1, to renovate an existing office building including the installation of a rooftop solar array in the DC/C-3-B 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 ANC and OP reports filed in this case, the Board concludes that in seeking a variance from 11 DCMR § 2101.1, the Applicant has met the burden of proof under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception from the penthouse setback requirements under §§ 777, 411, 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 OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 777, 411, 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 REVISED PLANS AT EXHIBIT 34.**

VOTE: **4-0-1** (Anita Butani D'Souza, Marcie I. Cohen , Frederick L. Hill, and Jeffrey L. Hinkle, to APPROVE; Marnique Y. Heath not present or 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: July 26, 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 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. 19319 of Capitol Hill Squash Club Associates, pursuant to 11 DCMR § 3104.1, for a special exception from the nonconforming use requirements under § 2003, to use the second floor of a building as a group instruction (exercise) studio in the CAP/R-4 District at premises 218 D Street, S.E. (Square 763, Lot 2).

HEARING DATE: July 19, 2016
DECISION DATE: July 19, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 4.) 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") 6B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on July 12, 2016, at which a quorum was present, the ANC voted unanimously (8-0-0) to support the application. (Exhibit 33.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 31.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it has no objection to the grant 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 § 2003. 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 2003, 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 30C.**

VOTE: **4-0-1** (Anita Butani D'Souza, Marcie I. Cohen, Frederick L. Hill, and Jeffrey L. Hinkle to APPROVE; Marnique Y. Heath, not participating, not voting.)

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: July 25, 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 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. 08-34F
Z.C. Case No. 08-34F
Capitol Crossing V, LLC
(Minor Modification to Second-Stage PUD @ Square 568)
May 23, 2016

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia ("Commission") was held on May 23, 2016. At the meeting, the Commission approved an application of Capitol Crossing V, LLC[1] ("Applicant") for minor modifications to an approved second-stage planned unit development ("PUD") for property consisting of Lot 862 in Square 568 ("Site"), which is a portion of Lot 44 in Square 568 ("South Block"). Because the modifications were deemed minor, a public hearing was not conducted. The Commission determined that this modification request was properly before it under the provisions of 11 DCMR §§ 2409.9 and 3030.

FINDINGS OF FACT

1. By Z.C. Order No. 08-34, dated May 23, 2011, and effective on July 1, 2011, the Commission approved (i) a first-stage PUD for land and air rights above the Center Leg Freeway in an area generally bounded by Massachusetts Avenue, N.W. to the north, 2nd Street, N.W. to the east, E Street, N.W. to the south, and 3rd Street, N.W. to the west ("Overall PUD Site"); (ii) a consolidated PUD for a portion of the Overall PUD Site; and (iii) a Zoning Map amendment to the Overall PUD Site to the C-4 Zone District. Development of the South Block was approved as part of the first-stage PUD.

2. Pursuant to Z.C. Order No. 08-34A, dated January 28, 2013, and effective on March 1, 2013, the Commission approved a second-stage PUD for the South Block in accordance with Z.C. Order No. 08-34. The second-stage PUD involves the development of a new 12-story, 130-foot office building with ground-floor retail. The building was approved to have approximately 670,251 square feet devoted to office use and approximately 19,101 square feet devoted to retail use, with a maximum density of 8.66 floor area ratio ("FAR").

3. The approved building was designed to create an appropriate massing for the large development block and is organized into two parallel bars with a full-height glass atrium in the center. The bulk of the massing is along 2nd and F Streets, while the building steps down on the west side closer to 3rd and F Streets. Entrances on E, F, and 2nd Streets are recessed from the main street wall to create a sense of multiple volumes within the massing and to further articulate the building. The façade was approved to have a structurally-glazed unitized curtain wall system with laminated glass fins projecting from the face of the wall at various angles. The fins were intended to provide texture to the contemporary glass structure.

[1] The original applicant in Z.C. Case No. 08-34A was Center Place Holdings, LLC.

4. By letter dated April 21, 2016 (Exhibit ["Ex."] 1), the Applicant requested minor modifications to the architectural drawings approved by Z.C. Order No. 08-34A to revise (i) the site plan by eliminating the previously-approved eco-chimney; (ii) the building façade with respect to the glass treatment and the design of the 11th floor terrace; and (iii) the penthouse design and use. The Applicant submitted architectural plans and elevations showing the proposed modifications. (Ex. 1D1-1D5.)

5. Minor Modifications to the Site Plan: Elimination of the Eco-Chimney. Pursuant to Z.C. Order No. 08-34A, the approved site plan included an eco-chimney as a sustainable building feature designed to clean exhaust air from the below-grade parking facility and the loading docks before releasing it into the atmosphere above grade. The eco-chimney was located on the west side of the Site. The Applicant requested a minor modification of the site plan to eliminate the eco-chimney. The requirements relating to the volume of air that must be treated changed with the adoption of the D.C. Construction Code Supplement of 2013. Based on the new requirements, the eco-chimney on the Site is no longer required. The Applicant otherwise did not request any other modifications to the layout or program of the approved site plan.

6. Minor Modifications to the Building Façade: Glass Façade Treatment. The Applicant requested a minor modification to replace the building's approved façade treatment with a similar yet refined design approach. The approved façade was a flat, structurally-glazed curtain wall comprised of floor-to-ceiling glass and a metal spandrel on a five-inch module. Glass fins were applied to the wall every two feet, six inches and were positioned in one of three directions to create texture across the façade that resulted in a visual depth and broke down the scale of the building.

7. The Applicant's revised façade transforms the "additive" fin elements into integrated features. The wall system is maintained as a curtain wall comprised of floor-to-ceiling glass and a metal spandrel on a five-foot module. The modified façade has two variations: (i) a flat wall; and (ii) an angled wall, which together appear saw-toothed in plan. The angled wall kicks out one edge of the façade to create the same type of textured pattern and massing as previously approved. The angular glass is integrated into the building directly, rather than added on. The juxtaposition of the two variants in the wall results in a building with appropriate scale along the street wall and an overall massing that is appropriate for the Site.

8. Minor Modifications to the Building Façade: 11th Floor Terrace. The Applicant requested a minor modification to infill one level of the approved two-story terrace at the building's southeast corner. The infill occurs on the 11th floor, with the terrace to be re-located to the 12th floor. This modification allows the building's south façade to better coordinate with its north façade, which was already approved to be filled in at the 11th floor. The proposed infill does not increase the Site's approved FAR.

9. Minor Modification to Penthouse Design and Use. Pursuant to 11 DCMR § 411.24, the Applicant requested a minor modification to revise the design of the building's

penthouses to incorporate habitable space on the main roof and a trellis with landscaping on the lower roof. The habitable space is permitted by virtue of the penthouse regulations adopted by Z.C. Order No. 14-13.

10. Pursuant to Z.C. Order No. 08-34A, the Commission granted flexibility to permit multiple penthouses on the building, with the approved design incorporating five total penthouses: two mechanical penthouses, two enclosures for the elevator override and stair towers, and one penthouse enclosing additional mechanical equipment and the building's central glass atrium. The Applicant's revised roof plan includes a total of three penthouses: two mechanical penthouses and one penthouse that encloses additional mechanical equipment, the central atrium, and new habitable space. The penthouse setbacks are measured from the building's exterior walls at the level immediately below the roof and are set back at least 1:1 in all locations. (Ex. 1E.) The penthouse heights also comply with the requirements set forth in the penthouse regulations. The result of the proposed modifications is a reduction in the amount of penthouse flexibility granted in Z.C. Order No. 08-34A, due to the elimination of two penthouses.

11. The proposed habitable space in the penthouse will include office, communal or other permitted use. If the habitable space is ultimately targeted for restaurant use, then the Applicant will return to the Commission for approval of a special exception in accordance with 11 DCMR§ 411.4(c).

12. Pursuant to 11 DCMR § 414, the existence of new penthouse habitable space triggers a requirement for the Applicant to contribute to the production of affordable housing. Accordingly, the Applicant will make a contribution to the Housing Production Trust Fund in accordance with the requirements set forth in 11 DCMR §§ 414.13 through 414.16.

13. The Applicant served the minor modification request on Advisory Neighborhood Commissions ("ANC") 2C and 6C. ANC 2C submitted a letter in support of the proposed minor modification, stating that at its regularly scheduled, duly noticed meeting on April 11, 2016, with a quorum of commissioners and the public present, ANC 2C voted unanimously (3-0-0) to support the application. (Ex. 4.) ANC 6C also submitted a letter in support of the proposed minor modifications, stating that at its regularly scheduled, duly noticed meeting on April 13, 2016, with a quorum of commissioners and the public present, ANC 6C voted unanimously (5-0-0) to support the modifications. (Ex. 3.)

14. The Office of Planning ("OP") reviewed the request for minor modifications. By report dated May 13, 2016, OP recommended approval of the minor modifications. (Ex. 5.)

15. On May 23, 2016, at its regular monthly meeting, the Commission reviewed the application as a Consent Calendar matter and granted approval of the application for minor modifications to the approved second-stage PUD.

16. The Commission finds that the requested modifications are minor, and further finds that approval of the modifications is appropriate and not inconsistent with its approval of the original PUD.

CONCLUSIONS OF LAW

Upon consideration of the record in this application, the Commission finds that the proposed modifications are consistent with the intent of the previously approved Z.C. Order No. 08-34A, and are not inconsistent with the Comprehensive Plan.

The Commission concludes that approving the modifications is appropriate and not inconsistent with the intent of 11 DCMR §§ 2409.9 and 3030. Moreover, the Commission finds that this application meets the filing requirements of 11 DCMR §§ 411.24 and 411.25 to permit penthouse habitable space to be added to a building approved by the Commission as a PUD prior to January 8, 2016.

The Commission further concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations and Zoning Act.

Finally, the Commission finds that the modifications do not affect the essential impact of the approved PUD, including use, height, bulk, parking, or lot occupancy. The modifications are minor such that consideration as a Consent Calendar item without public hearing is appropriate.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for modifications to the approved second-stage PUD as set forth in Findings of Fact 5 through 12 and subject to the architectural plans and elevations included in the record at Exhibit 1D.

At its public meeting on May 23, 2016, upon the motion of Commissioner May, as seconded by Commissioner Cohen, the Zoning Commission **APPROVED** the application and **ADOPTED** this Order by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Marcie I. Cohen, Peter G. May, and Michael G. Turnbull to approve and adopt).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is on August 5, 2016.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 11-03E
Z.C. Case No. 11-03E
Wharf District Master Developer, LLC
(Second-Stage PUD @ Southwest Waterfront, 7th Street Recreation Pier)
July 11, 2016

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on June 2, 2016, to consider an application for a second-stage Planned Unit Development ("PUD") filed by Wharf District Master Developer, LLC ("Applicant") on behalf of the District of Columbia, through the Office of the Deputy Mayor for Planning and Economic Development, the current owner of the property. The subject property consists of the 7th Street Recreation Pier ("Pier") of the Southwest Waterfront redevelopment project which is located on Lot 884 of Square 473, a recorded assessment and taxation lot extending over a portion of the Washington Channel, and is generally bounded by Parcel 5 and 7th Street Park of the Southwest Waterfront redevelopment project on the northeast, the Capitol Yacht Club docks on the northwest, and the Gangplank Marina on the southeast. The Commission considered this second-stage PUD application for the 7th Street Recreation Pier pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application for 7th Street Recreation Pier.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. On November 20, 2015, the Applicant filed an application with the Commission for review and approval of a second-stage PUD for Lot 884 in Square 473, consisting of approximately 96,805 square feet ("Property"). (Exhibits ["Ex"] 1-2J.) The Applicant intends to develop the Property consistent with the approved plans and development parameters of the first-stage PUD Order (Z.C. Order No. 11-03, effective date December 16, 2011).

2. By report dated January 15, 2016, the Office of Planning ("OP") recommended that the application be set down for a public hearing. (Ex. 10.) At its public meeting held on February 8, 2016, the Commission voted to schedule a public hearing on the application.

3. On March 4, 2016, the Applicant submitted its pre-hearing statement, and on May 13, 2016, submitted its supplemental information for the project, including updated sets of architectural plans and drawings to respond to issues raised by the Commission and OP. (Ex. 14-14H, 20-20B.)

4. A description of the proposed development and the notice of the public hearing for this matter were published in the *D.C. Register* on April 8, 2016. The notice of public hearing

was mailed to all property owners within 200 feet of the Property as well as to Advisory Neighborhood Commission ("ANC") 6D. On June 2, 2016, the Commission held a public hearing to consider the second-stage PUD.

5. The parties in support of the proceeding were the Applicant, ANC 6D, and the Capital Yacht Club ("CYC"), which was represented at the public hearing by Freddi Lipstein, CYC Commodore.

6. At the May 26, 2016, public hearing, the Applicant presented five witnesses in support of its application: Shawn Seaman and Matthew Steenhoek on behalf of Wharf District Master Developer, LLC; Michael Vergason, landscape architect, Michael Vergason Landscape Architects, LTD; Patrick Graney, civil and structural engineer, Moffatt & Nichol; and Shane Dettman, Holland & Knight, LLP, land use planner. Based upon their professional experience and qualifications, Mr. Vergason was qualified as an expert in landscape architecture, Mr. Graney was qualified as an expert in engineering, and Mr. Dettman was qualified as an expert in land use planning.

7. Matthew Jesick, Development Review Specialist at OP, testified in support of the application.

8. At its March 14, 2016, regularly scheduled meeting, which was duly noticed and at which a quorum was present, ANC 6D voted 6-0-0 to support the application.

9. On March 22, 2016, ANC 6D submitted a report in support of the second-stage PUD. (Ex. 15.) Commissioner Andy Litsky, SMD 6D04, attended the public hearing on behalf of ANC 6D and testified in support of the application.

10. The following persons testified in support of the second-stage PUD: Andrew Lightman; Kelly Simon, Gangplank Slipholders Association ("GPSA"); and Jason Kopp, Southwest Neighborhood Assembly ("SWNA"). The Commission also received letters in support from GPSA and Mr. Lightman. (Ex. 11, 27.)

11. Philip Johnson testified as a person in opposition. Mr. Johnson's concerns had to do with the need for a broader District-wide harbor safety study to address the increase in motorized and non-motorized boat traffic that will result from the redevelopment project and the potential impacts this could have on boater safety along the Washington Channel and other waterways in the District of Columbia.

12. At the conclusion of the hearing on this matter the Commission took proposed action to approve the second-stage PUD and requested the Applicant to submit the following: (i) example images of piers, docks, and waterfront promenades that do not have railings; (ii) information regarding the operational safety plan currently being developed by the Applicant; and (iii) general information related to the process for establishing and modifying pier operating hours and monitoring/enforcement of pier rules and regulations.

In addition, during the public hearing the Commission commented on the low-railing edge restraint proposed along the northern portion of the Pier to delineate the slope between the upper variable walkway and the lower fixed walkway, and requested the Applicant to further evaluate this element to ensure accessibility for all users of the Pier, including having the proposed design reviewed by an expert in Americans with Disabilities Act ("ADA") compliance. The Applicant submitted the requested information to the Commission on June 16, 2016. (Ex. 36.)

13. To address the Commission's comments regarding the low-railing edge restraint, the Applicant sought input from an expert in ADA compliance, who reviewed the proposed design of the Pier, and specifically the proposed low-railing edge restraint, and provided a set of observations and recommendations ("ADA Report"). (Ex. 36C.) According to the ADA Report, since the running slope of the upper walkway does not exceed five percent, it is not considered a ramp, and thus does not require edge protection. Rather, based on the proposed design, the ADA Report recommends that use of truncated domes, designed in accordance with the 2010 ADA technical specifications, is a more appropriate method to alert pedestrians of the slope between the upper and lower walkways. Based on the recommendations provided in the ADA Report, the Applicant revised the proposed design of this particular element of the Pier which is reflected in the plans and drawings submitted as part of the post-hearing submission.

14. The application was referred to the National Capital Planning Commission ("NCPC") for review for any adverse impacts on the federal interest, as defined in the Federal Elements of the Comprehensive Plan for the National Capital. NCPC did not provide a report.

15. The Zoning Commission took final action to approve the second-stage PUD on July 11, 2016.

The Applicant and Development Team

16. The master developer of the overall Southwest Waterfront PUD is Hoffman-Struever Waterfront, LLC, doing business as Hoffman-Madison Waterfront, LLC ("Hoffman-Madison"). The Applicant for the second-stage PUD is Wharf District Master Developer LLC, an affiliate of Hoffman-Madison, which is processing this application on behalf of the Office of Deputy Mayor for Planning and Economic Development. The Applicant's team includes the District-based Certified Local, Small, and Disadvantaged Business Enterprises of E.R. Bacon Development, Paramount Development, and Triden Development, as well as District-based and CBE-certified CityPartners.

The Southwest Waterfront Redevelopment Project

17. The Southwest Waterfront redevelopment project is a public-private partnership between the District of Columbia and Hoffman-Struever Waterfront, LLC, which entered into a land disposition agreement ("LDA") for redevelopment of the Southwest Waterfront,

which is generally bounded by the Washington Channel of the Potomac River and Maine Avenue between 6th and 11th Streets, S.W., and consists of approximately 991,113 square feet of land area (22.75 acres) and approximately 167,393 square feet of piers and docks in the adjacent riparian area ("PUD Site").

Overview of the Southwest Waterfront PUD

18. Pursuant to Z.C. Order No. 11-03, which took effect on December 16, 2011, the Commission approved the first-stage PUD for the Southwest Waterfront redevelopment project. Since approving the first-stage PUD, the Commission has approved a second-stage PUD application for Phase 1 of the redevelopment project, consisting of Parcels 2, 3, 4, and 11, the Capital Yacht Club, and the public open spaces known as the Wharf, the Transit Pier, the District Pier, the Yacht Club Piazza, the Mews, Jazz Alley, 7th Street Park, and Waterfront Park, as well as temporary uses on Parcel 1 (Z.C. Order Nos. 11-03A(1), 11-03A(2), 11-03A(3), and 11-03A(4), *effective* February 15, 2013). In addition, the Commission has approved a second-stage PUD for Parcel 5 (Z.C. Order No. 11-03B, *effective* June 21, 2013), and a minor modification to the previously approved Parcel 5 plans (Z.C. Order No. 11-03D, *effective* January 15, 2016). Finally, the Commission approved a second-stage PUD for Parcel 1 (Z.C. Order No. 11-03C, *effective* May 13, 2016).

19. The primary objective of the Southwest Waterfront PUD is to reunite the city with the water's edge and activate it with a mix of uses and year-round activity. This objective will be achieved by integrating the city's unique urban qualities, such as dynamic parks and open spaces that are defined by consistent street walls, with aspects that recall the character of the thriving commercial warehouse district and maritime activities that once lined the Washington Channel and connected the upland city streets to the maritime edge.

20. As described during the first-stage PUD, the Southwest Waterfront PUD will provide a mix of uses to ensure an active waterfront throughout the year, day and night. Rather than a collection of individual projects, the overall redevelopment has been designed as a series of "places" that integrate architecture and landscape design to create inviting and memorable public environments. There will be a variety of gathering places to cater to every interest, ranging from actively programmed places to simple promenades and parks for passive enjoyment of the water and its environs.

21. The design of the waterside development has been fully integrated with the landside development, and will include four new public-use piers along the Washington Channel. The District Pier, the largest of the piers, is intended to be the primary waterside entrance to the project and the host for the District's waterside events. Several new tour boats, tall ships, and maritime vessels, such as water taxis, will be added to the existing recreational maritime activities to provide increased activity and several more options for the public to use the waterfront and engage in water sports and activities.

Approved Stage 1 PUD Development Parameters

22. Pursuant to the first-stage PUD approval, the Commission approved the development parameters for the overall Southwest Waterfront PUD, as shown on the architectural plans submitted to the record. Overall, the Commission approved a maximum landside density of 3.87 floor area ratio ("FAR"), excluding private rights-of-way, and a combined gross floor area of approximately 3,165,000 square feet. Waterside uses were approved for a maximum potential density of 0.68 FAR, or approximately 114,000 gross square feet. (*See* Z.C. Order No. 11-03, Condition Nos. A-1 and A-2 at p. 33.)

23. The overall Southwest Waterfront PUD will include up to approximately 1,400 mixed-income and market rate residential units, with approximately 160,000 square feet of residential gross floor area ("GFA") set aside for households earning no more than 30% 60% of the Washington–Arlington–Alexandria, DC–VA–MD–WV Metropolitan Statistical Area Median Income ("AMI"); approximately 925,000 gross square of office uses; a luxury hotel with approximately 278 guest rooms, and two additional hotels with approximately 405 rooms; approximately 300,000 gross square feet of retail/service uses; a minimum of 100,000 gross square feet devoted to cultural activities; and more than ten acres of parks and open space. The riparian area will feature four new public-use piers as well as approximately 114,000 square feet of maritime-related commercial, recreational, and service development.

24. Under the first-stage PUD, the Pier is described as a narrow quay for enjoying views of the water and the monuments that will also have a lower floating pier that will house various rental activities and other water-based recreational programs. (Z.C. Order No. 11-03, Finding of Fact No. 40 at p. 10.)

25. With respect to parking facilities for the overall Southwest Waterfront redevelopment project, the Commission authorized the construction of one or more below-grade parking structures on two to three levels that are required to provide spaces for approximately 2,100-2,650 vehicles. The redevelopment project is also required to provide parking or storage for 1,500-2,200 bicycles onsite, and sufficient loading facilities to accommodate the mix of uses on the PUD site. The precise amount of parking and loading is to be determined in each second-stage PUD application. (*Id.*, Condition No. A-4 at pp. 33-34.)

26. As part of the first-stage PUD approval, the Commission granted flexibility from the lot occupancy requirements for the proposed development on Parcel 11, and in the precise mix of uses provided in the Southwest Waterfront PUD because of the time it would take to build out the entire redevelopment project. (*Id.*, Finding of Fact No. 48 at pp. 12-13.)

27. The Commission also authorized the Applicant to construct the Southwest Waterfront PUD in phases. At the time of the first-stage PUD, the 7th Street Recreation Pier was part of Phase 3 of the redevelopment project. (Z.C. Order No. 11-03, Finding of Fact No. 40 at p. 10.) The Applicant is now pursuing construction of the Pier as part of Phase 1 in

order to deliver this public amenity concurrently with the completion of 7th Street Park and the rest of Phase 1, and to maintain continuity of the GPSA liveaboard community while delivering the public dock facilities ahead of schedule.

7th Street Recreation Pier Proposed Development

28. The Pier will be located at the terminus of 7th Street, S.W., an important north-south corridor that runs through the District, and is situated immediately south of the 7th Street Park, a planned one-acre open space that received final Commission approval in January 2013 pursuant to Z.C. Order No. 11-03A(3).

29. Since the first-stage PUD, the Applicant has further developed the design of the Pier, partially in response to the final approved design for 7th Street Park.

30. The proposed Pier is crescent shaped, corresponding directly to the geometry of the curvilinear pathways of 7th Street Park, and will consist of a main fixed portion and a lower floating dock.

31. The Pier will extend approximately 432 feet into the Washington Channel, as measured perpendicular from the bulkhead to the furthest point of the lower floating dock. The width of the main fixed portion of the Pier will range between approximately 42 feet and 140 feet. The lower floating dock will be approximately 25 feet wide.

32. The Pier will be primarily constructed of Kebony, a highly-durable natural wood material, subject to availability at the time of construction. Kebony decking is being used in a number of other pier and public space applications that have received final Commission approval throughout Phase 1 of the Southwest Waterfront redevelopment project.

33. The surface elevation of the main fixed portion of the Pier will vary. At the north end, where the Pier meets the bulkhead, the Pier will have two elevations with a higher portion that is level with the bulkhead and a lower portion that sits at a fixed elevation below the level of the bulkhead.

34. The higher portion of the Pier will descend in elevation to a low point, or saddle. From the low point, the Pier will rise to its terminus, or belvedere. At the saddle, the main fixed portion of the Pier will connect to the lower floating dock via a straight metal gangway. A second straight metal gangway connection will be provided further down the Pier closer to the belvedere.

35. The Pier will primarily be a flexible open space that can accommodate a wide range of activities and types of programming. Where the Pier connects to 7th Street Park and the Wharf promenade, there will be a gathering area that is covered with a large shade structure and contains a small retail kiosk and overlook.

36. The shade structure will be "L-shaped," and have a modern, wavy expression.

37. Below the shade structure, there will be a one-story kiosk that will house a retail or service use. The design of the kiosk is similar to other open space structures that have already received final Commission approval throughout the Southwest Waterfront redevelopment project. The footprint of the kiosk will be approximately 10 feet by 20 feet, or approximately 200 square feet, and have a height of approximately 10 feet. The kiosk will be constructed of a mixture of painted steel on its upper portion and wood bulkhead below the counter. Fixed and movable seating will also be located below the shade structure near the kiosk.

38. Along the western edge of the Pier, there will be a series of wooden benches, swings, and light fixtures that follow the alignment of the Pier as it gradually slopes toward the saddle and then rises again to the belvedere. The swings will consist of a U-Shaped painted steel frame. The light fixtures will be placed at regular intervals along this edge of the Pier. Finally, a guardrail consisting primarily of steel posts and flexible mesh will extend along this edge and around the Pier terminus. The guardrail will be capped with a wood top rail.

39. The Pier will have a lower edge along its eastern side which will offer a range of views and has been designed to facilitate engagement with the water. Instead of a continuous guardrail, the Pier design includes a series of benches that will visually mark the edge of the pier, while still allowing access to the pier edge. The bench design has been adapted to the edge condition by incorporating a sloped face oriented toward the water which will function as a backrest.

40. A raised "fire feature" is proposed at the terminus of the Pier. The fire feature will consist of a stainless steel sculptural screen composed of several rods of varying length that are arranged and welded together in a manner that is evocative of an actual bonfire. The fire feature will be surrounded by a seat wall.

41. A series of floating wetlands will be located on the east side of the Pier near the bulkhead. In addition to providing visual interest for pedestrians and recreational boaters, the wetlands will help dissipate and filter water from the storm water interceptor located at 7th Street and the Wharf, and offer opportunities for wildlife habitat and aquatic vegetation.

Parking and Loading Facilities

42. As required under the approved first-stage PUD, the Applicant submitted an updated transportation study that provides an overview of the transportation elements of the second-stage PUD and a preliminary trip generation estimate for the Pier. (Ex. 20B.)

43. According to the transportation study, the Pier is not anticipated to generate any additional parking, loading, or trip generation impacts in and of itself, and thus will not require dedicated parking or loading facilities. Any parking and loading demand associated with the Pier would be negligible, and easily accommodated within the parking and loading facilities constructed for the Southwest Waterfront redevelopment project in general.

Updated Dock and Pier Relocation and Construction Plan

44. As part of its supplemental prehearing statement, the Applicant submitted an updated dock and pier relocation and construction plan (Ex. 20A2, Sheets 3.1–3.14) which reflects changes that are necessary to the dock relocation plan approved as part of the second-stage PUD for Phase 1 of the Southwest Waterfront redevelopment project. (*See* Order No. 11-03A(1), Finding of Fact No. 38 at p.10.)

45. The updated dock and pier relocation and construction plan was prepared in coordination with GPSA, and is necessary to permit construction of the Pier while ensuring that any approved, existing GPSA liveaboards affected by the construction of the Pier will be relocated within the new Wharf marina.

Project Benefits and Amenities

46. The Applicant was required by condition C.3 of Z.C. Order No. 11-03 to provide, for each second-stage PUD application, a detailed implementation plan for the public benefits and project amenities enumerated in Exhibit No. 60 and in Conditions Nos. B-3 through B-6 that identifies the benefits and amenities proposed for that particular second-stage application, the benefits and amenities that have already been implemented, the benefits and amenities yet to be implemented, and an overall status update and timetable for implementation. The Applicant provided this plan for this application. (Ex. 2E.)

47. The public benefits and project amenities associated with the second-stage PUD are part of the substantial number of public benefits and project amenities approved as part of the first-stage PUD, at which time the Commission considered the balance between the public benefits and project amenities offered, including the amount of affordable housing, and the degree of development incentives requested and any potential adverse effects of the first-stage PUD. The Commission found then, as it does now, that the public benefits and project amenities of the first-stage PUD are adequate to support the second-stage PUD.

Sustainable (LEED) Development

48. In keeping with the approved first-stage PUD, the overall Southwest Waterfront PUD will be designed to achieve the LEED-ND (v2009) certification at the Gold level or higher, and each new building of the Southwest Waterfront PUD will be designed to

achieve LEED-NC (v2009) or LEED-CS (v2009) Silver rating or higher. The Applicant has developed guidelines to ensure that the second-stage PUD has been designed to comply with the overall larger framework of LEED-ND (v2009) criteria.

Project Association

49. In accordance with the LDA, the Applicant will create and manage a project association for the PUD that will be responsible for maintenance and improvements of the private roadways, alleys, bicycle paths, promenade, sidewalks, piers, parks, and signage, within the PUD Site ("Project Association"). The Applicant will manage and operate the Project Association during the "developer control period," as defined in the Applicant's Declaration of Covenants with the District of Columbia. The developer control period begins upon the effective date of the Declaration of Covenants and ends five years after issuance, or deemed issuance, of the last certificate of completion for all portions of the Southwest Waterfront PUD, and unit certificates of completion for each residential condominium unit. The Project Association will fund maintenance and programming of the common elements of the Southwest Waterfront PUD through a Common Area Maintenance ("CAM") assessment charge to each development component within the Southwest Waterfront. Additionally, the Project Association will be responsible for programming and staging events within the PUD Site.

Certified Business Enterprises

50. The Applicant has entered into a Certified Business Enterprise ("CBE") Agreement, with the D.C. Department of Small and Local Business Development ("DSLBD") to achieve, at a minimum, a 35% participation by certified business enterprises in the contracted development costs for the design, development, construction, maintenance, and security for the project to be created as a result of the overall Southwest Waterfront PUD.

51. Furthermore, under the LDA, the Applicant has committed that 20% of the retail space throughout the Southwest Waterfront PUD will be set aside for "unique" and/or "local" businesses, which will include CBEs. As defined under the LDA, a "local" business is a retailer that is either a CBE or a retailer headquartered in the District of Columbia. A "unique" business is a retailer owning or operating fewer than eight retail outlets in the aggregate at the time such retailer enters into a retail lease at the PUD Site (inclusive of such retail outlet at the PUD Site). The Applicant will work collaboratively with business and community organizations throughout the District to identify and, where possible, mentor potential small restaurateurs and retailers to help them lease and successfully operate these retail spaces. The Applicant will also have kiosks along the promenades, and in parks and other public spaces, where even smaller local businesses can try out their retail concepts on a low-risk basis. Those kiosk operators who are successful may have the opportunity to move indoors, into one of the spaces reserved for unique and local business enterprises, thereby growing their business.

First Source Employment Opportunity

52. The Applicant has executed a First Source Employment Agreement with the Department of Employment Services to achieve the goal of utilizing District residents for at least 51% of the new jobs created by the overall Southwest Waterfront PUD. (See Exhibit 209 in Z.C. Case No. 11-03A.) Prior to issuance of a building permit for construction of the 7th Street recreation Pier, the Applicant shall complete the Construction Employment Plan of the First Source Employment Agreement outlining the hiring plan for the project. The Applicant's First Source Employment Agreement has provisions that 20% of new jobs will be filled by Ward 8 residents, and that good faith diligent efforts will be made to hire residents of Southwest Washington. In addition, 30% of apprenticeship opportunities shall be filled by residents residing east of the Anacostia River. The Applicant and the contractor, once selected, shall use best efforts to coordinate apprenticeship opportunities with construction trades organizations, the D.C. Students Construction Trades Foundation, and other training and job placement organizations to maximize participation by District residents in phases of construction of the Southwest Waterfront PUD.

Workforce Intermediary Program

53. As required under the approved first-stage PUD benefits and amenities, the Applicant has contributed $1 million to the District's Workforce Intermediary Program.

Development Incentives

54. No development incentives or technical zoning relief was requested as part of the second-stage PUD.

Design Flexibility

55. The Applicant requested flexibility with the design of the Pier in the following areas:

a. To make refinements to exterior building details and dimensions, or any other changes to comply with the District of Columbia Building Code or that are necessary to obtain a final building permit;

b. To vary the final selection of the exterior building and shade structure materials within the color ranges and material types as proposed, based on availability at the time of construction;

c. To vary the final selection of materials for pier components including the oversized swings; gangways; railings; and the structure, anchoring, and plant palette of the floating wetlands, within the color ranges and material types as proposed. The Kebony material proposed for the surface of the Pier shall be used subject to availability at the time of construction; and

d. To vary the final design, details, and material of the truncated/indicator domes proposed along a portion of the center of the Pier to provide pedestrians a detectable warning that marks the slope between the upper walkway and lower walkway.

Office of Planning Report

56. By report dated May 23, 2016, OP recommended approval of the second-stage PUD application, noting that the second-stage PUD would not be inconsistent with the first-stage PUD, the Comprehensive Plan, or the Zoning Regulation. (Ex. 23.)

57. OP did not object to the Applicant's request for flexibility for those aspects of the design of the Pier that are enumerated above.

58. Based on the analysis provided in the OP Report, the Commission finds the second-stage PUD to be consistent with the first-stage PUD; not inconsistent with the Comprehensive Plan, including the Generalized Policy Map and Future Land Use Map; and consistent with the Zoning Regulations.

DDOT Report

59. DDOT submitted a memorandum, dated May 23, 2016, in support of the second-stage PUD. (Ex. 24.) DDOT found that after a review of the case materials submitted by the Applicant, the proposed retail kiosk would not change the development program contemplated during the first-stage PUD, and thus should not substantially affect transportation needs. In addition, DDOT noted that the Pier would generate very few peak period trips, would have negligible loading and trash removal demands, and did not have dedicated vehicle access. As a result of its analysis, DDOT concluded that the second-stage PUD will not impose a significant burden on the existing neighborhood transportation system.

ANC Report

60. On March 14, 2016, ANC 6D voted 6-0-0 to support the second-stage PUD. The report of the ANC was submitted to the case record on March 22, 2016. (Ex. 15.)

61. In its report, the ANC states its support for the construction of the Pier, and associated floating docks and floating wetlands, and recognized the recreational value that the pier will bring to the neighborhood, the District, and the region. The ANC further states that the Pier "will be a positive addition to the array of attractions that will make The Wharf the most exciting development in the District of Columbia."

62. At the public hearing, the ANC reiterated its support for the second-stage PUD, and in particular the amenities and features that will be provided along the length of the Pier and

the direct access to the water that will be afforded by the lower floating dock and kayak launch. The ANC encouraged the Commission to request the Applicant to continue working with GPSA, CYC, and the SWNA throughout construction of the Pier, and during preparation of any regulations that may be developed regarding access, us, and operation of the Pier.

63. The Commission accords great weight to the views of the ANC and finds that the Applicant has responded appropriately to the ANC's comments.

Metropolitan Police Department

64. By letter dated May 24, 2016, the Metropolitan Police Department ("MPD") submitted comments on the second-stage PUD. (Ex. 31.) As part of its comments, MPD recommended that a designated area on the Pier be reserved for responding Harbor Patrol vessels and Fireboats in the case of emergency.

65. In response to MPD's comments, the Applicant testified that there are two locations within the redevelopment project that will provide access for MPD vessels: one at Transit Pier and the other at the Market Pier day docks. With respect to the Pier, the Applicant stated that emergency response vessels will be able to "tie off" at the Gangplank Marina and access the Pier via the Wharf promenade. Finally, the Applicant confirmed that fire truck access will be provided landside along the length of Wharf Street, S.W. Based on the Applicant's testimony, the Commission finds that the Applicant has adequately addressed MPD's comments.

Commission of Fine Arts

66. At its July 16, 2015, meeting, the U.S. Commission of Fine Arts ("CFA") reviewed and granted concept approval to the Pier. (Ex. 2G.)

Capital Yacht Club

67. The CYC registered as a party in support. However, CYC did raise several issues about the second-stage PUD. First, they expressed concerns over the potential for excessive noise and light, as well as late-night activity on the Pier that could disturb CYC members' enjoyment while spending time on their boats. Second, CYC stated concerns regarding potential adverse impacts to traffic patterns and safety caused by the introduction of additional motorized and nonnotarized vessels along the Washington Channel, some perhaps operated by inexperienced users. According to CYC, this increase in the number of vessels utilizing the Washington Channel could make it difficult for members to maneuver their boats in and out of the CYC docks and fairways. CYC also sought assurances as to how the Applicant would inform those renting non-motorized vessels from the Pier would be informed of where they can and cannot go within the Washington Channel. In addition, CYC commented that it had not received any assurances from the

Applicant that access to the CYC marina would remain unimpeded throughout the entire Pier construction period. Ultimately, CYC stated they desired to see a comprehensive plan prepared among all stakeholders that would regulate motorized and non-motorized boat use and safety within the Washington Channel.

68. With respect to access to the CYC marina during construction of the Pier, the Applicant confirmed that access to the CYC marina would remain open throughout the entire construction period. The specifics regarding marina access during construction would be clearly described in the construction staging plan which can only be developed once the Applicant selects a contractor. The Applicant stated that development of the Pier construction staging plan will be coordinated with all interested stakeholders, including the CYC, through the ongoing monthly construction management meetings that are held for the Southwest Waterfront redevelopment project. The Commission finds this to be an acceptable approach to addressing this particular CYC concern.

69. In response to CYC's stated concerns regarding noise and activity on the Pier, the Applicant provided testimony regarding the measures it has already taken to address these issues through the design and programming of the Pier, and as part of its onsite security program. These measures are reiterated in the Applicant's post-hearing submission. In addition, as requested by the Commission, the Applicant acknowledged in its post-hearing submission that there are potential additional steps that, if needed, could be implemented to properly regulate activities on the Pier. These additional steps could include, among others, the posting of signage informing visitors to be aware of their surroundings and to exercise courtesy during early-morning and late evening hours, and the establishment and enforcement of specified operating hours on the Pier.

70. As to the concerns expressed by CYC regarding adverse impacts to traffic patterns and safety along the Washington Channel caused by the increased use of the Channel by operators of motorized and non-motorized vessels, the Commission finds that regulation of the Channel is not the responsibility of the Applicant. Rather, based on the discussion held at the public hearing the authority to regulate the operation or vessels in the Washington Channel is held by the District's Harbor Master, a position within MPD's Harbor Patrol unit.

71. As to the interest expressed by CYC, and other persons and organizations testifying in support and opposition at the public hearing, of the need for a comprehensive safety plan for the Washington Channel, while the Applicant agreed that safety for all users of the Channel is of upmost importance, and stated its intent to be an active participant in the development of a safety plan if one was to be prepared, the Commission does not view the responsibility of leading the development of such safety plan as resting with the Applicant.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)

2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a first-stage PUD modification and second-stage PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, or for yards and courts. The Commission may also approve uses that are permitted as special exceptions that would otherwise require approval by the District of Columbia Board of Zoning Adjustment.

3. Development of the property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments, which will offer a project with more attractive and efficient overall planning and design, not achievable under matter-of-right development.

4. Both the PUD site and the Property meet the minimum area requirements of § 2401.1 of the Zoning Regulations.

5. This second-stage PUD is substantially in accordance with the elements, guidelines, and conditions of the first-stage PUD, and thus, should be granted second-stage PUD approval. Pursuant to § 2408.6, if the Commission finds the second-stage PUD application to be in accordance with the intent and purpose of the Zoning Regulations, the PUD process, and the first-stage PUD approval, the Commission shall approve the second-stage PUD, including any guidelines, conditions, and standards that are necessary to carry out the Commission's decision. As set forth above, the Commission so finds.

6. The second-stage PUD does not require any technical relief from the Zoning Regulations, and the Applicant's request for flexibility for certain design aspects of the second-stage PUD are appropriate. Moreover, the project benefits and amenities are reasonable trade-offs for the requested design flexibility.

7. The second-stage PUD, as approved by the Commission, complies with the applicable height, bulk and density standards of the PUD guidelines, and the parameters of the first-stage PUD. The impacts of the second-stage PUD on the surrounding area are not unacceptable. Accordingly, the second-stage PUD should be approved.

8. Approval of the second-stage PUD is appropriate because the proposed development is not inconsistent with the Comprehensive Plan for the National Capital. In addition, the

proposed development will promote the orderly development of the Property, and PUD Site, in conformity with the entirety of the Zone Plan, as embodied in the Zoning Regulations and Map of the District of Columbia.

9. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)), to give great weight to OP recommendations. The Commission carefully considered the OP report and its oral testimony at the hearing. As explained in this decision, the Commission finds OP's recommendation to grant the application persuasive.

10. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and concerns raised in the written report of the affected ANC. The Commission has carefully considered the ANC 6D's recommendation for approval, and finds that the Applicant has successfully addressed all of the comments and questions raised at the public hearing.

11. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for approval of the second-stage PUD for the 7th Street Recreation Pier of the Southwest Waterfront redevelopment project, subject to the guidelines, conditions and standards set forth below.

A. Project Development

1. The second-stage PUD shall be developed in accordance with the plans and drawings submitted by the Applicant dated May 13, 2016, and marked as Exhibits 20A1-20A2 in the case record, as updated/revised by the Applicant as part of its post-hearing submission, dated June 15, 2016, marked as Exhibits 36B1–36B2 (collectively, the "Plans"), and as modified by the guidelines, conditions and standards herein.

2. The Applicant shall have flexibility with the design of the second-stage PUD in the following areas:

   a. To make refinements to exterior building details and dimensions, or any other changes to comply with the District of Columbia Building Code or that are necessary to obtain a final building permit;

b. To vary the final selection of the exterior building and shade structure materials within the color ranges and material types as proposed, based on availability at the time of construction;

c. To vary the final selection of materials for pier components including the oversized swings; gangways; railings; and the structure, anchoring, and plant palette of the floating wetlands, within the color ranges and material types as proposed. The Kebony material proposed for the surface of the Pier shall be used subject to availability at the time of construction; and

d. To vary the final design, details, and material of the truncated/indicator domes proposed along a portion of the center of the Pier to provide pedestrians a detectable warning that marks the slope between the upper walkway and lower walkway.

B. Public Benefits

1. ***Prior to issuance of a certificate of occupancy***, the Applicant shall establish the Project Association for the Southwest Waterfront PUD that will be responsible for maintenance and improvements of the private roadways, alleys, bicycle paths, promenade, sidewalks, piers, parks, and signage within the PUD Site. Additionally, the Project Association will be responsible for programming and staging events within the PUD Site. The Project Association will fund maintenance and programming elements of the common elements of the Southwest Waterfront PUD through a Common Area Maintenance ("CAM") assessment charge to each development component within the Southwest Waterfront PUD. The Applicant shall create, manage and operate the Project Association during the "developer control period," which begins on the effective date of the Declaration of Covenants between the District of Columbia and the Applicant and ends five years after issuance, or deemed issuance, of the last certificate of completion for all portions of the Southwest Waterfront PUD, and unit certificates of completion for each residential condominium unit.

2. ***During construction of the Southwest Waterfront PUD***, the Applicant shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services to achieve the goal of utilizing District residents for at least 51% of the new jobs created by the Southwest Waterfront PUD. Prior to issuance of a building permit for the construction of the Pier, the Applicant shall complete the Construction Employment Plan of the First Source Employment Agreement outlining the hiring plan for the project. The Applicant and the contractor, once selected, shall use best efforts to coordinate apprenticeship opportunities with construction trades organizations, the D.C. Students Construction Trades Foundation, and other training and job placement

organizations to maximize participation by District residents in the training and apprenticeship opportunities in the overall Southwest Waterfront PUD.

3. ***During the life of the project***, in accordance with the LDA, the Applicant shall abide by the executed CBE Agreement with the Department of Small and Local Business Development to achieve, at a minimum, 35% participation by certified business enterprises in the contracted development costs for the design, development, construction, maintenance, and security for the project to be created as a result of the overall Southwest Waterfront PUD. (Z.C. Case No. 11-03, Exhibit No. 4J.) The Applicant shall comply with the LDA requirement to lease 20% of the retail space throughout the Wharf to "unique" and/or "local" businesses, which will include CBEs.

C. Miscellaneous

1. No building permit shall be issued for the second-stage PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division, DCRA. Such covenant shall bind the Applicant and all successors in title to construct and use the property in accordance with this order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.

2. The second-stage PUD shall be valid for a period of two years from the effective date of Z.C. Order No. 11-03E. Within such time, an application must be filed for a building permit for the construction of the project as specified in 11 DCMR § 2409.1. Construction of the project must commence within three years of the effective date of Zoning Commission Order No. 11-03E.

3. 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 and 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 that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On June 2, 2016, upon the motion of Commissioner Miller, as seconded by Vice Chairperson Cohen, the Zoning Commission **APPROVED** the application at the conclusion of its public hearing by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On July 11, 2016, upon the motion of Chairman Hood, as seconded by Commissioner Miller, the Zoning Commission **ADOPTED** this Order by the Zoning Commission at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provision of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*, that is on August 5, 2016.