

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council schedules a public hearing on Bill 21-673, Personal Delivery Device Act of 2016
- D.C. Council establishes the D.C. Criminal Code Reform Commission to develop comprehensive criminal code reform recommendations
- D.C. Commission on the Arts and Humanities solicits applications from District curators to present exhibition concepts for the Commission's Gallery
- Office of the State Superintendent of Education announces funding availability for the Fiscal Year 2017 DC Early Literacy Intervention Grants program
- Department of Energy and Environment announces funding availability for the Community Stormwater Solutions Grants program
- D.C. Housing Authority changes the recertification rules for the elderly, disabled, and Housing Choice Voucher Program families from biennial to triennial
- D.C. Public Schools schedules a public hearing on the Fiscal Year 2018 Budget
- District Department of Transportation sets regulations for the placement of publisher boxes on public space in the District

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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

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

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Legal Effect of Publication - Certification

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

DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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

MURIEL E. BOWSER
MAYOR

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ADMINISTRATOR

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

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

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

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

PR21-1017 Public Service Commission Richard Beverly Confirmation Resolution of 2016

Intro. 11-8-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole, Subcommittee on Local Business Development and Utilities

PR21-1018 Agreement between the Not-For-Profit Hospital Corporation (United Medical Center) and 1199 SEIU Healthcare Workers East Approval Resolution of 2016

Intro. 11-8-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

PR21-1021 Fifth Street, NW and I Street, NW Disposition Extension Approval Resolution of 2016

Intro. 11-10-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

PR21-1022 Hill East Redevelopment – Phase 1: Parcels F-1 and G-1 Extension Approval
Resolution of 2016

Intro. 11-10-16 by Chairman Mendelson at the request of the Mayor and
referred to the Committee of the Whole

PR21-1023 Fiscal Year 2018 Budget Submission Requirements Resolution of 2016

Intro. 11-15-16 by Chairman Mendelson and Retained by the Council

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

NOTICE OF PUBLIC HEARING ON

**B21-673, the Personal Delivery Device Act of 2016;
B21-781, the ATV Fuel Prohibition Amendment Act of 2016; and
B21-923, the Pedestrian and Bicycle Safety Technical Amendment Act of
2016**

Monday, December 12, 2016
at 11:00 a.m.
in Room 500 of the
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

On Monday, December 12, 2016, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public hearing on B21-673, the Personal Delivery Device Act of 2016; B21-781, the ATV Fuel Prohibition Amendment Act of 2016; and B21-923, the Pedestrian and Bicycle Safety Technical Amendment Act of 2016. The proceedings will begin at 11:00 a.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

B21-673, the Personal Delivery Device Act of 2016 would authorize the operation of personal delivery devices in all areas of the District excluding the central business district. The bill would limit the speed and weight of the devices, require them to obey traffic signals, and allow the District Department of Transportation (“DDOT”) to issue rules to implement the bill’s provisions. B21-781, the ATV Fuel Prohibition Amendment Act of 2016 would prohibit retail service stations from selling or dispensing motor fuel for delivery into an all-terrain vehicle or dirt bike. B21-923, the Pedestrian and Bicycle Safety Technical Amendment Act of 2016 would make changes to reporting and notification requirements, allow an all-terrain vehicle or dirt bike to remain on public space while it is being loaded onto another vehicle for transport, clarify the penalties for motor vehicle infractions committed in a work zone, and add to the list of infractions for which an individual may be required to participate in the District’s ignition interlock program.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official record. Anyone wishing to testify should contact Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, at (202) 724-8062 or via e-mail at abenjamin@dccouncil.us. Persons representing organizations will have five minutes to present their testimony. Individuals will have three minutes to present their testimony. Witnesses should bring 5 copies of their

written testimony and should submit a copy of their testimony electronically to abenjamin@dccouncil.us.

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. They may also be e-mailed to abenjamin@dccouncil.us or faxed to (202) 724-8118. The record will close at the end of the business day on December 20, 2016.

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

**COUNCILMEMBER YVETTE M. ALEXANDER, CHAIRPERSON
COMMITTEE ON HEALTH AND HUMAN SERVICES ANNOUNCES A
PUBLIC HEARING**

TO DISCUSS

**BILL 21-883, THE “ACCESS TO TREATMENT FOR ANAPHYLAXIS AMENDMENT
ACT OF 2016”**

**WEDNESDAY, DECEMBER 7, 2016
11:00 A.M., ROOM 500, JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004**

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health and Human Services, announces a public hearing to discuss Bill 21-883, the “Access to Treatment for Anaphylaxis Amendment Act of 2016.” The hearing will take place at 11:00 a.m. on Wednesday, December 7, 2016 in Room 500 of the John A. Wilson Building.

The purpose of Bill 21-883 is to establish what entities are authorized to administer an epinephrine auto-injector to individuals experiencing anaphylaxis and allows licensed physicians to prescribe the epinephrine auto-injectors to authorized entities. Agents of the authorized entities must be acting in good faith and must have completed a training program conducted by a national recognized organization experienced in training laypersons in emergency health treatment. The bill also provides immunity from civil and criminal liability to health care professionals who prescribe and agents of an authorized entity who provide or administer an epinephrine auto-injector.

Those who wish to testify should contact Malcolm Cameron, Legislative Analyst to the Committee on Health and Human Services, at 202-741-0909 or via e-mail at mcameron@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Monday, December 5, 2016. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

For those unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements can be emailed to mcameron@dccouncil.us or mailed to Malcolm Cameron at the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Room 115, Washington, D.C., 20004. The record will close at 5:00 p.m. on Wednesday, December 21, 2016.

COUNCIL OF THE DISTRICT OF COLUMBIA
SUBCOMMITTEE ON LOCAL BUSINESS DEVELOPMENT AND
UTILITIES

NOTICE OF PUBLIC ROUNDTABLE

1350 Pennsylvania Avenue, NW, Washington, DC 20004

COUNCILMEMBER CHARLES ALLEN, CHAIRPERSON
COMMITTEE OF THE WHOLE: SUBCOMMITTEE ON LOCAL BUSINESS
DEVELOPMENT AND UTILITIES

ANNOUNCES A PUBLIC ROUNDTABLE ON

**Proposed Resolution 21-1017, Public Service Commission Richard Beverly
Confirmation Resolution of 2016**

on

**Wednesday, December 7, 2016, 10 a.m.
Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Councilmember Charles Allen, Chairperson of the Subcommittee on Local Business Development and Utilities, announces a public roundtable on **PR 21-1017**, the Public Service Commission Richard Beverly Confirmation Resolution of 2016. The roundtable will be held at 10:00 a.m. on Wednesday, December 7, 2016 in room 412 of the John A. Wilson Building.

The stated purpose of the resolution is to confirm the nominee as a member of the Public Service Commission. The Public Service Commission is an independent body whose mission is to serve the public interest by ensuring that financially healthy electric, natural gas, and telecommunications companies provide safe, reliable, and quality utility services at reasonable rates for District of Columbia residential, business, and government customers. Board members are appointed by the Mayor and confirmed by the Council for a four-year term.

The Subcommittee invites the public to testify. Those who wish to testify are asked to contact Ms. Jamie Gorosh, Legal Fellow with the Subcommittee on Local Business Development and Utilities, via email at jgorosh@dccouncil.us or at (202) 741-0929 to provide your name, address, telephone number, organizational affiliation and title (if any), by close of business Monday, December 5, 2016. Persons wishing to testify are encouraged to bring 15 copies of written testimony to the roundtable. If electronic testimony is submitted by the close of business on December 5, 2016, the testimony will be distributed to Councilmembers before the roundtable. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. A copy of the legislation can be obtained through the Legislative Services Division of the Secretary of the Council's office or at <http://lims.dccouncil.us>.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to jgorosh@dccouncil.us or to the Subcommittee on Local Business Development and Utilities, 1350 Pennsylvania Avenue, N.W., Suite 406, Washington, D.C. 20004. The record will close at 5:00 p.m. on December 9, 2016.

COUNCIL OF THE DISTRICT OF COLUMBIA
CONSIDERATION OF TEMPORARY LEGISLATION

B21-943, H Street, N.E., Retail Priority Area Clarification Temporary Amendment Act of 2016 was adopted on first reading on November 15, 2016. This temporary measure was considered in accordance with Council Rule 413. A final reading on this measure will occur on December 6, 2016.

COUNCIL OF THE DISTRICT OF COLUMBIA
EXCEPTED SERVICE APPOINTMENTS AS OF OCTOBER 31, 2016

NOTICE OF EXCEPTED SERVICE EMPLOYEES

D.C. Code § 1-609.03(c) requires that a list of all new appointees to Excepted Service positions established under the provisions of § 1-609.03(a) be published in the D.C. Register. In accordance with the foregoing, the following information is hereby published for the following positions.

COUNCIL OF THE DISTRICT OF COLUMBIA			
NAME	POSITION TITLE	GRADE	TYPE OF APPOINTMENT
Strickland, Andre	Constituent Services Coordinator	1	Excepted Service - Reg Appt
Porcello, Michael	Legislative Aide	4	Excepted Service - Reg Appt
Fleitman, Joshua	Communications Specialist	1	Excepted Service - Reg Appt
Bledsoe, Breanna	Legislative Counsel	5	Excepted Service - Reg Appt

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Reprogramming Requests

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

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

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

Reprog. 21-260: Request to reprogram \$3,000,950 of Fiscal Year 2017 Pay-As-You-Go (Paygo) Capital funds budget authority and allotment within the District Department of Transportation (DDOT) was filed in the Office of the Secretary on November 14, 2016. This reprogramming is needed in FY 2017 to restore capital budget to the Power Line Undergrounding project that was reduced in a separate FY 2016 Paygo capital fund reprogramming request.

RECEIVED: 14 day review begins November 15, 2016

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND****

Posting Date: **November 4, 2016
Petition Date: **December 19, 2016
Hearing Date: **January 2, 2017

License No.: ABRA-093103
Licensee: 1001 H Street, LLC
Trade Name: Ben's Chili Bowl/Ben's Upstairs/Ten 01
License Class: Retailer's Class "C" Restaurant
Address: 1001 H Street, N.E.
Contact: Kemal Ben Ali: (202) 667-6608

WARD 6 ANC 6A SMD 6A01

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

NATURE OF SUBSTANTIAL CHANGE

Applicant is requesting an Entertainment Endorsement to offer live entertainment.

HOURS OF OPERATION

Sunday through Thursday 6 am – 2 am, Friday & Saturday 6 am – 3 am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

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

PROPOSED HOURS FOR LIVE ENTERTAINMENT

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: November 18, 2016
Petition Date: January 2, 2017
Hearing Date: January 16, 2017
Protest Date: March 15, 2017

License No.: ABRA-104641
Licensee: Webwines, LLC
Trade Name: Best Deals Wine
License Class: Retailer’s Class “A” Liquor Store (Online Only)
Address: 175 R Street, N.E.
Contact: Margie A. S. Lehrman: (202) 449-3739

WARD 5

ANC 5E

SMD 5E03

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 March 15, 2017 at 1:30pm.

NATURE OF OPERATION

New online-only class A retailer. This location will not be open to the public.

HOURS OF OPERATION/ALCOHOLIC BEVERAGE SALES

Sunday through Saturday 9:00 am – 12:00 am

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

Posting Date: November 18, 2016

Petition Date: January 2, 2017

Hearing Date: January 16, 2017

License No.: ABRA-026466

Licensee: Marabu, Inc.

Trade Name: Bukom Cafe

License Class: Retailer's Class "C" Tavern

Address: 2442 18th Street, N.W.

Contact: Justice Matey: 202-265-4600

WARD 1

ANC 1C

SMD 1C03

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

NATURE OF SUBSTANTIAL CHANGE

Request to add an Entertainment Endorsement that will include cover charge.

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

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

PROPOSED HOURS OF LIVE ENTERTAINMENT

Sunday through Saturday 9:00 pm to 2:00am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON

**11/18/2016

****READVERTISEMENT**

Notice is hereby given that:

License Number: ABRA-070728

License Class/Type: C Tavern

Applicant: Etete Ethiopian Cuisine Llc

Trade Name: Etete Ethiopian Cuisine

ANC: 1B02

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

1942 9TH ST NW, WASHINGTON, DC 20001

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

**1/02/2017

A HEARING WILL BE HELD ON:

**1/16/2017

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

ENDORSEMENT(S): Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 2 am	11 am - 2 am	10 pm - 2 am
Monday:	9 am - 2 am	9 am - 2 am	10 pm - 2 am
Tuesday:	9 am - 2 am	9 am - 2 am	10 pm - 2 am
Wednesday:	9 am - 2 am	9 am - 2 am	10 pm - 2 am
Thursday:	9 am - 2 am	9 am - 2 am	10 pm - 2 am
Friday:	9 am - 3 am	9 am - 3 am	10 pm - 3 am
Saturday:	9 am - 3 am	9 am - 3 am	10 pm - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON

**10/28/2016

****RESCIND**

Notice is hereby given that:

License Number: ABRA-070728

License Class/Type: C Tavern

Applicant: Etete Ethiopian Cuisine Llc

Trade Name: Etete Ethiopian Cuisine

ANC: 1B02

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

1942 9TH ST NW, WASHINGTON, DC 20001

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

**12/12/2016

A HEARING WILL BE HELD ON:

**12/27/2016

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

ENDORSEMENT(S): Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 2 am	11 am - 2 am	10 pm - 2 am
Monday:	9 am - 2 am	9 am - 2 am	10 pm - 2 am
Tuesday:	9 am - 2 am	9 am - 2 am	10 pm - 2 am
Wednesday:	9 am - 2 am	9 am - 2 am	10 pm - 2 am
Thursday:	9 am - 2 am	9 am - 2 am	10 pm - 2 am
Friday:	9 am - 3 am	9 am - 3 am	10 pm - 3 am
Saturday:	9 am - 3 am	9 am - 3 am	10 pm - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
11/18/2016

Notice is hereby given that:

License Number: ABRA-001008

License Class/Type: C Club

Applicant: American Foreign Service

Trade Name: Foreign Service Club

ANC: 2A07

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

2101 E ST NW, Washington, DC 20037

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

1/2/2017

A HEARING WILL BE HELD ON:

1/16/2017

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

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 12 am	11 am - 12 am	-
Monday:	11 am - 12 am	11 am - 12 am	-
Tuesday:	11 am - 12 am	11 am - 12 am	-
Wednesday:	11 am - 12 am	11 am - 12 am	-
Thursday:	11 am - 12 am	11 am - 12 am	-
Friday:	11 am - 12 am	11 am - 12 am	-
Saturday:	11 am - 12 am	11 am - 12 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
11/18/2016**

Notice is hereby given that:

License Number: ABRA-077268

License Class/Type: B Retail - Grocery

Applicant: 512 Rhode Island Avenue LLC

Trade Name: Grapes n' Hopes Market

ANC: 6E02

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

512 RHODE ISLAND AVE NW

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

01/02/2017

A HEARING WILL BE HELD ON:

01/16/2017

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	10 am - 6 pm	10 am - 6 pm
Monday:	7 am - 8 pm	9 am - 8 pm
Tuesday:	7 am - 8 pm	9 am - 8 pm
Wednesday:	7 am - 8 pm	9 am - 8 pm
Thursday:	7 am - 8 pm	9 am - 8 pm
Friday:	7 am - 8 pm	9 am - 8 pm
Saturday:	10 am - 8 pm	9 am - 8 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
11/18/2016

Notice is hereby given that:

License Number: ABRA-102178

License Class/Type: C Tavern

Applicant: Piassa, Inc.

Trade Name: Piassa Ethiopian Cuisine & Cafe

ANC: 2F06

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

1336 9TH ST NW, #2, WASHINGTON, DC 20001

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

Hours of Operation

1/2/2017

A HEARING WILL BE HELD ON:

1/16/2017

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

ENDORSEMENT(S): Entertainment

Days		Hours of Sales/Service	Hours of Entertainment
Sunday:	9 am - 1:30 am	10 am - 1:30 am	6 pm - 1:30 am
Monday:	9 am - 1:30 am	9 am - 1:30 am	6 pm - 1:30 am
Tuesday:	9 am - 1:30 am	9 am - 1:30 am	6 pm - 1:30 am
Wednesday:	9 am - 1:30 am	9 am - 1:30 am	6 pm - 1:30 am
Thursday:	9 am - 1:30 am	9 am - 1:30 am	6 pm - 1:30 am
Friday:	9 am - 2:30 am	9 am - 2:30 am	6 pm - 2:30 am
Saturday:	9 am - 2:30 am	9 am - 2:30 am	6 pm - 2:30 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: November 18, 2016
Petition Date: January 2, 2017
Hearing Date: January 16, 2017

License No.: ABRA-101399
Licensee: Timber Pizza Company, LLC
Trade Name: Timber Pizza Company
License Class: Retailer’s Class “C” Restaurant
Address: 809 Upshur Street, N.W.
Contact: Andrew Dana: 202-258-6832

WARD 4

ANC 4C

SMD 4C07

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

NATURE OF SUBSTANTIAL CHANGE

Applicant requests to add a Sidewalk Cafe with 12 seats.

CURRENT HOURS OF OPERATION

Sunday 7:00 am – 1:00 am, Monday through Saturday 7:00 am - 2:00 am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION

Sunday 8:00 am – 1:00 am, Monday through Saturday 8:00 am - 2:00 am

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

Sunday through Saturday 12:00 pm - 10:00 pm

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF PUBLIC HEARING AND
SOLICITATION OF PUBLIC COMMENT

Fiscal Year 2017

Weatherization Assistance Program Draft State Plan Revision 1

The Department of Energy and Environment (the Department) invites the public to present its comments at a public hearing on the fiscal year (FY) 2017 Weatherization Assistance Program (WAP) Draft State Plan Revision 1. The U.S. Department of Energy (DOE) requires that any changes made to the budget in the amount over 10% of the total award be announced to the public.

Public Hearing: Tuesday, November 29, 2016

HEARING DATE: Tuesday, November 29, 2016
TIME: 6:00 pm
PLACE: Department of Energy and Environment
1200 First Street, NE, Washington, DC 20002
5th Floor
NOMA Gallaudet (Red Line) Metro Stop

Beginning 11/18/2016, the full text of the **FY 2017 WAP Draft State Plan Revision 1** will be available online at the Department's website. A person may obtain a copy of the FY 2017 WAP Draft State Plan Revision 1 by any of the following means:

Download from the Department's website, <http://doee.dc.gov/service/weatherization-assistance-program>. Look for "FY17 WAP Draft State Plan Revision 1" near the bottom of the page. Follow the link to the page, where the document can be downloaded in a PDF format;

Email a request to WAPStatePlan@dc.gov with "Request copy of FY 2017 WAP" in the subject line.

Pick up a copy in person from the Department's reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. To make an appointment, call the Department's reception at (202) 535-2600 and mention this Notice by name.

Write the Department at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Kenley Farmer RE: FY17 WAP Draft State Plan Revision 1" on the outside of the envelope.

The deadline for comments is 11/29/16 at the conclusion of the public hearing. All persons present at the hearing who wish to be heard may testify in person. All presentations shall be limited to five minutes. Persons are urged to submit duplicate copies of their written statements.

Persons may also submit written testimony by email, with a subject line of “FY17 WAP Draft State Plan Revision 1”, to WAPStatePlan@dc.gov. Comments clearly marked “FY17 WAP Draft State Plan Revision 1” may also be hand delivered or mailed to the Department’s offices at the address listed above. All comments should be received no later than the conclusion of the public hearing on Tuesday, November 29, 2016. The Department will consider all comments received in its final decision.

DISTRICT OF COLUMBIA PUBLIC SCHOOLS**PUBLIC HEARING NOTICE****FISCAL YEAR 2018 BUDGET**

Tuesday, November 29, 2016; 6:00PM – 8:00PM
Kelly Miller Middle School
301 49th St NE
Washington, DC 20019

The District of Columbia Public Schools (DCPS) will convene a public hearing on Tuesday, November 29, 2016 from 6:00PM – 8:00PM in the auditorium of Kelly Miller Middle School located at 301 49th St NE, Washington, DC 20019. The purpose of the hearing is to gather feedback from the public about the upcoming Fiscal Year 2018 budget.

Members of the public are invited to provide testimony at the hearing. Individuals or groups wishing to testify should register online at <http://bit.ly/2016BudgetHearing>. Testimony will be limited to five minutes during the hearing. Individuals or groups with additional feedback may submit written documentation to supplement their testimony.

If an individual or group is unable to register online, please contact Allen Francois at (202) 442-5112.

The registration deadline is 3:00PM on Friday, November 25, 2016.

Witnesses should bring five (5) copies of their documentation, including a written copy of their testimony and any supplemental information. All documents will be included as part of the official record.

The official record of this hearing will be transmitted to the Mayor of the District of Columbia and to the Council of the District of Columbia pursuant to DC Official Code § 38-917(1).

Interpretation services are available upon request. Please include any requests for interpretation services during the registration process.

Any additional questions or concerns should be directed to Allen Francois at 202-442-5112 or allen.francois@dc.gov.

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, JANUARY 11, 2017
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 SEVEN

19271A **Application of DGS of DC**, pursuant to 11 DCMR Subtitle Y § 704, for a
ANC-7C modification of significance of BZA Order No. 19271, now requesting special
exception relief under the rooftop mechanical screening requirements of Subtitle
C § 1500.6, to modernize rooftop equipment on an existing public school in the
R-2 Zone at premises 4800 Meade Street N.E. (Square 5159, Lot 801).

WARD SIX

19396 **Application of Hatem Hatem**, pursuant to 11 DCMR Subtitle X, Chapters 9
ANC-6B and 10, for a special exception under Subtitle E § 5201, from the RF-use
requirements of Subtitle U § 320.2(m), and a variance from the RF-use
requirements of Subtitle U § 320.2(d), to permit the construction of a three-story
rear addition to an existing three-unit apartment house in the RF-3 Zone at
premises 417 4th Street S.E. (Square 793, Lot 828).

WARD EIGHT

19400 **Application of Alabama Avenue, LLC**, pursuant to 11 DCMR Subtitle X,
ANC-8B Chapter 9, for a special exception under the RA-use requirements of Subtitle U §
421.1, to allow the construction of a 30-unit apartment building in the RA-1 Zone
at premises 2495 Alabama Avenue S.E. (Square 5730, Lots 13, 15, 17, 19, 21,
23, and 913).

WARD ONE

19401 **Application of 3645 Warder LLC**, pursuant to 11 DCMR Subtitle X,
ANC-1A Chapter 9, for a special exception under the RF-use requirements of Subtitle U §
320.2, to permit the conversion of an existing one-family dwelling into a three-
unit apartment house in the RF-1 Zone at premises 3645 Warder Street N.W.
(Square 3034, Lot 279).

BZA PUBLIC HEARING NOTICE

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WARD SIX

19402 **Application of Cluss Alley LLC**, pursuant to 11 DCMR Subtitle X, Chapter
ANC-6B 9, for special exceptions under the alley width requirements of Subtitle C §
303.3(a), and the rear yard requirements of Subtitle E § 5104.1, to subdivide a lot
and permit the conversion of an existing building into two one-family alley
dwellings in the RF-1 Zone at premises 1237 (rear) C Street S.E. (Square 1017,
Lot 79).

WARD SIX

19404 **Application of Bellview Development Inc.**, pursuant to 11 DCMR Subtitle
ANC-6C X, Chapter 10, for variances from the lot area requirements of Subtitle E § 201.1,
the lot occupancy requirements of Subtitle E § 504, and the rear yard
requirements of Subtitle E § 506, to permit the construction of a three-story flat
in the RF-3 Zone at premises 434 3rd Street N.E. (Square 755, Lot 816).

WARD THREE

19406 **Application of Paige Reffe**, pursuant to 11 DCMR Subtitle X, Chapter 9, for
ANC-3C a special exception under Subtitle D § 5201, from the lot occupancy requirements
of Subtitle D § 304.1, the rear yard requirements of Subtitle D § 306.1, and the
pervious surface requirements of Subtitle D § 308.1, to allow a two-story
addition to an existing one-family dwelling in the R-1-B Zone at premises 3300
Lowell Street N.W. (Square 2091, Lot 28).

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**

BZA PUBLIC HEARING NOTICE

JANUARY 11, 2017

PAGE NO. 3

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.

Do you need assistance to participate?

Amharic

ለመሳተፍ ዕርዳታ ያስፈልግዎታል?

የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጎም)

ካስፈለገዎት እባክዎን ከስብሰባው አምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-

0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ። እነኝህ አገልግሎቶች የሚሰጡት በነጻ ነው።

Chinese

您需要有人帮助参加活动吗?

如果您需要特殊便利设施或语言协助服务(翻译或口译),请在见面之前提前五天与 Zee Hill 联系,电话号码 (202) 727-0312, 电子邮件

Zelalem.Hill@dc.gov。这些是免费提供的服务。

French

Avez-vous besoin d’assistance pour pouvoir participer ? Si vous avez besoin d’aménagements spéciaux ou d’une aide linguistique (traduction ou interprétation), veuillez contacter Zee Hill au (202) 727-0312 ou à Zelalem.Hill@dc.gov cinq jours avant la réunion. Ces services vous seront fournis gratuitement.

Korean

참여하시는데 도움이 필요하세요?

특별한 편의를 제공해 드려야 하거나, 언어 지원 서비스(번역 또는 통역)가 필요하시면,

회의 5일 전에 Zee Hill 씨께 (202) 727-0312로 전화 하시거나 Zelalem.Hill@dc.gov 로

이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

Spanish

¿Necesita ayuda para participar?

Si tiene necesidades especiales o si necesita servicios de ayuda en su idioma (de traducción o interpretación), por favor comuníquese con Zee Hill llamando al (202) 727-0312 o escribiendo a Zelalem.Hill@dc.gov cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.

BZA PUBLIC HEARING NOTICE

JANUARY 11, 2017

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Vietnamese

Quý vị có cần trợ giúp gì để tham gia không?

Nếu quý vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc Zelalem.Hill@dc.gov trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

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

FREDERICK L. HILL, CHAIRPERSON
ANITA BUTANI D'SOUZA, VICE CHAIRPERSON
JEFFREY L. HINKLE, NATIONAL CAPITAL PLANNING COMMISSION
A PARTICIPATING MEMBER OF THE ZONING COMMISSION
CLIFFORD W. MOY, SECRETARY TO THE BZA
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FINAL RULEMAKING**Electronics Stewardship**

The Director of the Department of Energy and Environment (DOEE or Department), pursuant to the authority set forth in the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code §§ 8-151.01 *et seq.* (2013 Repl. & 2016 Supp.)); the Sustainable Solid Waste Management Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-154; D.C. Official Code §§ 8-1041.01 *et seq.* (2016 Supp.)); the Fiscal Year 2017 Budget Support Emergency Act of 2016, signed July 20, 2016 (D.C. Act 21-463; 63 DCR 9843 (July 29, 2016)); and Mayor's Order 2015-250, dated December 8, 2015, hereby gives notice of amendments to Title 20 (Environment) of the District of Columbia Municipal Regulations (DCMR) by adopting a new Chapter 41 (Electronics Stewardship) to establish standards for electronic waste.

This rulemaking establishes requirements for electronic equipment manufacturers, who sell the equipment in the District of Columbia. Specifically, the rulemaking sets a *de minimis* limit that exempts certain entities from electronic waste statutory and regulatory requirements, includes additional requirements for annual registration applications, revises registration fees, and revises shortfall fees if a manufacturer or partnership does not meet collection rates.

The Department published a Notice of Proposed Rulemaking in the *D.C. Register* on July 29, 2016, at 63 DCR 10041. The comment period closed on September 12, 2016, and the Department considered all comments received. A summary of comments and responses is available online at doee.dc.gov/ecycle.

In response to comments, the Department has made revisions that clarify terms or revisions that are reasonably anticipated based on the scope of the proposed rulemaking. Specifically, the Department clarified that *de minimis* manufacturers do not need to report sales weight as this is not needed to determine *de minimis* eligibility. Additionally, the Department lowered the registration fee for individual manufacturers and partnerships of manufacturers. Related, the Department lowered short-fall fees and modified short-fall fees as they relate to sales to the federal and District government. The latter is because both entities have a strong system in place to ensure that covered electronic equipment is reused or properly recycled. The enforcement section was modified to account for amendments recently made in emergency and (pending) legislation. Finally, related to definitions, the Department slightly modified various definitions for clarity, removed some electronic items so that they are no longer considered covered electronic equipment (to be consistent with statutory intent), and added a definition for the term "printer." These changes do not substantially alter or change the intent, meaning, or application of the proposed rules or exceed the scope of the rules as published with the Notice of Proposed Rulemaking.

These rules were adopted as final on November 4, 2016, and will be effective upon publication of this notice in the *D.C. Register*.

Title 20 DCMR, ENVIRONMENT, is amended by adding a new Chapter 41 as follows:

CHAPTER 41 ELECTRONICS STEWARDSHIP

- 4100 REQUIREMENTS FOR ELECTRONIC MANUFACTURERS**
- 4101 ELECTRONIC MANUFACTURER RECORDKEEPING**
- 4102 REGISTRATION AND SHORTFALL FEES**
- 4103 ENFORCEMENT**
- 4104 ADMINISTRATIVE APPEALS AND JUDICIAL REVIEW**
- 4199 DEFINITIONS**

4100 REQUIREMENTS FOR ELECTRONIC MANUFACTURERS

4100.1 The rules in this chapter apply to manufacturers, partnerships, and representative organizations, as defined in § 4199.1.

4100.2 A manufacturer that sells less than one hundred (100) covered electronic equipment units in the District in the most recent calendar year shall:

- (a) Be exempt from labeling covered electronic equipment with a readily visible brand identifying the manufacturer;
- (b) Be exempt from submitting an application for registration, pursuant to D.C. Official Code § 8-1041.03(b); and
- (c) Submit a completed application for exemption on a form prescribed by the Department that shall include:
 - (1) Relevant manufacturer contact information;
 - (2) A list of brand names sold by the manufacturer in the District; and
 - (3) Any other information needed in order for the Department to determine whether the applicant qualifies for the exemption.

4100.3 When submitting an annual exemption form the applicant shall calculate the units of covered electronic equipment sold in the District by:

- (a) Using District sales data; or
- (b) Multiplying the units of covered electronic equipment sold nationally with the quotient of the District’s population divided by the national population. Populations shall be estimated by using the most recent estimates provided by the United States Census Bureau.

- 4100.4 Except as provided in § 4100.5, when submitting an annual registration application or ensuring compliance with an applicant's minimum collection share, the applicant shall calculate the weight and units of covered electronic equipment sold in the District by:
- (a) Using District sales data; or
 - (b) Multiplying the weight or units of covered electronic equipment sold nationally with the quotient of the District's population divided by the national population. Populations shall be estimated by using the most recent estimates provided by the United States Census Bureau.
- 4100.5 When ensuring compliance with an applicant's minimum collection share, the applicant shall calculate the weight of covered electronic equipment sold to the governments of the United States and District of Columbia by using District sales data.
- 4100.6 Registration submitted in accordance with D.C. Official Code § 8-1041.03 shall be on a form prescribed by the Department.
- 4100.7 When a representative organization submits an implementation plan to the Department according to D.C. Official Code § 8-1041.03(b)(9), the applicant shall calculate the market share percentage of each manufacturer in the representative organization by:
- (a) Using District sales data; or
 - (b) Multiplying the weight or units of covered electronic equipment sold nationally with the quotient of the District's population divided by the national population. Populations shall be estimated by using the most recent estimates provided by the United States Census Bureau.
- 4100.8 The Department may request that registration applicants include data on covered electronic equipment sold in the District broken down by category of covered electronic equipment. If the Department requests such data, the applicant shall provide the units sold in each category and the collective weight of the units sold in each category.
- 4100.9 An applicant that discloses the end markets and electronic recyclers utilized in the previous calendar year shall include the contact information of the electronic recyclers.
- 4100.10 The Department may request that manufacturers submitting a registration application include additional information or data needed to implement the Act or this chapter.

4100.11 In accordance with D.C. Official Code § 8-1041.03(b)(8), the Department shall publish on its website a list of third-party accreditation certifications recognized by the Department.

4100.12 If more than one person is a manufacturer of a covered electronic equipment unit, any such person may assume the registration obligations of the Act or this chapter, however, if no such person assumes responsibility for the registration obligations, any and all such persons may be considered jointly and severally responsible for the registration obligations.

4100.13 In accordance with D.C. Official Code § 8-1041.07, the Department shall publish on its website a list of approved covered electronic equipment disposal methods.

4101 ELECTRONIC MANUFACTURER RECORDKEEPING

4101.1 Manufacturers shall maintain records used to prepare annual applications for registration, pursuant to D.C. Official Code § 8-1041.03(b), or exemption, pursuant to § 4100.2, for three (3) years.

4101.2 The Department may inspect, request, and obtain from a manufacturer any record, including reports, electronic records, or any other document, that is subject to § 4101.1.

4102 REGISTRATION AND SHORTFALL FEES

4102.1 Manufacturers, representative organizations, and partnership organizations shall include the following registration fee when submitting an annual registration application:

- (a) For an individual manufacturer that sold at least one hundred (100) units but less than two hundred and fifty (250) units of covered electronic equipment in the District in the previous calendar year, the individual manufacturer's application for registration under D.C. Official Code § 8-1041.03 shall be accompanied by a registration fee of five hundred dollars (\$500);
- (b) For an individual manufacturer that sold two hundred and fifty (250) or more units of covered electronic equipment in the District in the previous calendar year, the individual manufacturer's application for registration under D.C. Official Code § 8-1041.03 shall be accompanied by a registration fee of one thousand seven hundred and fifty dollars (\$1,750);
- (c) A representative organization's application for registration under D.C. Official Code § 8-1041.03 shall be accompanied by a registration fee of ten thousand dollars (\$10,000); and

- (d) A partnership's application for registration under D.C. Official Code § 8-1041.03 shall be accompanied by a registration fee equal to the sum of its member manufacturers' registration fees, or seventeen thousand five hundred dollars (\$17,500), whichever is less.

4102.2 For an application for registration properly submitted on or after January 1, 2018, if a manufacturer or partnership did not comply with D.C. Official Code § 8-1041.05(a)(1) or (2) in the previous calendar year from when the registration is due, the manufacturer's or partnership's application for registration under § 8-1041.03 shall be accompanied by a shortfall fee determined by the following:

$$(A-B)*C=D$$

$$E/D=F$$

where:

A= The average annual sales in pounds of the manufacturer's covered electronic equipment for the appropriate reporting years, as established by D.C. Official Code § 8-1041.05;

B= The average annual sales in pounds of the manufacturer's covered electronic equipment to the District and federal government for the appropriate reporting years, as established by D.C. Official Code § 8-1041.05;

C= The collection percentage, as established by D.C. Official Code § 8-1041.05;

E= The amount of covered electronic equipment in pounds the manufacturer or partnership collected in the District in the previous calendar year from when registration is due;

F= The percent that a manufacturer has exceeded or fallen short of its minimum collection share, which is subject to shortfall fees

- (a) If F is greater than or equal to 90% but less than 100%, the shortfall fee is $(D-E)*\$0.30$;
- (b) If F is greater than or equal to 50% but less than 90%, the shortfall fee is $(D-E)*\$0.40$; and
- (c) If F is less than 50%, the shortfall fee is $(D-E)*\$0.50$.

- 4102.3 Beginning in 2017, the Department may annually adjust registration application fees and shortfall fees based on the change in the Consumer Price Index value published by the U.S. Department of Labor for all-urban consumers.
- 4102.4 If a manufacturer or partnership counts the collection of a single item of covered electronic equipment as twice its weight when that item is donated free of charge for reuse to the District's public or charter schools, to public or charter schools in counties adjoining the District, or to any nonprofit organization with a principal mission of assisting low-income children or families per D.C. Official Code § 8-1041.05(b)(2), the Department may request from the manufacturer or partnership:
- (a) Documentation of the donation, which shall include the recipient's written acceptance of the donation on a form stating that the covered electronic equipment is:
 - (1) No more than three (3) years old; and
 - (2) In full working condition;
 - (b) The name and address of the recipient school or organization; and
 - (c) Relevant contact information from the recipient school or organization.

4103 ENFORCEMENT

- 4103.1 Violation of any of the requirements of this chapter or the Act shall subject a person to the penalties set forth in Title 16 (Consumers, Commercial Practices, and Civil Infractions), Chapter 40 of the District of Columbia Municipal Regulations.
- 4103.2 The Department may enforce a violation of this chapter or the Act by issuing one or more of the following:
- (a) Notice of violation; or
 - (b) Notice of infraction.
- 4103.3 The Department may issue a notice of infraction without first issuing a notice of violation or threatened violation.
- 4103.3 Each instance or day of a violation of each provision of this chapter shall be a separate violation.

4104 ADMINISTRATIVE APPEALS AND JUDICIAL REVIEW

- 4104.1 A person adversely affected by an enforcement action of the Department shall exhaust administrative remedies by timely filing an administrative appeal with, and requesting a hearing before, the Office of Administrative Hearings (OAH), established pursuant to the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code, §§ 2-1831.01 *et seq.*), or OAH's successor.
- 4104.2 The appeal to OAH shall be filed in writing within fifteen (15) calendar days of service, or twenty (20) calendar days if service is made by United States mail.
- 4104.3 The Department may toll a period for filing an administrative appeal with OAH if it does so explicitly in writing before the period expires.
- 4104.4 OAH shall:
- (a) Resolve a notice of infraction by:
 - (1) Affirming, modifying, or setting aside the Department's action complained of, in whole or in part;
 - (2) Remanding for Department action or further proceedings, consistent with OAH's order; or
 - (3) Providing such other relief as the governing statutes, regulations, and rules support;
 - (b) Act with the same jurisdiction, power, and authority as the Department may have for the matter currently before OAH; and
 - (c) Render a final decision that shall constitute a final agency action subject to judicial review.
- 4104.5 The filing of an administrative appeal shall not in itself stay enforcement of an action, except that a person may request a stay according to the rules of OAH.
- 4104.6 The burden of production in an appeal of an action of the Department shall be allocated to the person who appeals the action, except that it shall be allocated:
- (a) To the party who asserts an affirmative defense; and
 - (b) To the party who asserts an exception to the requirements or prohibitions of a statute or rule.

4104.7 The final OAH decision on an administrative appeal shall thereafter constitute the final, reviewable action of the Department, and shall be subject to the applicable statutes and rules of judicial review for OAH final orders.

4104.8 Nothing in this chapter shall be interpreted to:

- (a) Provide that a filing of a petition for judicial review stays enforcement of an action; or
- (b) Prohibit a person from requesting a stay of the OAH proceedings according to the rules of the court.

4199 DEFINITIONS

4199.1 When used in this chapter or Title I, Subtitle B of the Sustainable Solid Waste Management Amendment Act of 2014, as amended, the following words or phrases shall have the meaning as described (some of the definitions were codified in the Act, indicated as [Statutory], and are reprinted below for regulatory efficiency):

Act - Title I, Subtitle B of the Sustainable Solid Waste Management Amendment Act of 2014, as amended (D.C. Law 20-154; D.C. Official Code §§ 8-1041.01 *et seq.*).

Brand - a manufacturer's name, brand designation, make or model name or number, or other nomenclature by which covered electronic equipment is offered for sale by a manufacturer. [Statutory]

Computer - an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing a logical, arithmetic, or storage function, including a laptop computer or other portable computer, desktop computer, and includes any cable, cord, or wiring permanently affixed to or incorporated into such product, and may include a computer central processing unit; but such term shall not include an automated typewriter or typesetter, a portable hand-held calculator, server other than a small-scale server, or other similar device. Computer also means a small-scale server, portable digital music players that have memory capability and are battery-powered, or other similar devices.

Computer monitor and display devices - a separate visual display component that can be used with a computer, whether sold separately or together with a computer central processing unit, and includes a cathode ray tube, liquid crystal display, gas plasma, digital light processing or other image projection technology, or other similar device, with a display greater than six inches when measured diagonally, and its case, interior wires and

circuitry, and any cable cord or wiring permanently affixed thereto or incorporated into such product.

Computer peripheral - any device that is sold primarily for external use with a computer and that provides input into or output from a computer, including: electronic keyboards; electronic mouse or other pointing device; printers; multi-function imaging equipment containing printers, which does not weigh more than one hundred (100) pounds; speakers sold with computers; computer monitors and display devices; or other similar devices; and any cable, cord, or wiring permanently affixed to or incorporated into any such product.

Covered electronic equipment - computers and computer peripherals, including keyboards, electronic pointing devices, printers, computer monitors and display devices, laptops or other portable computers, and portable digital music players that have memory capability and are battery-powered, televisions, and television peripherals. The term “covered electronic equipment” does not include a motor vehicle, part of a motor vehicle, or a component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle; telephones of any type, including mobile telephones, a personal digital assistant, a global positioning system, or a hand-held gaming device, household appliances, or covered electronic equipment that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, air purifier, water heater, or exercise equipment, equipment that is functionally or physically part of a larger piece of equipment intended for use in an industrial, research and development or commercial setting, security or anti-terrorism equipment, monitoring and control instrument or system, thermostat, hand-held transceiver, server other than a small-scale server, cash register or retail self-checkout system, stand-alone storage product intended for use in industrial, research and development, or commercial settings, medical equipment that contains a cathode ray tube, a flat panel display or similar video display device, and that is not separate from the larger piece of medical equipment, or other medical devices as defined under the Federal Food, Drug, and Cosmetic Act. [Statutory]

Covered electronic equipment stewardship program - a recycling effort for covered electronic equipment established by a manufacturer, partnership, or representative organization. [Statutory]

Department - the Department of Energy and Environment or its successor agency.

Household - an individual or two (2) or more persons who reside together in a

housing unit.

Laptop computer or other portable computer - a computer and display greater than six inches when measured diagonally that can be carried as one unit by an individual, including a laptop computer, tablet, e-reader, or other similar devices.

Manufacturer - a person who:

- (A) Manufactures, imports, assembles, or substantially assembles covered electronic equipment for sale in the District by means of retail, wholesale, or electronic commerce, under its own or another brand name or label, or without affixing a brand name or label;
- (B) Sells in the District by means of retail, wholesale, or electronic commerce, under its own brand name or label, covered electronic equipment produced by another person; or
- (C) Owns a brand name or label that it licenses to another person for use on covered electronic equipment sold in the District by means of retail, wholesale, or electronic commerce. [Statutory]

Market share - the total pounds of covered electronic equipment sold by a manufacturer to District residents and businesses in the previous year divided by the total pounds of all covered electronic equipment sold to District residents and businesses in the previous calendar year. [Statutory]

Minimum collection shares - the amount, in pounds, of covered electronic equipment, as calculated under D.C. Official Code § 8-1041.05(b)(1), that a manufacturer shall collect and recycle or arrange for the collection and recycling or reuse.

Mobile telephone - a telephone that converts sound into multiple-access packets, including, but not limited to, Code-Division Multiple Access (CDMA), Global System for Mobile Communications (GSM), and fourth generation long term evolution (4G LTE or VoLTE), for transmission through a cellular network, which may be marketed as a phone, cellphone, mobile phone, or smartphone. A computer, including portable computer or tablet, that is capable of making calls through Voice over IP or VoIP is not a mobile phone.

Partnership - an organization of manufacturers created to work together to meet the total minimum collection shares of its member manufacturers under D.C. Official Code § 8-1041.05(a)(2). [Statutory]

Printer - a device using laser and LED (electrographic), ink jet, dot matrix, thermal, digital sublimation, or other print technologies that is designed to be placed on a desk or other work surface. This includes a multifunction or "all-in-one" device that, in addition to printing, performs one or more other operations such as copying, scanning, or faxing. Printer does not include a floor-standing printer, a printer with an optional floor stand, a point of sale (POS) receipt printer, a household calculator with printing capabilities or a label maker, a non-stand-alone printer that is embedded into a product other than a covered electronic equipment, or a device that weighs more than 100 pounds.

Representative organization - an organization created to provide convenient collection service to District residents under D.C. Official Code § 8-1041.05(a)(3) and to develop and oversee implementation of a District plan consisting of one or more covered electronic equipment stewardship programs in the District. A representative organization may also oversee plans in other jurisdictions. [Statutory]

Retailer - a person engaged in retail sales. [Statutory]

Reuse - a process by which covered electronic equipment or a component of covered electronic equipment is used for the same purpose for which it was originally purchased. [Statutory]

Sale or sold - any transfer of the absolute title to property for a certain agreed price, from a manufacturer or retailer, including, but not limited to, transactions conducted through retail sales outlets, catalogs, mail, the telephone, the internet, or any electronic means; this includes the transfer of title of new products or used products that may have been refurbished by the manufacturer or a manufacturer-approved party, but does not include consumer-to-consumer second-hand transfer, the transfer of used covered electronic equipment or a lease of covered electronic equipment, or wholesale transactions among a manufacturer, wholesaler, and retailer.

Small business - a corporation, partnership, sole proprietorship, or other legal entity that:

- (A) Is formed to make a profit;
- (B) Is independently owned and operated;
- (C) Employs fewer than one-hundred (100) full-time employees; and
- (D) Procures covered electronic equipment through retail channels.

Small nonprofit organization - an organization or institution that:

- (A) Is exempt from federal income tax under the provisions of 26 U.S.C. § 501(c)(3) and that meets the requirements of Chapter 4 of Title 29 of the D.C. Official Code;
- (B) Is independently owned and operated;
- (C) Employs fewer than one-hundred (100) full-time employees; and
- (D) Procures covered electronic equipment through retail channels.

Small-scale server - a computer that typically uses desktop components in a desktop form factor, but is designed primarily to be a storage host for other computers and for an industry accepted operating system for home or low-end server applications. To be considered a small-scale server, a computer must have the following characteristics: designed in a pedestal, tower, or other form factor similar to those of desktop computers such that all data processing, storage, and network interfacing is contained within one box or product; intended to be operational twenty four hours per day and seven days a week, and unscheduled downtime is extremely low, such as on the order of hours per year; and is capable of operating in a simultaneous multi-user environment serving several users through networked client units.

Telephone - a commercially available electronic product whose primary purpose is to transmit and receive sound over a distance using a voice or data network.

Television - a display system containing a cathode ray tube, flat panel, or any other type of display primarily intended to receive video programming via broadcast, cable, or satellite transmission, and which has a display greater than six inches when measured diagonally.

Television peripheral - devices attached to and used in conjunction with televisions, including video cassette recorders (VCR), digital video recorders (DVR), digital video disc players (DVD), electronic or video game systems, signal converter boxes, cable receivers, satellite receivers, digital media receivers or set top boxes, or other similar devices, and includes any cable, cord, or wiring permanently affixed to or incorporated into any such product.

DEPARTMENT OF FOR-HIRE VEHICLES

NOTICE OF FINAL RULEMAKING

The Acting Director of the Department of For-Hire Vehicles¹ (“Department” or “DFHV”), pursuant to the authority set forth in Sections 8(c) (2), (3), (5), (7), (12), (15), and (19), 14, and 20 of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-301.07(c)(2) (3), (5), (7), (12), (15), and (19), 50-301.13, and 50-301.19 (2014 Repl. & 2016 Supp.)), and D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2015 Repl. & 2016 Supp.), hereby gives notice of the adoption of amendments to Chapter 5 (Taxicab Companies, Associations, Fleets, and Independent Taxicabs) and Chapter 99 (Definitions) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This final rulemaking amends Chapter 5 to enhance customer service standards and establish greater parity in operating and licensing rules throughout the taxicab industry by: (1) establishing requirements for independent taxicab owners applying for new and renewed certificates of operating authority; and (2) modifying operating requirements of independent taxicab owners to make more uniform the requirements for independent taxicab owners, taxicab companies, and taxicab associations. In addition, a necessary definition, not included in the proposed rulemaking, has been added to clarify that the Department of For-Hire Vehicles, by statutory authority, is the successor agency to the D. C. Taxicab Commission and the Office of Taxicabs.

Proposed rulemaking was adopted by the D.C. Taxicab Commission on December 9, 2015 and was published in the *D.C. Register* on May 27, 2016 at 63 DCR 007985. The Department received no comments during the comment period expiring June 26, 2016. Any changes made in this final rulemaking from the proposed rulemaking were to correct grammar and typographic errors, clarify the Department’s intent, and lessen the burdens on affected stakeholders. No substantial changes have been made from the proposed rules.

The rules were adopted as final on June 29, 2016, and they will become effective upon publication in the *D.C. Register*.

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

Section 505, INDEPENDENT TAXICABS, is amended to read as follows:

Subsection 505.2 is amended as follows:

¹ The District of Columbia Taxicab Commission was renamed and re-structured as the Department of For-Hire Vehicles by the Transportation Reorganization Amendment Act of 2016, effective June 22, 2016 (D.C. Law 21-0124; 63 DCR 10569 (August 19, 2016)).

Paragraphs (a), (b), (d), (g) and (h) are amended to read as follows:

- (a) The applicant's name, residence and business addresses;
- (b) The applicant's home and mobile telephone numbers and either a fax number or an email address;
- (d) The make, model, year of manufacture, body type, and vehicle identification number of the applicant's vehicle;
- (g) Whether the applicant's vehicle is wheelchair accessible or other specially equipped;
- (h) The type of fuel used by the applicant's vehicle;

New Paragraphs (i) through (n) are added to read as follows:

- (i) Certification of tax compliance from the Internal Revenue Service for the prior tax year;
- (j) A copy of Certificate of Occupancy for the applicant's administrative office, if applicable;
- (k) A statement by the applicant that the applicant will not discriminate against customers and will provide service throughout the District of Columbia;
- (l) Clean Hands certification that the applicant has complied with the District of Columbia Office of Tax and Revenue registration and filing requirements, including but not limited to filing the FR-500 Combined Business Tax Registration Application Form and the FR-500T, Taxicab and Limousine Supplemental Information Form;
- (m) Verification that the applicant has applied for and is pre-approved for insurance that complies with District of Columbia insurance requirements and the requirements of Chapter 9 of this title; and
- (n) The trade name and any design, insignia, logo, term, symbol, lettering, or other exterior object, pursuant to § 503 of this chapter.

New Subsections 505.11 through 505.13 are added to read as follows:

- 505.11 Each independent taxicab owner shall maintain a computerized data system capable of electronically submitting to the Office all information required by this Title and other applicable law.

- 505.12 Each independent taxicab owner shall provide one or more safety devices for all its owned and associated vehicles which conforms to the equipment standards of § 603.8(n)(3), as specified in an administrative issuance, including a device which also provides for driver's safety.
- 505.13 Each independent taxicab owner shall maintain a website containing only current and accurate information about the company or association.

Chapter 99, DEFINITIONS, is amended as follows:

Section 9901, DEFINITIONS, is amended as follows:

Subsection 9901.1 is amended to add the following definition:

“Department of For-Hire Vehicles”, “Department” or “DFHV” - the Department established under § 5 of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-301.04 (2014 Repl. & 2015 Supp.)) and which replaced the D.C. Taxicab Commission and the Office of Taxicabs with the enactment of the Transportation Reorganization Amendment Act of 2016, effective June 22, 2016 (D.C. Law 21-0124).

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat.744; D.C. Official Code § 1-307.02 (2014 Repl. & 2016 Supp.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption of an amendment to Chapter 50 (Medicaid Reimbursement for Personal Care Aide Services), of Title 29 (Public Welfare), of the District of Columbia Municipal Regulations (DCMR).

Personal Care Aide (PCA) services are health-related services that are provided to individuals because they are unable to perform one or more activities of daily living such as bathing, dressing, toileting, ambulation, or feeding oneself, as a result of a medical condition or cognitive impairment causing a substantial disability. These rules provide DHCF with the tools to increase oversight and closely monitor the quality and appropriateness of services being delivered to beneficiaries.

An initial Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on November 13, 2015 at 62 DCR 014911. Comments were received and substantive changes were made in the Notice of Second Emergency and Proposed Rulemaking, which was published on April 22, 2016 at 63 DCR 006286, as follows: (1) specifying the contents of the beneficiary denial letter issued upon a finding of ineligibility based upon the assessment tool; (2) supplementing the notice requirements with legal citations; (3) updating legal citations; (4) clarifying that additional PCA hours shall be obtained if a person is deemed eligible under the Long Term Care Waivers; (5) amending the PCA service tasks by combining similar tasks and eliminating any redundant PCA services; (6) establishing a process for providers to address instances when the PCA or PCA provider staff poses an immediate threat to the safety and well-being of beneficiaries; (7) clarifying that the communicable disease test or vaccine requirements for PCAs need only be obtained initially; (8) clarifying that the policy manual required to be distributed by providers can be shared in an electronic or hard-copy form; (9) eliminating the requirements for provider policy manuals to contain an updated listing of professional staff licensure information and PCA certifications and mandating that the requested information be maintained in the provider offices and available upon audit; (10) clarifying requirements; (11) amending the previously published standards governing reimbursement of providers of personal care services under the District of Columbia State Plan for Medical Assistance by increasing the rates for services rendered by a personal care aide (“PCA”) to comply with the Living Wage Act of 2006 (“Living Wage Act”), effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.* (2012 Repl.)); and (12) updating the definitions section.

Although comments were received from Disability Rights DC at University Legal Services in response to the publication of the Notice of Second Emergency and Proposed Rulemaking and were carefully considered by DHCF, the comments did not require any substantive changes, as detailed below. Therefore, no changes have been made for these final rules.

Disability Rights DC had the following comments concerning the intent and scope of the regulations:

Regarding § 5003.2, the commenter stated that DHCF and its designee, rather than the home health providers, are responsible for the first step in the PCA assessment and eligibility process but the rule lacked a description of the point of access for beneficiaries who seek access to PCA services. In addition, the commenter asserted that the regulations must state that DHCF, its designee, and provider agencies must maintain information about the status of PCA service requests at each step in the process to ensure accountability and timely processing of requests for PCA services. DHCF notes that the provision in question has been contained in the PCA regulations since 2011. DHCF has used many avenues in the past several years, including stakeholder meetings, to clarify the details of the provision including contact information and forms to be used to facilitate the service authorization and assessment process. DHCF Transmittal No 11-13 also clearly outlines guidelines for this process and includes a clear point of contact with reliable contact information. These transmittals and guidance have been widely available to beneficiaries, advocates, and home health agencies to ensure smooth implementation and accountability for timely processing of requests for PCA services. DHCF's Long Term Care Administration is keeping track of all Physician Order Forms and monitors the contractor in charge of conducting the assessments to ensure that the service authorization is processed timely. Therefore, DHCF believes no changes to this provision are needed.

Regarding § 5003.6, the commenter asserted that the eligibility process and mechanism used to request additional hours of PCA services under the Home and Community-Based Services (HCBS) Waiver for the Elderly and Persons with Physical Disabilities (EPD Waiver) or the HCBS Waiver for Individuals with Intellectual and Developmental Disabilities (IDD Waiver) must be detailed in this section. DHCF notes that this chapter only governs the eligibility process for receiving PCA services under the State Plan benefit. The eligibility processes and mechanisms used for requesting additional hours under either waiver are described in detail in the regulations specific to the waiver (*i.e.*, Chapter 42 of Title 29 DCMR for EPD services, and Chapter 19 of Title 29 DCMR for IDD Waiver Services). Therefore, DHCF is declining to duplicate that information in this chapter.

Disability Rights DC had the following comments concerning timeframes for PCA service eligibility, assessments and authorization:

Regarding § 5003.3, the commenter stated that the “standardized assessment tool” referenced in this section must be either incorporated into or further described within this chapter. Furthermore, the commenter stated that the assessment must be conducted with the beneficiary, in the beneficiary's presence, and with whomever the beneficiary may choose to

be present, if anyone. DHCF notes that the assessment tool is applicable to all long term care programs and that DHCF has promulgated several proposed rulemakings governing the assessment tool and process in Section 989 of Chapter 9 of Title 29 DCMR. The commenter has in fact submitted comments on each publication of the proposed rules governing the assessment tool and process, and DHCF has made substantive changes to those regulations based on the commenter's input. All information about the assessment tool and process is contained within the assessment regulations, and will not be detailed in each regulation related to a specific long term care program or service, in order to ensure consistency and to prevent amending many regulations when changes to the assessment process or tool are needed. Therefore, DHCF believes no changes to this provision are needed.

Regarding § 5003.4, the commenter suggested that a timeframe be added to the regulation to require DHCF or its designee to issue the PCA Service Authorization within five (5) business days of the beneficiary's request for PCA services. As noted above, the assessment tool is applicable to all long term care programs and all timeframes related to the assessment process are detailed in the regulations specific to the assessment process. Therefore, DHCF believes no changes to this provision are needed.

Disability Rights DC had the following comments concerning the scope of PCA services:

Regarding § 5006.7, the commenter asserted that the list of PCA services tasks fails to conform to the tasks described in 17 DCMR § 9315, that home health aide tasks are synonymous with the tasks required of PCAs and that all of the following tasks should be included in this section: changing simple dressings; assisting with routine care of prosthetic and orthotic devices; emptying and changing colostomy bags and performing care of the stoma; administering medications, pursuant to delegation, including (1) PRN medications; (2) physician ordered oral, ophthalmic, topical, otic, nasal, vaginal, and rectal medications and medications by gastric tube; (3) insulin via syringe, insulin pen, or insulin pump; (4) emergency medications, including emergency injections of epinephrine and glucagon; (5) medication via metered dose inhaler or nebulizer; and (6) medication via tubes; cleaning around gastric tube site; conducting finger stick blood glucose testing and recording results; administering treatment for skin conditions, including decubitus ulcers; feeding through gastric tube; and administering respiratory care including (1) nebulizer treatment and (2) ventilator care. The commenter further asserted that these regulations should permit PCAs to be trained on the job in medication administration, as such training would obviate the need for a separate medication aide certification process. DHCF notes that Home Health Aide (HHA) services are distinct from PCA services. PCA services are an optional benefit that a state may elect to include under its Medicaid State Plan, while HHA services are mandatory services that must be included in a state's Medicaid State Plan under the Home Health Services benefit. Medicaid HHA services and reimbursement are governed by Chapter 51 of Title 29 DCMR, and PCA services are governed under Chapter 50 of Title 29 DCMR.

The Department of Health (DOH) certifies HHAs in the District, in accordance with Chapter 93 of Title 17 DCMR. In order to capitalize on DOH's training and oversight capabilities, DHCF mandates that in order to receive Medicaid reimbursement for PCA services,

individuals providing PCA services must be certified as Home Health Aides. However, this does not mean that an individual providing PCA services can perform and bill for all HHA services or tasks outlined under 17 DCMR § 9315 (Home Health Aide Tasks). The allowable tasks that may be performed by a person providing Medicaid-reimbursed PCA services are detailed in the Medicaid State Plan, and reflected in these regulations. These allowable tasks are also aligned with DOH's regulations regarding the provision of personal care services under 22-B DCMR § 3915. If a Medicaid beneficiary needs the additional tasks outlined under 17 DCMR § 9315 that may be performed by an HHA, the beneficiary is required to meet the eligibility criteria for HHA services as outlined under Chapter 51 of Title 29 DCMR. Furthermore, regarding medication administration, DOH does not allow HHAs to administer medications pursuant to delegation or to be trained on the job in medication administration. 17 DCMR § 9315.1(s) allows HHAs to administer medications only if the HHA has completed medication administration training and obtained certification as a medication aide. As DOH does not allow HHAs to administer medications in the manner suggested by the commenter and it is the entity that certifies and regulates HHAs, DHCF cannot allow individuals certified by DOH as HHAs who provide PCA services to Medicaid beneficiaries to circumvent DOH requirements. Therefore, DHCF believes no changes to this provision are needed.

Regarding §§ 5006.9 and 5006.10, the commenter asserted that the regulation must affirmatively state that PCA services are available to beneficiaries who reside in Community Residential Facilities (CRFs) governed under Chapter 34 of Title 22-B DCMR. DHCF believes that re-drafting the regulations to affirmatively state that PCA services are available to beneficiaries who reside in CRFs would create a misperception that if the entity or living arrangement is not explicitly stated in the regulation as one that where PCA services shall be provided, PCA services may not be offered in that particular setting. Furthermore, the regulations state that PCA services shall not be provided in any living arrangement which includes PCA as part of the reimbursement rate, so specifically stating that PCA services are available in CRFs could be erroneous if that particular CRF provides PCA services that are included in the CRF's reimbursement rate. Therefore, DHCF has not incorporated the commenter's suggested language in these final rules.

Disability Rights DC had the following comments concerning notice and due process provisions:

Regarding § 5007.2, the commenter stated that the section must incorporate all notice and due process requirements of federal and District law in order to ensure that PCA services are properly terminated, and that the regulations should explicitly state that services are not reduced, suspended or terminated during the pendency of an appeal. DHCF notes that this section clearly states that for all suspensions, discharges or reductions of service initiated by a provider, the provider must notify DHCF or its designated agent and the beneficiary or the beneficiary's authorized representatives, in writing, no less than thirty (30) calendar days prior to any suspension, discharge or reduction in service, consistent with the requirements set forth in federal and District law and rules. (See 42 C.F.R. §§ 431.200 *et seq.*, D.C. Official Code § 4-205.55). The regulations cited include several due process requirements, including

a mandate that current services be continued pending the resolution of an appeal. The language contained in this provision is consistent with all other notice and due process requirements contained in other DHCF regulations. Therefore, since the commenter’s suggested language is already incorporated into the existing provision, DHCF believes no changes to this provision are needed.

These final rules continue to incorporate language set forth in the recently published rule on reimbursement (Section 5015), published on January 15, 2016 at 63 DCR 000589. Section 5015 governing reimbursement was adopted on December 31, 2015 and became effective for services rendered beginning January 1, 2016. The remaining sections were subject to approval of the corresponding amendment to the District of Columbia State Plan for Medical Assistance (State Plan) by the Council of the District of Columbia (Council) and the Centers for Medicare and Medicaid Services (CMS). The Council 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). CMS approved the State Plan with an effective date of November 14, 2015.

The Director adopted these rules as final on November 3, 2016 and they shall become effective on the date of publication of this notice in the *D.C. Register*.

Chapter 50, MEDICAID REIMBURSEMENT FOR PERSONAL CARE AIDE SERVICES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

CHAPTER 50 MEDICAID REIMBURSEMENTS FOR PERSONAL CARE AIDE SERVICES

- 5000 GENERAL PROVISIONS**
- 5001 PROVIDER QUALIFICATIONS**
- 5002 ELIGIBILITY REQUIREMENTS**
- 5003 PCA SERVICE AUTHORIZATION REQUEST AND SUBMISSION**
- 5004 REFERRALS**
- 5005 PLAN OF CARE**
- 5006 PROGRAM REQUIREMENTS**
- 5007 DENIAL, SUSPENSION, REDUCTION OR TERMINATION OF SERVICES**
- 5008 STAFFING**
- 5009 PERSONAL CARE AIDE REQUIREMENTS**
- 5010 STAFFING AGENCIES**
- 5011 INSURANCE**
- 5012 ADMINISTRATION**
- 5013 RECORDS**
- 5014 BENEFICIARY RIGHTS AND RESPONSIBILITIES**
- 5015 REIMBURSEMENT**
- 5016 AUDITS AND REVIEWS**

5017 APPEALS FOR PROVIDERS AGAINST WHOM A RECOUPMENT IS MADE

5099 DEFINITIONS

5000 GENERAL PROVISIONS

5000.1 These rules establish the standards and conditions of participation for home care agencies providing Medicaid reimbursable personal care aide (PCA) services under the District of Columbia Medicaid Program's State Plan for Medical Assistance (Medicaid State Plan).

5000.2 Medicaid reimbursable PCA services support and promote the following goals:

- (a) To provide cueing or necessary hands-on assistance with the activities of daily living to beneficiaries who are unable to perform one or more activities of daily living; and
- (b) To encourage home and community-based care as a preferred and cost-effective alternative to institutional care.

5001 PROVIDER QUALIFICATIONS

5001.1 A Provider receiving Medicaid reimbursement for PCA services shall:

- (a) Be a home care agency licensed pursuant to the requirements for home care agencies as set forth in the Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code, §§ 44-501 *et seq.* (2012 Repl.)), and implementing rules; and
- (b) Be enrolled as a Medicare home health agency qualified to offer skilled services as set forth in Sections 1861(o) and 1891(e) of the Social Security Act (42 U.S.C. §§ 1395x and 1395bbb), and 42 C.F.R. § 484.

5001.2 An applicant seeking Medicaid reimbursement as a Provider under the Medicaid Program shall submit a Medicaid Provider Enrollment Application to the Department of Health Care Finance (DHCF), execute a Provider Agreement and be enrolled as a Provider, in accordance with Chapter 94 of Title 29 of the District of Columbia Municipal Regulations.

5001.3 A Provider seeking Medicaid reimbursement under an executed Medicaid Provider Agreement shall comply with all legal obligations under Federal and District laws, including the provider's obligations to take reasonable steps to

provide beneficiaries who are Limited English Proficient (LEP) with meaningful access to their services pursuant to the D.C. Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 20-39; D.C. Official Code §§ 2-1401.01 *et seq.*) and Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. §§ 2000d *et seq.*), Section 504 of the Rehabilitation Act of 1973 (Pub. L. No. 93-112; 29 U.S.C. §§ 701 *et seq.*), 42 C.F.R. Parts 80, 84, and 90, and the Americans with Disabilities Act of 1990, effective January 1, 2009 (Pub. L. No. 101-336; 42 U.S.C. §§ 12101 *et seq.*).

5001.4 Each Provider application shall contain, but not be limited to, the following:

- (a) Name, address, and business email of the applicant's organization and location of the applicant's place of business. An applicant shall submit a separate application for each place of business from which the applicant intends to offer District of Columbia Medicaid program services;
- (b) Answers sufficient to meet requirements as set forth in 42 C.F.R. § 455, subpart B: Disclosure of Information by Providers and Fiscal Agents;
- (c) Names, license numbers, and National Provider Identifier (NPI) numbers of all individuals providing PCA services or nursing services from the National Plan and Provider Enumeration System (NPPES) as of the date of the application to become a District of Columbia Medicaid Provider;
- (d) The applicant's U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) Medicare Supplier Letter issued pursuant to 42 C.F.R. § 424.510 to evidence enrollment of the applicant in the Medicare program;
- (e) A copy or copies of all contracts held between the applicant and any staffing agency pertaining to the delivery of PCA services;
- (f) A copy or copies of license(s) held by the employees of any staffing agency or agencies used by the Provider for the delivery of PCA services;
- (g) The applicant's NPI number as required by the Health Insurance Portability and Accountability Act of 1996, approved August 21, 1996 (Pub.L. No 104-191; 110 Stat. 1936);
- (h) A copy of the applicant's surety bond, pursuant to requirements set forth in § 5011 of this chapter; and

- (i) A copy of a Certificate of Registration or Certificate of Authority, if required by District law or rules.

5001.5 A Provider shall submit a new Medicaid Provider Enrollment Application within thirty (30) days after any change in business ownership. Re-enrollment or continued enrollment in the Medicaid program after any change in business ownership shall be conditioned upon the Provider’s compliance with all applicable Federal and District requirements.

5001.6 A Provider shall submit a new Medicaid Provider Enrollment Application and successfully re-enroll in the D.C. Medicaid program at least every five (5) years starting from the date of execution of its most recent Provider Agreement.

5001.7 A Provider shall accept referrals for admission from DHCF, and provide requested information to DHCF or its designated agent. A provider who fails to accept referrals, shall provide written explanation to DHCF.

5002 ELIGIBILITY REQUIREMENTS

5002.1 To be eligible to receive PCA services, a Medicaid beneficiary must meet all of the following qualifications:

- (a) Be unable to independently perform one or more activities of daily living for which PCA services are needed;
- (b) Be in receipt of a written order for PCA services in accordance with Subsections 5006.1 and 5006.2; and
- (c) Be in receipt of a PCA Service Authorization in accordance with Section 5003.

5003 PCA SERVICE AUTHORIZATION REQUEST AND SUBMISSION

5003.1 Except as provided in Subsection 5003.8, in order to be reimbursed by Medicaid, PCA services shall not be initiated or provided on a continuing basis by a Provider without a PCA Service Authorization from DHCF or its designated agent that, for each beneficiary, identifies the amount, duration and scope of PCA services authorized and the number of hours authorized.

5003.2 A Medicaid beneficiary who is seeking PCA services for the first time shall submit a request for a PCA Service Authorization to DHCF or its designated agent in writing, accompanied by a copy of the physician’s or Advanced

Practice Registered Nurse's (APRN) written order for PCA services that complies with the requirements set forth under this chapter.

- 5003.3 DHCF or its designated agent shall be responsible for conducting a face-to-face assessment of each beneficiary using a standardized assessment tool to determine each beneficiary's need for assistance with activities of daily living that the beneficiary is unable to perform. The assessment shall:
- (a) Confirm and document the beneficiary's functional limitations and personal goals with respect to long-term care services and supports;
 - (b) Be conducted in consultation with the beneficiary or the beneficiary's representative;
 - (c) Document the beneficiary's unmet need for services, taking into account the contribution of informal supports and other resources in meeting the beneficiary's needs for assistance; and
 - (d) Document the amount, frequency, duration, and scope of PCA services needed.
- 5003.4 Based upon the results of the face-to-face assessment conducted in accordance with Subsection 5003.3, DHCF or its authorized agent shall issue to the beneficiary a PCA Service Authorization that specifies the amount, frequency, duration, and scope of PCA services authorized to be provided to the beneficiary.
- 5003.5 Payment shall not exceed the maximum authorized units specified in the PCA Service Authorization and must be consistent with the plan of care in accordance with Section 5015.
- 5003.6 If authorized, PCA services may be provided up to eight (8) hours per day seven (7) days per week. Additional hours may be authorized if a person is deemed eligible under the Elderly or Persons with Physical Disabilities (EPD Waiver) or Individuals with Intellectual and Developmental and Disabilities Waiver (ID/DD Waiver).
- 5003.7 A Registered Nurse (R.N.) employed by DHCF or its designated agent shall conduct the initial face-to-face assessment following the receipt of a request for service authorization and shall conduct a face-to-face reassessment at least every twelve (12) months, or upon significant change in the beneficiary's condition. A request for service authorization may be made by a Medicaid beneficiary, family member, the beneficiary's representative or a health care professional.

5003.8 DHCF may authorize the face-to-face reassessment for a period not to exceed eighteen (18) months, if necessary, to align the assessment date with the Medicaid renewal date.

5003.9 If, based upon the assessment conducted pursuant to this section, a beneficiary is found to be ineligible for PCA services, or the amount, duration or scope of PCA services is reduced, DHCF or its agent shall issue a Beneficiary Denial, Termination or Reduction of Services Letter informing the beneficiary of the reasons for the intended action, the specific law and regulations supporting the action, his or her right to appeal the denial, termination, or reduction of services in accordance with federal and District law and regulations, and the circumstances under which PCA services will be continued if a hearing is requested (See 42 C.F.R. §§ 431.200 *et seq.*, D.C. Official Code § 4-205.55).

5004 REFERRALS

5004.1 Upon completion of the PCA Service Authorization, DHCF or its designated agent shall make a referral to the beneficiary's choice of a qualified Provider.

5004.2 A referral to a qualified Provider shall not be considered complete unless it includes all of the following:

- (a) A copy of the physician or APRN's order for PCA services issued in accordance with Section 5006;
- (b) A copy of the completed written face-to-face assessment of the beneficiary undertaken in accordance with Subsection 5003.3; and
- (c) A copy of the completed PCA Service Authorization issued in accordance with Subsection 5003.4.

5005 PLAN OF CARE

5005.1 An R.N. employed by the Provider shall conduct an initial face-to-face visit with the beneficiary to develop a plan of care for delivering PCA services no later than seventy-two (72) hours after receiving the referral for services from DHCF or its designated agent.

5005.2 The plan of care shall:

- (a) Be developed by an R.N. in consultation with the beneficiary or the beneficiary's representative based upon the initial face-to-face visit with the beneficiary;

- (b) Specify how the beneficiary's need, as identified in the assessment conducted in accordance with Subsection 5003.3, will be met within the amount, duration, scope, and hours of services authorized by the PCA Service Authorization as set forth in Subsection 5003.4;
- (c) Consider the beneficiary's preferences regarding the scheduling of PCA services;
- (d) Specify the detailed services to be provided, their frequency, and duration, and expected outcome(s) of the services rendered consistent with the PCA Service Authorization;
- (e) Be approved and signed by the beneficiary's physician or an APRN within thirty (30) days of the start of care, provided that the physician or APRN has had a prior professional relationship with the beneficiary that included an examination(s) provided in a hospital, primary care physician's office, nursing facility, or at the beneficiary's home prior to the prescription of the PCA services; and
- (f) Incorporate person-centered planning principles that include:
 - (1) Ensuring that the planning process includes individuals chosen by the beneficiary;
 - (2) Ensuring that the planning process incorporates the beneficiary's needs, strengths, preferences, and goals for receiving PCA services;
 - (3) Providing sufficient information to the beneficiary to ensure that he/she can direct the process to the maximum extent possible;
 - (4) Reflecting the beneficiary's cultural considerations and is reflected by providing all information in plain language or consistent with any LEP considerations in accordance with Subsection 5001.3;
 - (5) Strategies for solving conflicts or disagreements; and
 - (6) A method for the beneficiary to request updates to the plan.

5005.3 After an initial plan of care is developed, all subsequent annual updates and modifications to plans of care based on a change in service needs shall be submitted to DHCF or its agent for approval in accordance with Subsection

5005.2, with the exception of the signature requirements prescribed under Subsection 5005.2(e).

5005.4 An R.N. who is employed by the Provider shall review the beneficiary's plan of care at least once every sixty (60) days, and shall update or modify the plan of care as needed. The R.N. shall notify the beneficiary's physician of any significant change in the beneficiary's condition.

5005.5 If an update or modification to a beneficiary's plan of care requires an increase or decrease in the number of hours of PCA services provided to the beneficiary, the Provider must obtain an updated PCA Service Authorization from DHCF or its designated agent after the reassessment for services.

5005.6 Each Provider shall coordinate a beneficiary's care by sharing information with all other health care and service providers, as applicable, to ensure that the beneficiary's care is organized and to achieve safer and more effective health outcomes.

5005.7 If a beneficiary is receiving Adult Day Health Program (ADHP) services under the § 1915(i) State Plan Option and PCA services, a provider shall coordinate the delivery of PCA services to promote continuity and avoid the duplication of care.

5006 PROGRAM REQUIREMENTS

5006.1 PCA services shall be ordered, in writing, by a physician or APRN who is enrolled in the D.C. Medicaid program and has had a prior professional relationship with the beneficiary that included an examination(s) provided in a hospital, primary care physician's office, nursing facility, or at the beneficiary's home prior to the order for the PCA services. A written order for PCA services constitutes a certification that the beneficiary is unable to perform one (1) or more activities of daily living for which PCA services are needed.

5006.2 A written order for PCA services issued in accordance with § 5006.1 shall be renewed every twelve (12) months.

5006.3 Each written order for PCA services under this section shall include the prescriber's NPI number obtained from NPPES.

5006.4 A Provider has an on-going responsibility to verify that each beneficiary that receives PCA services from the Provider has current eligibility for the District of Columbia Medicaid program and is eligible for and authorized to receive PCA services.

- 5006.5 An individual or family member other than a spouse, parent of a minor child, any other legally responsible relative, or court-appointed guardian may provide PCA services. Legally responsible relatives shall not include parents of adult children. Each family member providing PCA services shall comply with the requirements set forth in these rules.
- 5006.6 The Provider shall initiate services no later than twenty-four (24) hours after completing the plan of care unless the beneficiary's health or safety warrants the need for more immediate service initiation or the beneficiary or beneficiary's representatives agree to begin the services at a later date.
- 5006.7 PCA services shall include the following:
- (a) Cueing or hands-on assistance with performance of routine activities of daily living (such as, bathing, transferring, toileting, dressing, feeding, and maintaining bowel and bladder control);
 - (b) Assisting with incontinence, including bed pan use, changing urinary drainage bags, changing protective underwear, and monitoring urine input and output;
 - (c) Assisting beneficiaries with transfer, ambulation and range of motion exercises;
 - (d) Assisting beneficiaries with self-administered medications;
 - (e) Reading and recording temperature, pulse, blood pressure and respiration;
 - (f) Measuring and recording height and weight;
 - (g) Observing, documenting and reporting to the supervisory health professional, changes in the beneficiary's physical condition, behavior, and appearance and reporting all services provided on a daily basis;
 - (h) Preparing meals in accordance with dietary guidelines and assistance with eating;
 - (i) Performing tasks related to keeping areas occupied by the beneficiary in a condition that promotes the beneficiary's safety;
 - (j) Implementing universal precautions to ensure infection control;

- (k) Accompanying the beneficiary to medical or dental appointments or place of employment and recreational activities if approved in the beneficiary's plan of care;
- (l) Shopping for items that are related to promoting a beneficiary's nutritional status in accordance with dietary guidelines and other health needs; and
- (m) Assistance with telephone use.

5006.8 PCA services shall not include:

- (a) Services that require the skills of a licensed professional as defined by the District of Columbia Health Occupations Revision Act of 1985, as amended, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*);
- (b) Tasks usually performed by chore workers or homemakers, such as cleaning of areas not occupied by the beneficiary, shopping for items not related to promoting the beneficiary's nutritional status and other health needs, and shopping for items not used by the beneficiary; and
- (c) Money management.

5006.9 PCA services shall not be provided in a hospital, nursing facility, intermediate care facility, or other living arrangement which includes personal care as part of the reimbursed service. However, persons residing in assisted living may receive PCA services upon prior authorization by DHCF or its agent.

5006.10 PCA services may be provided at the beneficiary's place of employment.

5006.11 A PCA is not authorized to make decisions on behalf of a beneficiary.

5006.12 In accordance with Subsection 5006.7(g), a PCA shall immediately report to the R.N. any significant change in the beneficiary's health status in the case of emergency, or within four (4) hours for other situations, unless indicated otherwise in the beneficiary's plan of care.

5006.13 If the beneficiary seeks to change his or her Provider, the Provider shall assist the beneficiary in transferring to the new Provider. Until the beneficiary is transferred to a new PCA services Provider, the Provider shall continue providing PCA services to the beneficiary until the transfer has been completed successfully and the beneficiary is receiving PCA services from the new Provider.

- 5006.14 Each Provider shall immediately terminate the services of a PCA and instruct the PCA to discontinue all services to the beneficiary, in any case where the Provider believes that the beneficiary's physical or mental well-being is endangered by the care or lack of care provided by the PCA, or that the beneficiary's property is at risk. The Provider is responsible for assigning a new PCA and ensuring that the beneficiary's needs continue to be met.
- 5006.15 Each Provider shall conduct annual performance assessments of all PCAs who deliver services to beneficiaries served by the Provider, regardless of whether the PCA is an employee or is secured through another staffing agency. The initial performance assessment shall be conducted no later than three (3) months after the PCA first provides services to any beneficiary served by the Provider.
- 5006.16 Each Provider shall develop contingency staffing plans to provide coverage for each beneficiary in the event the assigned PCA cannot provide the services or is terminated.

5007 DENIAL, SUSPENSION, REDUCTION OR TERMINATION OF SERVICES

- 5007.1 When PCA services are no longer desired by the beneficiary or their authorized representative, each Provider shall discontinue PCA services only after:
- (a) Giving the beneficiary written notice that meets the requirements set forth in Subsection 5007.2;
 - (b) The thirty (30) day notice period prescribed in Subsection 5007.2 elapses; and
 - (c) The time for an appeal has expired, and the beneficiary has not filed an appeal.
- 5007.2 Except as provided in Subsections 5007.5 and 5007.6, for Provider initiated suspensions, discharges or reductions of service, each Provider shall notify DHCF or its designated agent and the beneficiary or the beneficiary's authorized representative, in writing, no less than thirty (30) calendar days prior to any suspension, discharge or reduction in service, consistent with the requirements set forth in Federal and District law and rules. (See 42 C.F.R. §§ 431.200 *et seq.*, D.C. Official Code § 4-205.55). The beneficiary's record shall contain a copy of the notice and documentation of the date the notice was either personally served upon or mailed to the beneficiary or the beneficiary's designated agent.

- 5007.3 For denials, suspensions, terminations or reductions of service initiated by DHCF or its agent, DHCF or its designated agent shall notify the beneficiary or the beneficiary's authorized representative, in writing, no less than thirty (30) calendar days prior to any denial, suspension, termination or reduction of services, consistent with the requirements set forth in Federal and District law and rules (See 42 C.F.R. §§ 431.200 *et seq.*, D.C. Official Code § 4-205.55).
- 5007.4 Consistent with Subsection 5014.3(g), if the PCA or PCA provider staff poses an immediate threat to the safety or well-being of the beneficiary, the provider must immediately review the threat, initiate an investigation, and provide alternate staff to the beneficiary.
- 5007.5 If the behavior of a beneficiary poses an immediate threat to the safety and well-being of the PCA or PCA Provider staff, the Provider has the right to immediately suspend the beneficiary's services or discharge the beneficiary. Suspension of services shall not exceed thirty (30) calendar days.
- 5007.6 Within seventy-two (72) hours of suspension, the Provider shall notify the beneficiary or authorized representative in writing of the following:
- (a) The grounds for suspension or discharge; and
 - (b) The beneficiary's right to appeal the suspension or discharge.
- 5007.7 At the end of the suspension period, the Provider may re-instate the beneficiary's services or discharge the beneficiary in accordance with Subsection 5007.8. The Provider shall assist the beneficiary in transferring to another provider.
- 5007.8 The beneficiary or the beneficiary's representative shall be provided with a written notice of discharge at least fifteen (15) days before the effective date of the discharge, if the decision is made to discharge the beneficiary following suspension. The written notice shall comply with Federal and District law and rules (See 42 C.F.R. §§ 431.200 *et seq.*, D.C. Official Code § 4-205.55).
- 5007.9 In the event of a suspension or discharge, the Provider shall be responsible for ensuring that the beneficiary's health, safety, and welfare are not threatened during the period of suspension or during the period after the beneficiary has been discharged and before transfer to another provider.

5008 STAFFING

- 5008.1 Each Provider shall utilize an R.N. to manage and provide supervision to PCAs who are qualified to perform all of the functions described in Subsection 5008.3.

- 5008.2 Each Provider shall verify that each PCA used to deliver services, regardless of whether the PCA is an employee of the Provider or is secured through another staffing agency, meets the qualifications set forth in Section 5009.
- 5008.3 Each Provider shall employ an R.N. who is responsible for the following:
- (a) Accepting and reviewing the beneficiary's PCA Service Authorization and initial assessment or reassessment of need for PCA services;
 - (b) Developing a written plan of care in accordance with Section 5005 that meets the beneficiary's assessed needs and preferences within the service limitations authorized in the PCA Service Authorization;
 - (c) Updating each beneficiary's written plan of care based upon subsequent reassessments of need;
 - (d) Maintaining a clinical record in accordance with Section 5013;
 - (e) Reviewing the beneficiary's plan of care with each assigned PCA and ensuring that each assigned PCA has the requisite training, skills and ability to meet the beneficiary's identified needs and preferences;
 - (f) Monitoring the quality of PCA services on a regular basis and ensuring that PCA services are delivered in accordance with the beneficiary's Plan of Care;
 - (g) Supervising all PCAs, regardless of whether the PCA is an employee of the Provider or is secured through a staffing agency. Supervision shall include on-site supervision at least once every sixty (60) days;
 - (h) Coordinating the provision of PCA services with other home health services, as appropriate and communicating with each beneficiary's physician or APRN regarding changes in the beneficiary's condition and needs;
 - (i) Gathering information regarding the beneficiary's condition and the need for continued care;
 - (j) Communicating and coordinating with DHCF or its designated agent regarding changes in the beneficiary's condition and needs. At a minimum the Provider must communicate to DHCF or its designated agent:

- (1) Any failure or inability of the provider to deliver authorized services within three (3) business days of the scheduled visit; and
 - (2) Any change in the beneficiary's status requiring a modification in the amount, duration, or scope of service authorized; and
- (k) Counseling the beneficiary and the beneficiary's family regarding nursing and related needs.
- 5008.4 The R.N., at minimum, shall visit each beneficiary within forty-eight (48) hours of initiating PCA services, and no less than every sixty (60) days thereafter, to monitor the implementation of the plan of care and the quality of PCA services provided to the beneficiary.
- 5008.5 The R.N. shall provide additional supervisory visits to each beneficiary if the situation warrants additional visits, such as in the case of an assignment of a new personal care aide or change in the beneficiary's health status.

5009 PERSONAL CARE AIDE REQUIREMENTS

- 5009.1 Each PCA, whether an employee of the Provider or secured through a staffing agency, shall meet the following requirements:
- (a) Obtain or have an existing Home Health Aide certification in accordance with Chapter 93 of Title 17 of the District of Columbia Municipal Regulations;
 - (b) Confirm, on an annual basis, that he or she is free from communicable diseases including tuberculosis and hepatitis, by initially undergoing an annual purified protein derivative (PPD) test and receiving a hepatitis vaccine during physical examination by a physician, and subsequently obtaining, on an annual basis, written and signed documentation from the examining physician confirming freedom from communicable disease;
 - (c) Provide evidence of current cardio pulmonary resuscitation and first aid certification;
 - (d) Pass a criminal background check pursuant to the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999 (D.C. Law 12-238; D.C. Official Code §§ 44-551 *et seq.*);
 - (e) Pass a reference check and a verification of prior employment;

- (f) Have an individual NPI number obtained from NPPES;
- (g) Obtain at least twelve (12) hours of continuing education or in-service training annually in accordance with the Department of Health's Home Care Agency training requirements under 22-B DCMR § 3915; and
- (h) Meet all of the qualifications for Home Health Aide trainees in accordance with Chapter 93 of Title 17 DCMR, which includes the following:
 - (1) Be able to understand, speak, read, and write English at a fifth (5th) grade level or higher;
 - (2) Be knowledgeable about infection prevention, including taking standard precautions; and
 - (3) Possess basic safety skills including being able to recognize an emergency and be knowledgeable about emergency procedures.

5010 STAFFING AGENCIES

5010.1 A Provider may contract with a licensed staffing agency to secure staff to deliver PCA services. Agreements between the Provider and the staffing agency providing personal care staffing services shall be in writing and include at a minimum, the following:

- (a) A provision requiring the staffing agency to provide the Provider with the staffing agency's NPI number obtained from the NPPES and the NPI numbers of all individuals providing PCA services to the home care agency throughout the duration of the contract;
- (b) A business address and e-mail address for each staffing agency;
- (c) Provisions making explicit and delineating the Provider's responsibility to:
 - (1) Manage, supervise and evaluate the PCA services secured through a staffing agency; and
 - (2) Be accountable for all services delivered by non-employee PCAs to the same extent as if the PCAs were employees of the Provider;

- (d) The duration of the agreement, including provisions for renewal, if applicable; and
 - (e) Assurances that the staffing agency shall comply with all applicable federal and District laws and rules, including all relevant licensing requirements imposed by the District of Columbia.
- 5010.2 Each Provider contracting with a staffing agency to provide staffing for PCA services shall:
- (a) Ensure that the staffing agency obtains an NPI number for itself and all personnel performing PCA services through the agency;
 - (b) Provide DHCF with a copy of any and all contract(s) entered into with a staffing agency; and
 - (c) Ensure that each beneficiary's records shall be the property of the beneficiary's Provider and are maintained at the Provider's place of business in accordance with Section 5013.
- 5010.3 A staffing agency supplying staff to the provider for the delivery of PCA services shall be considered an agent of the Provider.
- 5010.4 A Provider is prohibited from having a financial relationship with any staffing agency providing staffing unless the relationship meets one of the exceptions applicable to ownership interests and compensation arrangements established in 42 U.S.C. § 1320a-7b(b)(3) and 42 C.F.R. § 1001.952. A financial relationship includes but is not limited to:
- (a) A direct or indirect ownership or investment interest (including an option or non-vested interest) by the Provider in a staffing agency. This interest may be in the form of partnership shares, limited liability company memberships, loans, bonds, equity, debt, or other means; and
 - (b) A direct or indirect compensation arrangement other than the contract referenced in § 5010.1 between the Provider and the staffing agency for the provision of staff to perform PCA services provided the contract meets the requirements of 42 C.F.R. § 1001.952(d).
- 5010.5 A Provider is prohibited from contracting with a staffing agency that is or has engaged in any of the following:
- (a) Advertising or marketing directly to Medicaid beneficiaries;

- (b) Misrepresenting the staffing agency as the provider of PCA services; or
- (c) Offering financial or other types of inducements to individuals for the referral of Medicaid beneficiaries, their names, or other identifying information to any health care provider.

5011 INSURANCE

5011.1 Each applicant or Provider shall maintain the following minimum amounts of insurance coverage:

- (a) Blanket malpractice insurance for all employees in the amount of at least one million dollars (\$1,000,000) per incident;
- (b) General liability insurance covering personal property damages, bodily injury, libel and slander of at least one million dollars (\$1,000,000) per occurrence; and
- (c) Product liability insurance, when applicable.

5011.2 Each applicant or Provider shall post a continuous surety bond in the amount of fifty thousand dollars (\$50,000) against all PCA services claims, suits, judgments, or damages including court costs and attorney's fees arising out of the negligence or omissions of the Provider in the course of providing services to a Medicaid beneficiary or a person believed to be a Medicaid beneficiary. The number of bonds required shall be predicated upon the number of Provider offices enrolled by the applicant or Provider in the Medicaid program.

5012 ADMINISTRATION

5012.1 NPI numbers for Providers and staffing agencies, and all personnel delivering PCA services shall be included in all Medicaid billings.

5012.2 Each Provider shall have a current organizational chart that clearly describes the organizational structure, management responsibilities, staff responsibilities, lines of authority, and use of any contractors.

5012.3 Each Provider shall maintain current copies of all fully executed contracts including all staffing agency contracts pertaining to the delivery of PCA services and an updated listing of professional staff licensure and registration information and all PCA certifications in the Provider's office and make them available to DHCF, CMS, and other authorized government officials or their agents when requested.

- 5012.4 Each Provider shall maintain a copy of each license held by their employees and employees of any staffing agency utilized by the Provider for the delivery of PCA services.
- 5012.5 A Provider shall be prohibited from waiving liability or assigning contract authority to any other entity for covered services provided to Medicaid beneficiaries.
- 5012.6 Each Provider shall provide to all employees and contractors (such as staffing agencies providing staffing) a current policy manual in an electronic or hard-copy form, which sets forth all of its policies and procedures.
- 5012.7 Each policy manual shall include, but not be limited to, the following information:
- (a) A description of the services to be provided;
 - (b) Procedures for beneficiary care;
 - (c) The reimbursement methodology or fee schedules;
 - (d) Operational schedules;
 - (e) Quality assurance standards;
 - (f) A statement of beneficiary rights and responsibilities;
 - (g) Financial and record-keeping requirements;
 - (h) Procedures for emergency care, infection control and reporting of incidents;
 - (i) A description of staff positions and personnel policies, which shall be reviewed annually, revised as necessary, and dated at time of review;
 - (j) Policies and procedures for hiring, performance assessments, grievances, and in-service training of all PCAs who deliver services, regardless of whether the PCA is an employee of the Provider or is secured through a staffing agency;
 - (k) Policies and procedures for providing advance notice to beneficiaries in accordance with Section 5007; and

- (l) Policies, procedures, and presentation materials for owners, managers, employees and contractual staff for in-service training on the following subjects:
 - (1) Compliance with these regulations;
 - (2) Compliance with federal and District False Claims Acts;
 - (3) Preventing, detecting, and reporting fraud, waste, and abuse; and
 - (4) Rights of employees to be protected as whistleblowers.

5013 RECORDS

- 5013.1 Each Provider shall maintain complete and accurate records reflecting the specific PCA services provided to each beneficiary for each unit of service billed. Such records must be maintained for a period of ten (10) years or when all audits have been completed, whichever is longer.
- 5013.2 Each Provider shall be responsible for maintaining the confidentiality of each beneficiary's care, treatment, and records. The disclosure of personal health information by the Provider is subject to all of the provisions set forth in applicable District and Federal laws and rules.
- 5013.3 Each beneficiary's record shall be readily retrievable and shall be kept in a locked room or file maintained and safeguarded against loss or unauthorized use at the location of the Provider's place of business that is identified on the Provider's Medicaid Provider application.
- 5013.4 Each Provider shall permit reviews and on-site inspections to be conducted by CMS and its agents, and DHCF, and its agents to determine Provider compliance with all applicable laws.
- 5013.5 Each Provider shall comply with the terms of its Medicaid Provider Agreement with respect to the maintenance of all beneficiary and financial records.
- 5013.6 Each beneficiary's record shall include, but is not limited to, the following information:
- (a) General information including the beneficiary's name, Medicaid identification number, address, telephone number, age, sex, name and telephone of emergency contact person, authorized representative (if

applicable), and primary care physician's or advanced practice registered nurse's name, address, and telephone number;

- (b) Health care information, including all referrals, assessments, service authorizations, plans of care, and progress notes;
- (c) Dates and description of PCA services rendered, including the name and NPI of the personal care aide performing the services;
- (d) Documentation of each supervisory visit of the R.N., including signed and dated clinical progress notes;
- (e) Discharge summary, if applicable;
- (f) Copies of any written notices given to the beneficiary; and
- (g) Any other appropriate identifying information that is pertinent to beneficiary care.

5014 BENEFICIARY RIGHTS AND RESPONSIBILITIES

5014.1 Each Provider shall develop a written statement of a beneficiary's rights and responsibilities consistent with the requirements of this section, which shall be given to each beneficiary in advance of receiving services or during the initial care planning visit before the initiation of services.

5014.2 The written statement of the beneficiary's rights and responsibilities shall be prominently displayed at the Provider's business location and available at no cost upon request by a member of the general public.

5014.3 Each Provider shall develop and implement policies and procedures outlining the following beneficiary's rights:

- (a) To be treated with courtesy, dignity and respect;
- (b) To control his or her own household and lifestyle;
- (c) To participate in the planning of his or her care and treatment;
- (d) To receive treatment, care, and services consistent with the plan of care and to have the plan of care modified for achievement of outcomes;
- (e) To receive services by competent personnel who can communicate with the beneficiary in accordance with the Language Access Act of

2004, effective June 19, 2004 (D.C. Law 15-167; D.C. Official Code §§ 2-1931 *et seq.*);

- (f) To refuse all or part of any treatment, care, or service and be informed of the consequences;
- (g) To be free from mental and physical abuse, neglect and exploitation from persons providing services;
- (h) To be assured that for purposes of record confidentiality, the disclosure of the contents of the beneficiary's records is subject to all the provisions of applicable District and federal laws;
- (i) To voice a complaint or grievance about treatment, care, or lack of respect for personal property by persons providing services without fear of reprisal;
- (j) To have access to his or her records; and
- (k) To be informed orally and in writing of the following:
 - (1) Services to be provided, including any limits;
 - (2) Amount charged for each service, the amount of payment required from the beneficiary and the billing procedures, if applicable;
 - (3) Whether services are covered by health insurance, Medicare, Medicaid, or any other third party sources;
 - (4) Acceptance, denial, reduction or termination of services;
 - (5) Complaint and appeal procedures;
 - (6) Name, address and telephone number of the Provider;
 - (7) Telephone number of the District of Columbia Medicaid fraud hotline;
 - (8) Beneficiary's freedom from being forced to sign for services that were not provided or were unnecessary; and
 - (9) A statement, provided by DHCF, defining health care fraud and ways to report suspected fraud.

- 5014.4 Each beneficiary shall be responsible for the following:
- (a) Treating all Provider personnel with respect and dignity;
 - (b) Providing accurate information when requested;
 - (c) Informing Provider personnel when instructions are not understood or cannot be followed;
 - (d) Cooperating in making a safe environment for care within the home; and
 - (e) Reporting suspected fraud, waste and abuse to DHCF via the fraud and abuse complaint form available at www.dc-medicaid.com.

5014.5 Each Provider shall take appropriate steps to ensure that each beneficiary, including beneficiaries who cannot read or those who have a language or communication barrier, has received the information required pursuant to this section. Each Provider shall document in the records the steps taken to ensure that each beneficiary has received the information.

5015 REIMBURSEMENT

5015.1 For dates of services beginning October 27, 2015 through December 31, 2015, each provider shall be reimbursed five dollars (\$5.00) per unit of service for allowable services as authorized in the approved plan of care, of which no less than three dollars and forty five cents (\$3.45) per fifteen (15) minutes for services rendered by a PCA, shall be paid to the PCA to comply with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.* (2012 Repl.)).

5015.2 For dates of services beginning January 1, 2016, each provider shall be reimbursed five dollars and two cents (\$5.02) per unit of service for allowable services as authorized in the approved plan of care, of which no less than three dollars and forty six cents (\$3.46) per fifteen (15) minutes for services rendered by a PCA, shall be paid to the PCA to comply with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.* (2012 Repl.)).

5015.3 Subsequent changes to the reimbursement rate(s) shall be posted on the Medicaid fee schedule at www.dc-medicaid.com and DHCF shall also publish a notice in the *D.C. Register* which reflects the change in the reimbursement rate(s).

- 5015.4 Each Provider shall maintain adequate documentation substantiating the delivery of allowable services provided in accordance with the PCA service authorization and the beneficiary's plan of care for each unit of service submitted on every claim.
- 5015.5 Reimbursement for PCA services, when provided through the D.C. Medicaid program's State Plan PCA benefit, shall not exceed eight (8) hours per day, seven (7) days a week, and shall be limited to the amount, duration, and scope of services set forth in the PCA Service Authorization and the plan of care, as described in Section 5003.
- 5015.6 Claims for PCA services submitted by a Provider in any period during which the beneficiary is an in-patient at another health care facility including a hospital, nursing home, psychiatric facility or rehabilitation program shall be denied except on the day when a beneficiary is admitted or discharged.
- 5015.7 When a beneficiary is discharged from a health care facility to the beneficiary's home and requires PCA services on the date of discharge, the number of PCA hours on that day shall be authorized in accordance with the beneficiary's discharge plan.
- 5015.8 Claims for PCA service submitted by a Provider for any hour in which the beneficiary was receiving ADHP services under the § 1915(i) State Plan Option, or other similar service in which PCA services are provided concurrently to the beneficiary shall be denied.
- 5015.9 If a beneficiary is also receiving ADHP services on the same day that PCA services are delivered, the combination of both PCA and ADHP services shall not exceed a total of twelve (12) hours per day.
- 5015.10 Each Provider shall agree to accept as payment in full the amount determined by DHCF as Medicaid reimbursement for the authorized services provided to beneficiaries. Providers shall not bill the beneficiary or any member of the beneficiary's family for PCA services.
- 5015.11 Each Provider shall agree to bill any and all known third-party payers prior to billing Medicaid.
- 5015.12 All reimbursable claims for PCA services shall include the NPI numbers for the:
- (a) Provider;
 - (b) Physician or APRN who ordered the PCA services;

- (c) The staffing agency, if applicable; and
- (d) PCA who provided the PCA services, regardless of whether the PCA is an employee of the Provider or is from another staffing agency.

- 5015.13 Pursuant to 42 C.F.R. § 424.22(d), DHCF shall deny PCA service claims or recoup paid claims when Provider records or other evidence indicate that the primary care physician or APRN ordering a beneficiary's treatment has a direct or indirect financial relationship, compensation, ownership or investment interest as defined in 42 C.F.R. § 411.354 in the Provider billing for the services, unless the financial relationship, compensation, ownership or investment interest meets an exception as defined in 42 C.F.R. § 411.355.
- 5015.14 Claims resulting from marketing by a staffing agency (including face-to-face solicitation at doctors' offices, home visits, requests for beneficiary Medicaid numbers, or otherwise directing beneficiaries to any Medicaid Provider) shall not be reimbursed.

5016 AUDITS AND REVIEWS

- 5016.1 DHCF shall perform audits to ensure that Medicaid payments are consistent with efficiency, economy and quality of care and made in accordance with federal and District rules governing Medicaid.
- 5016.2 The audit process shall routinely be conducted by DHCF to determine, by statistically valid scientific sampling, the appropriateness of services rendered and billed to Medicaid. These audits shall be conducted on-site or through an off-site, desk review.
- 5016.3 Each Provider shall allow access to relevant records and program documentation upon request and during an on-site audit or review by DHCF, other District of Columbia government officials and representatives of the United States Department of Health and Human Services.
- 5016.4 If DHCF denies a claim, DHCF shall recoup, by the most expeditious means available, those monies erroneously paid to the Provider for denied claims, following the period of Administrative Review as set forth in § 5017 of these rules.
- 5016.5 The recoupment amounts for denied claims shall be determined by the following formula:
- (a) A fraction shall be calculated with the numerator consisting of the number of denied paid claims resulting from the audited sample. The

denominator shall be the total number of paid claims from the audit sample; and

- (b) This fraction shall be multiplied by the total dollars paid by DHCF to the Provider during the audit period, to determine the amount recouped. For example, if a Provider received Medicaid reimbursement of ten thousand dollars (\$10,000) during the audit period, and during a review of the claims from the audited sample, it was determined that ten (10) claims out of one hundred (100) claims are denied, then ten percent (10%) of the amount reimbursed by Medicaid during the audit period, or one thousand dollars (\$1000), would be recouped.

5016.6 DHCF shall issue a Notice of Proposed Medicaid Overpayment Recovery (NR), which sets forth the reasons for the recoupment, including the specific reference to the particular sections of the statute, rules, or provider agreement, the amount to be recouped, and the procedures for requesting an administrative review.

5017 APPEALS FOR PROVIDERS AGAINST WHOM A RECOUPMENT IS MADE

5017.1 The Provider shall have sixty (60) days from the date of the NR to request an administrative review of the NR. The request for administrative review of the NR shall be submitted to “Manager, Division of Program Integrity, DHCF”.

5017.2 The written request for administrative review shall include a specific description of the item to be reviewed, the reason for the request for review, the relief requested, and documentation in support of the relief requested.

5017.3 DHCF shall mail a written determination relative to the administrative review to the provider no later than one hundred twenty (120) days from the date of the written request for administrative review pursuant to § 5017.1.

5017.4 Within fifteen (15) days of receipt of the Medicaid Program’s written determination, the Provider may appeal the written determination by filing a written notice of appeal with the Office of Administrative Hearings (OAH), 441 4th Street, NW, Suite 450 North, Washington, D.C. 20001.

5017.5 Filing an appeal with the OAH shall not stay any action to recover any overpayment.

5099 DEFINITIONS

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

Activities of Daily Living - The ability to bathe, transfer, dress, eat and feed self, engage in toileting, and maintain bowel and bladder control (continence).

Advanced Practice Registered Nurse - A person who is licensed or authorized to practice as an advanced practice registered nurse pursuant to the 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.)).

Authorized representative – Any person other than a provider:

- (a) Who is knowledgeable about a beneficiary’s circumstances and has been designated by that person to represent him or her; or
- (b) Who is legally authorized either to administer a beneficiary’s financial or personal affairs or to protect and advocate for his/her rights.

Cueing- Using verbal prompts in the form of instructions or reminders to assist persons with activities of daily living and instrumental activities of daily living.

Department of Health Care Finance – The executive agency of the government responsible for administering the Medicaid program within the District of Columbia, effective October 1, 2008.

Family - Any person related to the client or beneficiary by blood, marriage, or adoption.

Limited English Proficient- Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English.

Order – A formal, written instruction signed by a physician or APRN. regarding a specific patient’s medical care, treatment or management. An order for PCA services may only be written by a physician or APRN in accordance with § 5006.1.

PCA Service Authorization Form – A form that has been developed or approved by DHCF that identifies the amount, duration and scope of PCA services and the number of hours authorized based upon a face-to-face assessment in accordance with § 5003.

Primary care physician - A person who is licensed or authorized to practice medicine pursuant to the 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.)).

Registered Nurse - A person who is licensed or authorized to practice registered nursing pursuant to the 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.)).

Significant change - Changes in a beneficiary's health status that warrants an increase or decrease of supports/services outlined in their plan of care.

Staffing Agency – Shall have the same meaning as set forth in the Nurse Staffing Agency Act of 2003, effective March 10, 2004 (D.C. Law 15-74; D.C. Official Code §§ 44-1051.01 *et seq.*).

Start of Care – The first date upon which a beneficiary receives or is scheduled to receive PCA services.

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF FINAL RULEMAKING**Triennial Recertification**

The Board of Commissioners of the District of Columbia Housing Authority (DCHA), pursuant to the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-203 (2012 Repl.)), hereby gives notice of the adoption of the following amendments to Chapter 53 (Recertifications, Housing Quality Standard Inspections, and Family Moves), Chapter 54 (Verification Procedures), Chapter 55 (Portability), Chapter 58 (Owner Eviction Guidelines and Grounds for Termination from the Housing Choice Voucher Program), Chapter 61 (Public Housing: Admission and Recertification), Chapter 62 (Rent Calculations), and Chapter 98 (Public Housing: Achieving Your Best Life Rewards Property Program) of Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the amendments is to allow elderly and/or disabled public housing and Housing Choice Voucher Program families living on a fixed income to recertify triennially, rather than biennially.

The proposed rulemaking was published in the *D.C. Register* on October 7, 2016, at 63 DCR 012368. This rulemaking was adopted as final at the Board of Commissioners regular meeting on November 9, 2016. The final rules will become effective upon publication of this notice in the *D.C. Register*.

Chapter 53, RECERTIFICATIONS, HOUSING QUALITY STANDARD INSPECTIONS, AND FAMILY MOVES, of Title 14 DCMR, HOUSING, is amended as follows:**5300 INCOME CONSIDERATIONS AND DETERMINATION OF TOTAL TENANT PAYMENT**

5300.1 Once a participant is receiving assistance, the following regularly scheduled events shall occur:

- (a) Periodic recertification, in which income is calculated and total tenant payment is determined;
- (b) Interim recertification when necessary; and
- (c) Housing Quality Standard inspections.

5311 APPLYING UTILITY ALLOWANCES**5311.1 PROGRAM DESCRIPTION**

The purpose of the simplified calculation of utility allowances for Housing Choice Voucher participants is to enable program participants, landlords, and

PHA to be able to easily calculate a participant utility allowance utilizing one utility schedule. The new utility allowance is based on the lower of the bedroom size or voucher size, source of heating, electricity, and whether the participant is responsible for paying water and sewer usage. The utility consumption rates for the District of Columbia shall be reviewed annually and if there is a change of ten percent (10%) or more the simplified utility allowance schedule shall be adjusted accordingly.

- 5311.2 The utility allowance is calculated for each Family based upon DCHA's utility allowance schedule. The schedule is based on the average utility costs in the District of Columbia. The utility allowance schedule set by DCHA applies to all assisted program types.
- 5311.3 A DCHA established utility allowance schedule is used in determining Family Share and HAP. DCHA shall use the appropriate utility allowance as calculated by Section 5332.
- 5311.4 DCHA, under its MTW Authority, established its "Simplified Utility Allowance Schedule". The following provisions shall apply to calculating utility allowances:
- (a) DCHA shall use a simplified schedule to calculate utility allowances at the time of a Family's initial lease-up, periodic recertification, interim recertification, or when a family transfers to another unit pursuant to § 5333 -- Family Moves;
 - (b) The utility allowance calculation for all participants shall be determined using one structure type selected by DCHA annually;
 - (c) Generally, DCHA shall determine the structure type to by using the most commonly rented structure type based on the previous fiscal year;
 - (d) At its discretion, DCHA may select a structure type larger or smaller than the most commonly rented structure type if it determines that selecting the most common structure type may cause a disproportionate number of hardships or disproportionate number of excessive allowances to Families;
 - (e) Based on the structure type chosen, DCHA shall provide to all Families a flat allowance for tenant-paid gas and electric, an additional flat allowance if the unit is all electric, and an additional flat allowance if the participant is also responsible for water and sewer.
- 5311.5 DCHA shall approve a utility allowance amount higher than shown on DCHA's schedule if a higher allowance is needed as a reasonable accommodation for a Family member with a disability, in accordance with DCHA's procedures regarding reasonable accommodation.
- 5311.6 In the event of an interim recertification, DCHA shall use the utility allowance schedule in effect at the time of the family's last periodic recertification. Revised utility allowances shall be applied to a Family's rent and subsidy calculations at

the first periodic recertification that is effective after the allowance is adopted.

5312 PERIODIC RECERTIFICATION OF INCOME

5312.1 Families shall be requested to submit a recertification packet which includes some of the following information on income, assets, allowances and deductions, and Family composition at least biennially, unless they qualify for triennial periodic recertification as described in § 5312.4.

5312.2 When families move to another dwelling unit, the Family may be required to complete an interim recertification.

5312.3 If the Family reports a change which results in an increase or decrease in the TTP, other than in response to a periodic recertification, it shall be considered an interim adjustment.

5312.4 A family may be permitted to recertify triennially, rather than biennially, if all members of the household are

- (a) Elderly and/or disabled; and
- (b) Earning fixed income only. Fixed income shall be defined as non-wage income of a fixed monthly or yearly amount.

5313 RECERTIFICATION NOTICE TO THE FAMILY

5313.1 In accordance with § 8410.1, DCHA shall maintain a recertification tracking system that shall ensure that at least one hundred fifty (150) days in advance of the scheduled periodic recertification effective date, the Head of Household shall be notified by mail that she or he is required to complete a recertification packet by a specified date. The notice shall tell the participant which documents to submit.

5313.2 The Head of Household may be required to physically come into DCHA's office on the date and time requested in order to complete the recertification process.

5313.3 DCHA may permit mail-in recertification or in-home recertification as a reasonable accommodation to persons unable to come into DCHA's office.

5314 DCHA INITIATED INTERIM RECERTIFICATIONS

5314.1 DCHA may require families who report zero income to complete a zero (0) income interview and certification not more frequently than every one hundred twenty (120) days.

5314.2 Families may be required to complete an interim recertification of income at the time of a move from one assisted unit to another at any time other than the periodic recertification date.

5314.3 DCHA may conduct an interim recertification at any time in order to correct an

error in a previous recertification or to investigate possible participant fraud.

5315 CHANGES IN INCOME

5315.1 Families shall not be required to report any increase in household income between periodic or interim recertifications. Any increase in income shall only be included in the determination of annual household income at the next periodic recertification.

5315.2 If the Family has household income and adds an adult Family member with a source of income, DCHA shall only include the new adult member income, as applicable, in the determination of annual household income at the next periodic recertification.

5315.3 If a zero income family adds an adult member with a source of income, DCHA shall the new income in the determination of annual household income effective the first of the month following the DCHA approval of the new adult member.

5315.4 Any decreases in income shall be processed in accordance with § 5310.

5315.5 Pursuant to 24 C.F.R. § 5.615, if a Family reports a decrease in income from the loss of welfare benefits due to fraud or noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program, that decrease in income shall not cause a change in the Family's share of the rent.

5321 HOUSING QUALITY STANDARDS AND INSPECTIONS

5321.1 DCHA is required to inspect each unit receiving assistance under the Housing Choice Voucher Program (HCVP) to ensure that it is “decent, safe, and sanitary” according to Housing Quality Standards.

5321.2 DCHA may adopted additional local requirements of acceptability, defined in § 5324 and the local District of Columbia Housing Code.

5321.3 A unit must meet Housing Quality Standards to be eligible for a Housing Assistance Payment, both at initial lease-up and so long as the participant Family resides in the unit.

5321.4 DCHA shall perform four types of inspections:

- (a) Initial;
- (b) Annual;
- (c) Complaint; and
- (d) Quality Assurance.

5333 FAMILY MOVES

- 5333.1 Except as noted in this subsection, families may move in accordance with Chapter 85 (Housing Choice Voucher Program: Participant Moves) of this title of the DCMR.
- 5333.2 Each Family shall give notice to move in accordance with Chapter 85 of this title of the DCMR.
- 5333.3 DCHA shall not approve requests to move a Family more than once in a twelve (12) month period unless one of the exceptions apply:
- (a) A victim or Family seeks to move under the protections enumerated in the VAWA;
 - (b) DCHA terminates the HAP contract with the owner; or
 - (c) The move is necessary to grant a request for a reasonable accommodation.
- 5333.4 Families may only request a Voucher transfer briefing if the Family:
- (a) Has not been terminated or is not currently being recommended for termination;
 - (b) Is in good standing with the lease in the current unit (no outstanding rent or tenant-responsible utility bills); and
 - (c) Does not have any current tenant-caused HQS violations in their existing unit.
- 5333.5 Notwithstanding § 5334.4, Families who qualify for emergency transfer vouchers shall be issued a transfer voucher if one (1) or more of the following conditions apply:
- (a) The family has demonstrated a need based on the protections for victims of intrafamily violence as explained in § 4907;
 - (b) DCHA has terminated the HAP contract with the Family's landlord;
 - (c) The Owner has initiated eviction proceedings against the Family;
 - (d) DCHA may grant an emergency transfer upon request from the OAG, DOJ, or USAO as a matter of safety; or for witness protection if the family is within the first year of their lease. Where feasible, DCHA shall seek the written authorization of the Landlord to release the family prior to making any decision about allowing the family to move to another unit, if the family is in the first year of their lease; or
 - (e) If DCHA determines that the family voucher size is too large, and the family is not within the first year of tenancy.
- 5333.6 Families may choose to request only one (1) transfer voucher annually, no earlier than thirty (30) days before the month they last entered into a lease and no later

than thirty (30) days after they last entered into a lease unless the Family qualifies for one (1) of the emergency conditions as stated in § 5333.6.

Chapter 54, VERIFICATION PROCEDURES, is amended as follows:

5402 METHODS OF VERIFICATION

5402.1 In order of priority, the forms of verification that DCHA shall use are:

- (a) Up-front Income Verification (UIV) whenever available;
- (b) Third-party Written Verification;
- (c) Third-party Written Verification Forms;
- (d) Third Party Oral Verification; and
- (e) Self-Certification.

5402.2 UIV shall be used to the extent that these systems are available to DCHA. UIV is an automatic form of third-party verification.

5402.3 Current UIV Resources at DCHA are:

- (a) HUD's Enterprise Income Verification (EIV) system;
- (b) The Work Number;
- (c) Department of Human Services;
- (d) Department of Employment Services; and
- (e) Child Support Enforcement.

5402.4 DCHA shall use HUD's EIV system as a third-party source to verify Family member employment and income information during periodic and interim recertification of Family composition and income, and shall not require the Family to provide information already available through the EIV system. The reports shall be retained in the participant file with the appropriate transaction.

5402.5 EIV reports shall constitute third party verification when the Family does not dispute the income sources and it is supplemented with participant provided documents. EIV may not be used to calculate anticipated wage income; it shall only be used as a verification of the employment income source.

5402.6 If the Family does not dispute the income source, DCHA shall use participant provided documents to anticipate annual income.

5402.7 DCHA shall attempt another form of third party verification in the following circumstances:

- (a) The Family disputes income source in EIV;

- (b) Additional information is required as determined by DCHA; and
 - (c) In cases of absent Family members and approved requests for reasonable accommodations.
- 5402.8 When DCHA is unable to obtain verification through a UIV source, DCHA shall make at least two (2) attempts to obtain third-party verification before using another form of verification.
- 5402.9 DCHA shall seek third-party verification using a combination of written and oral requests to verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.
- 5402.10 DCHA shall consider documentation provided by the Family to be written third party verification if the documentation is:
- (a) Original documentation generated by a third party source;
 - (b) Dated within sixty (60) days preceding the date of the periodic recertification or interim adjustment; and
 - (c) If pay stubs, they are consecutive and dated within thirty (30) days of submission.
- 5402.11 DCHA may mail, fax, e-mail, or hand deliver third-party written verification requests and shall accept third-party responses using any of these methods:
- (a) DCHA shall send a written request for verification to each required source and give the source ten (10) business days to respond in writing;
 - (b) If a response has not been received by the eleventh business day, DCHA may request third-party oral verification;
 - (c) A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source shall be documented in the file. When DCHA uses oral third party verification a "Document Viewed or Person Contacted" form shall be filled out by the staff person;
 - (d) When any source responds orally to the initial written request for verification DCHA shall accept the oral response but shall also request that the source complete and return any verification forms that were provided;
 - (e) If a third party agrees to confirm in writing the information provided orally, DCHA shall wait no more than five (5) business days for the information to be provided. If the information is not provided by the sixth business day, DCHA shall use any information provided orally in combination with the information provided by the Family; or

- (f) DCHA shall determine that third-party verification is not available when there is a service charge for verifying an asset or expense and the Family has original documents that provide the necessary information. DCHA shall document in the Family file the reason that the third-party verification was not available and shall place a photocopy of the original document(s) in the Family file.
- 5402.12 If DCHA determines that third-party verification is not available or not required, DCHA shall use information provided by the Family as verification.
- 5402.13 DCHA may also review documents when necessary to help clarify information provided by third parties. In such cases DCHA shall document in the file how DCHA arrived at a final conclusion about the income or expense to include in its calculations.
- 5402.14 DCHA shall accept a self-certification from a Family as verification of assets disposed of for less than fair market value.
- 5402.15 DCHA shall only review documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than ten thousand dollars (\$10,000) annually and the Family has original documents that support the declared amount.
- 5402.16 Any documents used for verification shall be the original (not photocopies), if available, and shall be dated within one hundred eighty (180) days of the interview date, except tax returns which can be dated within three hundred sixty five (365) days of the interview and may not be original.
- 5402.17 The documents shall not be damaged, altered or in any way illegible. Print-outs from web pages are considered original documents. A DCHA staff member who views the original document shall make a photocopy.
- 5402.18 DCHA may reject any income documentation for reasons allowed by the administrative plan or HUD.
- 5402.19 When information cannot be verified by a third party or by review of documents, Family members shall be required to submit self-certifications attesting to the accuracy of the information they have provided to DCHA.
- 5402.20 DCHA may require a Family to certify through a sworn statement that a Family member does not receive a particular type of income or benefit.
- 5402.21 The self-certification shall be made in a format acceptable to DCHA and shall be signed by the Family member whose information or status is being verified. All self-certifications shall be signed in the presence of a DCHA representative or shall be notarized.

5403 FAMILIES WHO REPORT NO INCOME

5403.1 During any periodic or interim recertification where a Family reports they earn no income, a worksheet shall be utilized to determine potential undisclosed sources of income. Families with no income shall be subject to periodic interim recertification as further explained in § 5604.

5407 ASSETS

5407.1 DCHA, under its MTW authority, established Initiative 3.7.08 entitled “Rent Simplification and Collection”, which simplified calculation of assets for purposes of determining income. The following provision shall apply to calculating assets as imputed income:

- (a) DCHA shall not require documentation of assets during the periodic recertification process; and
- (b) DCHA shall not consider imputed income from assets in the calculation of total annual income.

Chapter 55, PORTABILITY, is amended as follows:

5504 BILLING

5504.1 The Receiving PHA shall provide initial billing to DCHA:

- (a) No later than ten (10) business days following the date of execution of the HAP contract; and
- (b) To receive the billing no later than sixty (60) days following the expiration date of the Family's voucher issued by the Initial PHA.

5504.2 DCHA shall accept billing by mail, fax, or email. If billing notice is not received by the deadline DCHA shall contact the Receiving PHA by mail, email, or fax to determine the status of the Family.

5504.3 If the Receiving PHA reports that the Family is not yet under HAP contract, DCHA shall inform the Receiving PHA in writing that they shall not accept any subsequent billing on behalf of the Family and shall not honor any subsequent billing, and the Receiving PHA shall be required to absorb the voucher.

5504.4 If the Receiving PHA reports that the Family is under HAP contract and it cannot absorb the Family DCHA shall accept the subsequent late billing.

5504.5 The Receiving PHA shall send a copy of the updated HUD Form-50058 at each periodic recertification for the duration of time the Receiving PHA is billing DCHA on behalf of the Family, regardless of whether there is a change in the billing amount.

5504.6 Should DCHA fail to receive an updated HUD Form-50058 by the periodic recertification date, it shall contact the Receiving PHA to verify the status of the Family. DCHA may not withhold payment solely because the Receiving PHA did

not submit the updated HUD Form-50058 by the periodic recertification date.

5504.7 DCHA shall also receive a new HUD Form-52665 along with the HUD Form-50058 when the Initial PHA reports any changes in the billing amount, if applicable. The notice shall be received by DCHA no later than ten (10) working days following the effective date of the change.

5504.8 If the Receiving PHA fails to send the HUD Form-52665 within ten (10) working days following the effective date of the change in the billing amount, DCHA is not responsible for paying any increase in the monthly billing amount incurred prior to the notification.

5504.9 Should there be a decrease in the monthly billing amount DCHA shall notify the Receiving PHA in writing of the overpayment and DCHA shall recover overpayment in the following month's payment. If DCHA is unable to recover payments in the following month, DCHA shall demand that the Receiving PHA reimburse within thirty (30) days of notification.

5510 BILLING DEADLINES AND ONGOING RESPONSIBILITIES

5510.1 DCHA shall submit initial billing notice as follows:

- (a) No later than ten (10) working days following the date the HAP contract was executed; and
- (b) In time that it shall be received no later than sixty (60) days following the expiration date of the Family's voucher issued by the Initial PHA.

5510.2 When billing, DCHA shall:

- (a) Send HUD Form-52665 and HUD Form-50058 via fax, mail or email, as acceptable by the initial PHA;
- (b) DCHA shall inform the Initial PHA of its MTW status and its periodic Recertification initiatives;
- (c) Send the Initial PHA a copy of the updated HUD Form-50058 at each periodic recertification for the duration of time DCHA is billing the Initial PHA on behalf of the Family, regardless of whether there is a change in the billing amount; and
- (d) Send a new HUD Form-52665 along with the HUD Form-50058 to report any changes in the billing amount, if applicable. The notice shall be sent to the Initial PHA no later than ten (10) working days following the effective date of the change.

5510.3 Should the periodic recertification be late and DCHA fail to submit the billing within ten (10) days of the effective date the initial PHA may not withhold payment solely because DCHA did not submit the updated from HUD Form-50058 by the periodic recertification date.

- 5510.4 If DCHA causes the delay, the Initial PHA is not required to pay any increase in payment after the billing deadline, and may begin paying the increased amount the following month.
- 5510.5 Should DCHA fail to properly notify the Initial PHA and the Initial PHA refuses to pay the increased cost, DCHA shall be required to absorb the increased cost for the period in which the billing was late.
- 5510.6 When a current Family in good standing requests to port outside of DCHA jurisdiction, DCHA shall:
- (a) Not issue a voucher to the Family; and
 - (b) Notify the Initial PHA of the Family's desire to port to another jurisdiction.
- 5510.7 The Initial PHA shall be responsible for issuing a voucher and sending the portability paperwork to the PHA where the Family wishes to port. DCHA shall assist the Initial PHA by providing them the most current HUD Form-50058 and supporting documentation.
- 5510.8 Billing arrangements shall be terminated once the HAP payments for the landlord terminate. DCHA shall notify the Initial PHA in advance of the effective date of the termination of billing.

Chapter 58, OWNER EVICTION GUIDELINES AND GROUNDS FOR TERMINATION FROM THE HOUSING CHOICE VOUCHER PROGRAM, is amended as follows:

5808 FAMILY OBLIGATIONS TO AVOID TERMINATION

- 5808.1 The Family shall:
- (a) Supply such certification, release, information or documentation as DCHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible alien status, and submissions required for a periodic or interim recertification of Family income and composition;
 - (b) Allow DCHA to inspect the dwelling unit at reasonable times and after reasonable notice;
 - (c) Notify DCHA before vacating the dwelling unit;
 - (d) Use the dwelling unit solely for residence by the Family, and as the Family's principal place of residence; and
 - (e) Promptly give DCHA a copy of a Writ of Restitution received when an Owner seeks to remove the family from the unit within ten (10) days of the date of the notice.
- 5808.2 The Family shall not:

- (a) Own or have any interest in the unit except for participants in the Home Ownership Assistance Program (HOAP) as further explained in Chapter 92 of this title of the DCMR, other than in a cooperative;
- (b) Commit any fraud in connection with the HCVP;
- (c) Receive duplicative housing assistance under the HCVP while occupying, or receiving housing assistance for occupancy of, any other unit assisted under any Federal housing assistance program (including any Section 8 program); or
- (d) Sublease or assign the lease or transfer the unit.

5808.3 DCHA shall terminate assistance if:

- (a) A Family fails to submit required documentation within the required timeframe concerning any Family member's citizenship or immigration status as enumerated in Chapter 54 (Verification Procedures) of this title of the DCMR;
- (b) A Family submits evidence of citizenship and eligible immigration status in a timely manner, but USCIS primary and secondary verification does not verify eligible immigration status of the Family;
- (c) A Family member, as determined by DCHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit;
- (d) A Family is not receiving HAP assistance for more than twelve (12) months due to an increase in income; or

5808.5 For § 5908.4(c), such termination shall be for a period of at least twenty-four (24) months. This does not apply to ineligible noncitizens already in the household where the Family's assistance has been prorated.

5808.6 A Family shall not receive HCVP assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister, or brother of any member of the Family, except as a reasonable accommodation that DCHA approves.

5808.7 DCHA shall determine if a Family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction or a writ of possession. Such violations may include, but are not limited to:

- (a) Nonpayment of rent;
- (b) Disturbance of neighbors;
- (c) Destruction of property;
- (d) Living or housekeeping habits that cause damage to the unit or premises;

and

- (e) Criminal activity.

5811 PARTICIPANTS RECEIVING NO HOUSING ASSISTANCE PAYMENT ASSISTANCE

5811.1 Participants receiving no HAP assistance because their rental share equals the full rent may remain on the Program for twelve (12) months from the effective date they no longer receive assistance.

5811.2 When the twelve (12) months has been reached, the Owner shall be notified of the termination of the HAP Contract, in accordance with the HAP Contract.

5811.3 However, if the Owner is granted a rent increase during this period and the rent increase would cause DCHA to resume HAP payments, or if at periodic or interim recertification the participant has properly reported loss of income resulting in a HAP payment, the payments shall resume.

5811.4 During the twelve (12) month period that a Family may remain in the Program unassisted, DCHA shall perform all of the duties and responsibilities normally required in the Program, including recertifications and inspections of the unit. If the Family remains unassisted for twelve (12) months, without reporting a change that would trigger an increase in the HAP, the HAP contract shall terminate after twelve (12) months.

5811.5 Upon reducing a Family's HAP to zero (0), DCHA shall give the Family a written notice containing the following information:

- (a) As a result of its income and Family composition, the Family is responsible for the full contract rent;
- (b) The Family may remain in the program for twelve (12) months paying the full contract rent;
- (c) If the Family's income or Family composition changes, the Family should report that information to DCHA;
- (d) If the Family remains at zero (0) assistance for twelve (12) months without reporting a change in income or Family composition, the Family will be terminated from the HCVP;
- (e) The Family may move to another unit during the twelve (12) month period and if the Family would be entitled to assistance at the new unit (because of a higher rent, for example), DCHA will pay assistance at the new unit; and
- (f) The Family's right to challenge the determination in accordance with Chapter 89 (Informal Hearing Procedures for Applicants and Participants of the Housing Choice Voucher and Moderate Rehabilitation Program) of

this title of the DCMR.

5811.6 If the tenant wants to move to another unit during this period whose rent is not greater, DCHA may execute a new HAP Contract for the new unit at zero dollars (\$0) assistance.

Chapter 61, PUBLIC HOUSING: ADMISSION AND RECERTIFICATION, is amended as follows:

6118 RECERTIFICATION

6118.1 Lessee shall recertify, periodically as determined by § 6118.2, and shall be responsible for providing to DCHA a completed application for continued occupancy, including the appropriate verification forms. The forms are those provided by or otherwise authorized by DCHA. The Lessee's responsibility to provide a completed application for continued occupancy, including the appropriate verification forms shall include but is not limited to the following:

- (a) Lessees shall be required to return the recertification package including any required substantiating documentation or verification forms to DCHA within thirty (30) days of receipt of the recertification package;
- (b) Lessee shall obtain from other household members any information, documentation and signatures, as DCHA may require, when submitting a completed application for continued occupancy, including the appropriate verification forms as DCHA may require;
- (c) The Lessee shall provide DCHA, for each household member, to DCHA a listing of the exact amount of income or benefits, from whatever source and the exact source of the income or benefit;
- (d) The Lessee shall provide certification from all adult household members that their income has been accurately reported;
- (e) Lessee shall provide the full name, gender, Social Security Number and date of birth for each household member;
- (f) Lessee shall provide to DCHA proof of the Lessee's and/or any household member's enrollment in an educational facility and shall provide this information for any household member that Lessee is seeking to add;
- (g) Lessee's who wish to remove a household member from the household shall have the burden of proof that such person has permanently vacated the Leased Premises and must submit documents satisfactory to DCHA, in accordance with Subsection 6119.1, that the household member is residing elsewhere; and
- (h) If the Lessee has misrepresented or failed to submit timely to DCHA any facts used in the determination of rent, whether intentionally or by

mistake, DCHA may charge and collect as rent the difference between the rent actually paid and the rent which would have been due had the proper information been submitted timely by the Lessee. This amount, the basis for the charge, and notice of the Lessee's grievance rights will be made available to lessee in writing by DCHA. This amount shall be posted to the Lessee's account and rent statement. Lessee shall receive written notice of the new amount which shall be due as stated in the notice, but not less than thirty (30) days from the date of the notice. A failure to accurately report income, deductions, family composition, or any other information may result in legal action being taken by DCHA or law enforcement agencies.

- 6118.2 Lessee shall recertify biennially unless they qualify for triennial recertification, as described in § 6118.3.
- 6118.3 To qualify for triennial recertification, all members of the household must be:
- (a) Elderly and/or disabled; and
 - (b) Earning fixed income only. Fixed income shall be defined as non-wage income of a fixed monthly or yearly amount.

Chapter 62, RENT CALCULATIONS, is amended as follows:

6200 RENT CALCULATIONS

- 6200.1 Notwithstanding provisions which may appear elsewhere in this subtitle, each tenant shall pay, as tenant rent, one of the following:
- (a) Income-based rent as the greater of one twelfth (1/12) of thirty percent (30%) of adjusted income or one twelfth (1/12) of ten percent (10%) of the annual income. The value of any assets or imputed income from assets shall not be used in the calculation of income based rent. Actual net income from assets greater than the threshold described above shall be included in the determination of adjusted income;
 - (b) Market-based rent which shall not be lower than eighty percent (80%) of the applicable United States Department of Housing and Urban Development (HUD) Fair Market Rent (FMR) for applicable Metropolitan Statistical Area. If the Market-based rent is less than income-based rent, as determined by DCHA, the family shall pay the lower;
 - (1) Pursuant to HUD's PIH Notice 2014-12 implementing Sections 210 and 243 of Title II of Pub.L. 113-76, the Consolidation Appropriations Act of 2014, if the application of the flat rent rule increases a family's existing rent by more than 35%, then the market-based rent amount shall be phased in as necessary to ensure that the family's existing rental payment does not increase by more than 35% biennially.

- (c) If the family is determined by DCHA to have no adjusted income, the family shall pay minimum rent as provided in § 6210.
- 6200.2 Any changes in tenant rent shall be stated in a special supplement to the lease, which shall, upon issuance, become a part of the dwelling lease. The special supplement to the lease shall constitute the tenants thirty (30) day written notice of an increase in tenant rent. The family shall be provided a copy of the special supplement to the lease.
- 6200.3 A copy of the market-based rent schedule for a property shall be available at each property management office, on the DCHA web site, or can be requested from the DCHA.
- 6200.4 At initial lease-up and with each periodic recertification or interim recertification, DCHA shall calculate the family's income-based rent. If the market-based rent, as listed in the current market-based rent schedule for the property, is less than the family's income-based rent, the family shall pay the lower amount.
- 6200.5 If a tenant is paying a market-based rent, the tenant shall:
- (a) Submit an interim recertification in accordance with § 6117 for any change in family circumstances. Change in family circumstances may include, but shall not be limited to, reductions in income, employment, or other assistance; or increases in expenses for medical costs, child care, transportation, or education pursuant to § 6119; and
- (b) Provide DCHA with a completed application for continued occupancy, in accordance with § 6118.
- 6200.6 All changes in tenant rent, both income-based and market-based and whether after an interim or periodic recertification, shall be implemented in accordance with §§ 6118, 6119, and this chapter.
- 6200.7 In properties where utilities and other essential services are supplied to the tenant by DCHA, tenant rent payable to DCHA under the dwelling lease shall be the same as total tenant payment.
- 6200.8 Tenant rent shall be computed after both annual income and adjusted income have been verified.
- 6200.9 The tenant shall receive retroactive credit to credit an administrative error.
- 6200.10 Tenants occupying property for a portion of a month at the time of move-in shall be charged a pro-rata share of the full monthly rate determined by DCHA.
- 6200.11 Allowances and special deductions:
- (a) In properties where tenants are responsible for paying for their own utility bills, the utility allowance shall be subtracted from the total tenant payment to determine the tenant rent payable to DCHA. If the tenant rent

resulting from the subtraction of the utility allowance from the total payment is negative, DCHA shall send a monthly check in the amount of the difference to the tenant;

- (b) At Redeveloped Properties or Service Rich Properties, as defined in 14 DCMR Section 6113, which an Association Fee is assessed, residents at such properties may be required to pay an amount calculated to equal the Association Fee attributable to the unit and shall be granted an allowance reflecting the Association Fee payment. The allowance shall be subtracted from the tenant rent to determine the tenant payment as follows:
- (1) Any utility allowance shall be deducted from the tenant rent first. The allowance for the Association Fee shall be deducted from any remaining positive amount. If the deduction of the utility allowance results in a negative rent there shall be no charge for an Association Fee and no deduction for the Association Fee allowance. If the deduction of the Association Fee allowance results in a negative amount, the required Association Fee payment from the tenant and its associated allowance shall be reduced so that the tenant rent is zero.
 - (2) If the tenant fails to pay the Association Fee on time, the fee shall be converted to rent, not to exceed 30% of adjusted income, when added to the monthly rent, for the month in which the fee was paid.
 - (3) If the Association Fee is paid after entry of judgment as part of the payment required to avoid eviction, the fee shall be recorded as the Association Fee, and the ledger shall be updated to reflect the tenant's payments.

6214 NEIGHBOR TO NEIGHBOR CARE PROGRAM

6214.1 Purpose of the Program. The District of Columbia Housing Authority (“DCHA”) Neighbor to Neighbor Care Program is a program designed to assist public housing residents participate in activities that are a benefit to themselves and the community. The Neighbor to Neighbor Care Program is designed to give families a greater ownership in their communities and to facilitate upward mobility. Participation for certain residents is required by HUD, participation for others is voluntary. The objective, whether participation is voluntary or required, is to facilitate residents achieving economic self-sufficiency and contributing to their neighbors and community.

6214.2 Voluntary or Required Participation

- (a) All adult members of a household leasing a rental unit in a public housing development exempt or non-exempt under § 6214.3, may participate in any Approved Service Program as identified in § 6214.4.
- (b) Each adult member of a household leasing a rental unit in a public housing

development, unless exempt under Subsection 6214.5, shall, as a condition of their continued occupancy, contribute the equivalent of eight (8) hours per month, for a total of at least ninety-six (96) hours in any given year, in an approved voluntary community service activity as specified in § 6214.4.

- (c) Political activities, including campaigning, voter registration, voting or getting out the vote, do not qualify for meeting the Participation Requirement specified in § 6214.2(2) above. Work that is compensated as employment does not qualify to meet the Participation Requirement.

6214.3

Exemptions

- (a) Certain adult household members are exempt from required participation in the Neighbor to Neighbor Care Program if they can document that they are:
 - (1) Sixty-two (62) years old or older;
 - (2) Blind or disabled as determined in accordance with Federal regulations implementing the Social Security Act;
 - (3) The primary caretaker of an individual identified in (b) above;
 - (4) Engaged in one, or a combination of, the work activities identified below for at least the same number of hours per week (or total over the course of a year) as specified in § 6214.2(2) above:
 - (A) Employment;
 - (B) On-the-job training;
 - (C) Job search and job readiness programs, including, but not limited to, registration with the Department of Employment Services and the DCHA Section 3 program;
 - (D) Job skills training directly related to employment;
 - (E) Vocational educational training;
 - (F) Education directly related to employment, for individuals who have received a high school diploma or a certificate of general equivalence;
 - (G) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence;
 - (H) Provision of child care services to an individual who is participating in a Neighbor-to-Neighbor activity or an activity that exempts an individual from required Neighbor-to-Neighbor activities;

- (5) Exempt from having to engage in a work activity under a Qualified Assistance Program;
 - (6) A member of a family receiving assistance, under a Qualified Assistance Program, provided that the family has not been found by the administering agency to be in noncompliance with such program;
- (b) DCHA shall review the exempt status of each adult family member as part of the recertification process.

6214.4

Approved Service Programs

- (a) The Office of Resident Services shall maintain a list of approved Neighbor to Neighbor sponsors and activities which offer opportunities for service and economic and educational advancement for residents. The list shall be available to the DCHA City Wide Advisory Board and all DCHA Resident Councils as well as from each Property Manager.
- (b) Additional programs and activities may be approved and added to the list from time to time, as follows:
- (1) A resident may request the addition of a Service Program to the list by submitting documentation from the sponsor of the Program as to the Program's activities and an authorized representation that it does not engage in political activities and that the resident will not be employed by the Program.
 - (2) Any Resident Council or the City Wide Advisory Board may request the addition of a Program by submitting documentation about the Program as to the scope of its activities and that the Program is not engaged in political activities.
- (c) Approved Service Programs may include programs and activities such as those listed below.
- (1) Voluntary Community Service Activities, such as: Serving in leadership positions in the Resident Council, District of Columbia City-Wide Advisory Board, the DHCA Board of Commissioners or the Resident Advisory Committee, but no political activities or voter registration activities;
 - (2) Resident Council or City-Wide Advisory Board sponsored Service Programs;
 - (3) Participating in DCHA sponsored community service programs, including but not limited to Orange Hat patrols, building playgrounds and landscaping events;
 - (4) Tutoring or other support program at a local public or private

- school in the resident's community;
- (5) Participation in church sponsored programs that support the community and individuals in the community;
 - (6) Civic and public interest organizations, such as the Boys and Girls Clubs of Greater Washington, United Way, AmeriCorps and Vista;
 - (7) Volunteer and support programs at a local public or non-profit institution, such as the public, charter or private school, Head Start, before or after school programs, childcare center, hospital, clinic, hospice, nursing home, recreation center or senior center;
 - (8) Educational Advancement Programs, such as:
 - (A) English proficiency or literacy classes;
 - (B) English as a second language classes;
 - (C) Financial Management;
 - (D) Credit Counseling;
 - (E) Household Management; or
 - (F) Others as approved by DCHA.

6214.5 Reporting

- (a) All adult family members required to participate in the Neighbor-to-Neighbor program shall provide to DCHA as part of the family's recertification package, a signed statement by each such adult describing the Neighbor-to-Neighbor activities pursued since the household's last recertification-and certifying the hours of service provided.
- (b) Each adult family member claiming exemption from required Neighbor-to-Neighbor program participation according to the provisions of § 6214.3, above shall provide to DCHA as part of the family's recertification package:
 - (1) A signed statement by each adult claiming an exemption certifying either:
 - (A) A statement of the basis of the exemption under §§ 6214.3(a) - (c), (e), or (f) hereinabove, or
 - (B) A description of the work activities pursued by each exempt adult member under § 6214.3(d) hereinabove.
- (c) DCHA may require a release from the family member authorizing DCHA to obtain verification of any or all information provided in the household's

annual report of Neighbor-to-Neighbor activities and DCHA may, subsequent to submission, seek third party verification of any or all information supporting an exemption.

- (d) The provision of false certifications or information that cannot be verified by a third party shall be cause for a determination of non-compliance in accordance with § 6214.6 below.

6214.6 Compliance and noncompliance.

- (a) At least thirty (30) days prior to the household's periodic recertification date, DCHA shall determine that the head of household and all adult family members that are not otherwise exempt hereunder have met the Participation Requirement through taking part in one or more Approved Service Programs.
- (b) If DCHA determines that a family member who is required to fulfill the Participation Requirement failed to meet the requirement, DCHA shall provide written notice to the family member of DCHA's determination which shall describe such noncompliance.
- (c) DCHA shall provide an opportunity for the head of household and noncompliant family members to cure the non-compliance by:
 - (1) Entering into a written agreement whereby the head of household and/or noncompliant family member agree to a Personal Service Plan that provides for the hours required under § 6214.4(2) or § 6214.5(d) above, as well as the hours that were not provided in the preceding year, over the next twelve (12) month period;
 - (2) Agreeing to a date certain to vacate the leased premises.
- (d) If at the next recertification, any adult family member is still not in compliance, DCHA may serve a notice to quit or cure and, unless the head of household provides third party documentation in form satisfactory to DCHA that the noncompliant family member no longer resides with the family in the unit, then DCHA will seek judicial termination of the household's lease.
- (e) A head of household may request a grievance hearing on DCHA's determination of noncompliance in accordance with the provisions of Chapter 63 of this title.

6214.7 Definitions.

- (a) "Adult" means any individual eighteen (18) years of age or older residing in a unit owned by DCHA.
- (b) "Approved" means any approval' provided by DCHA to the head of household and/or a family member in writing.

- (c) “Approved Service Program” is a program approved by DCHA in accordance with § 6214.4 hereof.
- (d) “Exempt” means an individual for whom participation is not required but only voluntary as a result of one or more of the conditions described in § 6214.3.
- (e) “Family Member” means all authorized occupants under the lease agreement with DCHA, excluding Live-in-Aides.
- (f) “Head of Household” means the individual(s) who signed the lease agreement with DCHA.
- (g) “Participation Requirement” is the service requirement specified in Subsection 6214.2(2) and met through participation in an Approved Service Program.
- (h) “Qualified Assistance Program” is a District of Columbia program funded under Part A of Title IV of the Social Security Act, 42 U.S.C. §§ 601 *et seq.* or under any other District of Columbia welfare program, including a welfare to work program.

Chapter 98, PUBLIC HOUSING: ACHIEVING YOUR BEST LIFE REWARDS PROPERTY PROGRAM, is amended as follows:

9806 AYBL PROGRAM ELIGIBILITY DETERMINATION

- 9806.1 Only AYBL Applicant families who are determined eligible and successful in being selected in the appropriate lottery will be placed on an AYBL Site-based Transfer Waiting List(s) for which the family has chosen to be listed.
- 9806.2 AYBL Family will be selected without regard to race, color, religion, sex, handicap, familial status, or national origin.
- 9806.3 The DCHA shall consider an AYBL Applicant Family eligible for participation in the AYBL program if the AYBL Applicant Family meets the following criteria:
 - (a) Is a current resident in a DCHA subsidized conventional public housing unit, in a mixed finance unit subsidized by an Annual Contributions Contract, or is currently in the selection pool;
 - (b) Can demonstrate at least one (1) year of timely rental payment history with DCHA or in the private market;
 - (c) Bedroom size requirement meets the unit composition of the Reward Property and established DCHA Occupancy Standards of this chapter;
 - (d) Income eligible: minimum earned income of the potential borrower/co-borrower or renter of no less than thirty-two thousand dollars (\$32,000) from employment or in the case where the potential borrower/co-borrower

or renter is elderly and/or disabled certain unearned income (for example, SSI, SSDI, pension payments, etc.) may be counted toward the thirty-two thousand dollars (\$32,000) minimum. DCHA may from time to time change the minimum income eligibility requirement.

- (e) The family may not include any person who has held an ownership interest in a residence during the three (3) years prior to commencement in AYBL, except as follows:
 - (1) Equitable interest in a property under the terms of a lease-purchase agreement prior to exercise of the purchase option;
 - (2) An individual who is now single, but had previously owned a home with his or her former spouse even within the three (3) year period;
 - (3) A household in which a family member is a person with a disability, if homeownership assistance is needed as a reasonable accommodation; and
 - (4) A family that owns or is acquiring shares in a cooperative.
- (f) Be a DCHA resident in Good Standing:
 - (1) Timely completion of periodic and interim recertifications;
 - (2) No instances of unreported income;
 - (3) No current debt owed (*i.e.*, rent, excess utility charges, maintenance charges, etc.) to DCHA, federally funded housing program, and any court or in-house repayment agreements must be paid off prior to application to the AYBL program;
 - (4) No more than four (4) late rental payments, in either public housing or the private market, within the twelve (12) months prior to approval of an AYBL application provided that the payment is received within the month that the rent is charged. For other charges (*i.e.*, excess utility charges, maintenance charges, etc.) payment must have been made within thirty (30) days of the date of the charge;
 - (5) Passed scheduled DCHA inspections that were conducted in the unit within the past twelve (12) months from the date of AYBL application submission;
 - (6) No legal actions for non-curable violations of the lease within the last five (5) years at the time of AYBL application submission;
 - (7) No repeated breaches of other terms of the Lease by the Lessee(s) or any household member identified in the Public Housing

dwelling lease;

- (8) Pass a separate DCHA AYBL Home Visit inspection;
- (9) Pass a criminal background check that will be conducted on all household members who are eighteen (18) years of age or older pursuant to 14 DCMR § 6109.

9806.4 At the time a unit offer is made, the family must continue to be in compliance with the eligibility requirements of the program and the qualifying bedroom size based on their current family composition. If the family is determined not to require the bedroom size for which they were initially placed on the waiting list, the family will be placed at the bottom of the waiting list for the appropriate bedroom size if such a bedroom size exists at the property. If the family is determined to be ineligible, they will be removed from the waiting list.

- (a) While on an AYBL Site-based Transfer Waiting List, applicants will be responsible for reporting any changes to income and household composition to DCHA;
- (b) When an AYBL Family has been on an AYBL Site-based Transfer Waiting List for more than one (1) year prior to a unit coming available at a Rewards Property, DCHA will update the screening information to determine if the family is still eligible before assigning the family an available unit;
- (c) If the family is determined to be no longer eligible for the AYBL program, DCHA will notify the family in writing. The notification will include the reason for the ineligibility determination.

9806.5 The AYBL Family will be required to execute a Contract of Participation and the ITSP form within fourteen (14) calendar days of notification of availability of a Rewards Property unit.

9806.6 Once the Contract of Participation has been executed, the AYBL Family must execute the Dwelling Lease and move into the Rewards Property unit, within ten (10) calendar days of a Rewards Property unit becoming available. The AYBL Family is responsible for relocation costs.

9821 DEFAULT

9821.1 If an AYBL Family defaults under any of the terms of the Contract of Participation, the tenancy shall automatically convert to a conventional public housing tenancy. All sums due pursuant to the Contract of Participation shall be deemed rent and are payable to DCHA. The AYBL Family shall transfer to a conventional public housing unit pursuant this chapter. DCHA shall be entitled to initiate legal action in any appropriate forum for possession and/or rent.

9821.2 The rent will be re-calculated in accordance with the standards set forth in 14

DCMR Chapter 62. DCHA will initiate an interim recertification to determine the new rent amount based on the information currently available in DCHA records.

- 9821.3 Events of default include but are not limited to:
- (a) Any breach of the Contract of Participation or of the AYBL Lease Addendum;
 - (b) Failure to make any required payment under the AYBL Lease Addendum;
 - (c) Failure to maintain the balance in their maintenance escrow account due to tenant caused damages;
 - (d) Failure to timely pay escrow and/or rent;
 - (e) Failure to attend required training sessions or meetings;
 - (f) Failure to submit interim or periodic recertification;
 - (g) Failure to report increases in income in accordance with recertification regulations; and
 - (h) Failure to report changes in family composition.
- 9821.4 Upon default or voluntary termination of the Contract of Participation or non-payment of escrow accounts, all escrow accounts are deemed rent and subject to the jurisdiction of the D.C. Superior Court Landlord Tenant Branch.
- 9821.5 In the event the family is in default of their Contract of Participation, DCHA shall provide a written Notice of Non-Compliance. The AYBL family will have an opportunity to meet with DCHA staff, examine any documents, records and/or regulations that are the basis of the default and have the opportunity to cure or correct the default. The family must cure the default within six (6) months from the date of the Non-Compliance or by the end of the term of their Contract of Participation, whichever is shorter. The notice shall be mailed or hand delivered to the family at their unit in the AYBL Rewards Property.
- 9821.6 In the event the family is in default of their Contract of Participation, DCHA shall provide written notice of the default, an opportunity to meet with DCHA staff, and the opportunity to cure or correct the default. The family must cure the default within six (6) months from the date of the notice or by the end of the term of their Contract of Participation, whichever is shorter. The notice shall be mailed or hand delivered to the family at their unit in the AYBL Rewards Property.

DISTRICT DEPARTMENT OF TRANSPORTATION

NOTICE OF FINAL RULEMAKING

The Director of the District Department of Transportation (“Department”), pursuant to the authority set forth in Sections 4(a)(5)(A) (assigning authority to coordinate and manage public space permits and records to the Department Director), 5(4)(A) (assigning duty to review and approve public space permit requests to the Department Director), 6(b) (transferring the public right-of-way maintenance function previously delegated to the Department of Public Works under Section III(F) of Reorganization Plan No. 4 of 1983 to the Department), 9j (granting the Director rulemaking authority), and 9(j) (authorizing civil fines and penalties) of the Department of Transportation Establishment Act of 2002 (“DDOT Establishment Act”), effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.03(5)(A), 50-921.04(4)(A), 50-921.05(b), 50-921.18, and 50-921.19 (2014 Repl. & 2015 Supp.)), Sections 604 and 607 of the Fiscal Year 1997 Budget Support Act of 1996, effective April 9, 1997 (D.C. Law 11-198; D.C. Official Code §§ 10-1141.04 and 10-1141.07 (2013 Repl. & 2015 Supp.)), Subtitle C of Title VI of the Fiscal Year 2005 Budget Support Act of 2004, effective December 7, 2004 (D.C. Law 15-205; D.C. Official Code §§ 10-1181.01 *et seq.* (2013 Repl. & 2015 Supp.)), and the Public Space Enforcement Amendment Act of 2014, effective March 11, 2015 (D.C. Law 20-207; 61 DCR 12690 (December 19, 2014)), provides notice of the intent to adopt the following amendment to Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (“DCMR”) by adding a new Chapter 41 (Publisher Boxes).

The purpose of this rulemaking is to regulate the placement of publisher boxes on public space within the District of Columbia to promote public safety and the efficient use of public space, and to require annual permits, public liability insurance, and indemnification of the District in connection with the placement of publisher boxes on public space. This rulemaking will also establish an annual permit fee per publisher box to partially cover the administrative costs of permitting and monitoring the placement of publisher boxes on public space. This rulemaking will establish a process whereby a person may obtain a public space permit to install and maintain a publisher box corral on public space. Additionally the rulemaking will establish a process for removal of any actual or potentially hazardous publisher boxes. In the context of this rulemaking hazardous refers to any publisher box that is an actual or potential hazard and would present a danger to the public.

The first Notice of Proposed Rulemaking was published in the *D.C. Register* on August 23, 2013 at 60 DCR 12226. In response to public comments received, the annual permit fee per publisher box was reduced from \$5.00 to \$1.00 and the following provisions were added: an option for a two (2) year annual permit; an allowance for the number of permitted publisher boxes to increase by ten percent (10%) without penalty; the addition of a permit amendment process if the number of publisher boxes increases by more than ten percent (10%); and permission for the publisher box owner to print as many permit stickers as desired. Also added were requirements for the publisher box to: be ADA accessible; display contact information for the person responsible for maintenance of the box; protect publications from weather; keep the publisher boxes free of past issues, trash and debris; and a prohibition on displaying an expired permit sticker. Additionally, the publisher box placement requirements were reorganized into general requirements, curbside

requirements, and new requirements for placement adjacent to a building or wall. The prohibition on residential zone placement was removed. A new section was added to address the need to move or remove publisher boxes from public space due to presidential inaugurations, some special events, construction work and new or relocated bus stops.

Also, due to the enactment of the Public Space Enforcement Amendment Act of 2014, new sections were added to outline the processes for the immediate removal of a dangerous publisher box, the service, abatement and adjudication of a compliance order and the service, abatement and adjudication of a notice of infraction. A new section was added to specify where in Title 16 DCMR (Consumers, Commercial Practices, and Civil Infractions) the applicable civil infractions for publisher box violations and associated Administrative procedures and schedule of fines are located. Finally, a new section for publisher box infractions was added to a chapter of Title 16 DCMR that will be proposed by a separate rulemaking.

The Notice of Second Proposed Rulemaking was published in the *D.C. Register* on January 22, 2016 at 63 DCR 000902. DDOT received four comments on the proposed rulemaking. One commenter raised concerns that the rulemaking would be burdensome and based on publication content. DDOT disagrees and has determined that the information collected is only to ensure that publisher boxes are placed in public space in a safe manner and are safely maintained. Therefore, DDOT did not modify the rulemaking. The final rulemaking does not include any substantive changes from the second notice of rulemaking published in the *Register* on January 22, 2016. There were four non-substantive changes made to the rulemaking: A clarification was added that violation, removal, and relocation notices shall be made by both mail and email; the chapter was renumbered from 36 to 41 to accommodate a separate rulemaking; the date for implementation was corrected; and a definition of Public Space Committee was included.

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

A new Chapter 41, PUBLISHER BOXES, is added to Title 24 DCMR, PUBLIC SPACE AND SAFETY, as follows:

CHAPTER 41 PUBLISHER BOXES

- 4100 PLACEMENT OF PUBLISHER BOXES ON PUBLIC SPACE**
- 4101 APPLICATION AND QUALIFICATIONS TO OBTAIN A PUBLISHER BOX PERMIT**
- 4102 DISPLAY OF ANNUAL STICKER ON PUBLISHER BOXES ON PUBLIC SPACE**
- 4103 SPECIFICATIONS OF PUBLISHER BOXES ON PUBLIC SPACE**
- 4104 MAINTENANCE OF PUBLISHER BOXES ON PUBLIC SPACE**
- 4105 PUBLISHER BOX CORRALS**
- 4106 RELOCATING OR REMOVING PUBLISHER BOXES**
- 4107 REMOVAL OF A HAZARDOUS PUBLISHER BOX**
- 4108 COMPLIANCE ORDERS**
- 4109 NOTICE OF INFRACTION**

4110 CIVIL INFRACTIONS, ADMINISTRATIVE PROCEDURES AND SCHEDULE OF FINES APPLICABLE
4199 DEFINITIONS

4100 PLACEMENT OF PUBLISHER BOXES ON PUBLIC SPACE

4100.1 Any person may place, maintain, or operate a publisher box on public space after first obtaining an annual public space permit from the Director of the District Department of Transportation (“Director”).

4100.2 The Director shall issue an annual public space permit when the following conditions are satisfied:

- (a) A non-refundable public space permit application fee of fifty dollars (\$50) has been paid;
- (b) The Director determines that the information and documentation submitted pursuant to § 4101 are complete; and
- (c) An annual public space permit fee of one dollar (\$1) per publisher box per year has been paid.

4100.3 As a condition of the annual public space permit, the permittee shall indemnify and hold harmless the District of Columbia, its officers, employees or agents from any and all liability, loss, or damage the District of Columbia may suffer as a result of claims, demands, costs, or judgments against it arising from the placement of the publisher box.

4100.4 An owner of an existing publisher box on public space must obtain the annual public space permit required by § 4100.1 by June 1, 2017.

4100.5 Notwithstanding § 4100.2(a), the fifty dollar (\$50) public space permit application fee shall only be charged for the original permit application and shall not be charged when submitting an application to renew or to amend the original permit. The fee to renew or amend an annual permit shall be based solely on the permit fee per box per year pursuant to § 4100.2(c).

4100.6 If after securing the annual public space permit, the owner no longer wishes to place publisher boxes in public space, the owner must request a refund within one hundred eighty (180) days from the date the permit was issued pursuant to 24 DCMR § 225.3.

4101 APPLICATION AND QUALIFICATIONS TO OBTAIN A PUBLISHER BOX PERMIT

4101.1 The owner of a publisher box located or to be located on public space shall submit a public space permit application to the Director on an annual or biennial basis. The application shall be accompanied by the following:

- (a) Contact information for the following:
 - (1) The name, business address, phone number and the email address of the person requesting the annual permit who may be the owner of the publisher box or the agent for the owner;
 - (2) The name, business address, phone number and, if applicable, the email address of the owner of the publisher box who shall be shown on the permit as the permittee; and
 - (3) The name, business address, phone number and email address of the person currently responsible for maintaining the publisher box on public space;
- (b) A document stating the name of each publication, periodical, or document distributed from the publisher box owned by the applicant, to be used solely for DDOT confirmation of use of the publisher box by a permitted applicant;
- (c) A certificate of insurance naming the District of Columbia, a municipal corporation, its officers, and employees as an additional insured and covering any liability arising from the placement of the applicant's publisher box on public space for the duration of the permit. The certificate of insurance shall show the following:
 - (1) The District of Columbia, a municipal corporation, as the certificate holder;
 - (2) Minimum general liability limits of no less than three hundred thousand dollars (\$300,000), except that any person who maintains one hundred (100) or more publisher boxes at any one time shall maintain minimum insurance coverage of one million dollars (\$1,000,000). These limits shall include a combined single limit for bodily injury, including death and property damage; and
 - (3) A cancellation clause requiring notice to the District of Columbia, as certificate holder, prior to the cancellation of the insurance coverage;
- (d) Information as to the total number of publisher boxes the owner is placing on public space for the duration of time the annual permit is in effect;

- 4101.2 The annual public space permit required by § 4100.1 and the liability insurance required by § 4101.1(c) shall be maintained for as long as the publisher box remains on public space.
- 4101.3 Notwithstanding § 4101.1(d), the actual number of publisher boxes located on public space for the duration of the annual permit may increase to one hundred ten percent (110%) of the total number of boxes the owner claimed on the application.
- 4101.4 If at any time after securing the annual public space permit, the owner wishes to install additional publisher boxes in excess of the one hundred ten percent (110%) allowed by § 4101.3, the owner shall submit a public space permit application pursuant to § 4101.1 to amend the current annual public space permit to include the number of publisher boxes the owner is placing on public space in addition to the one hundred percent (100%) originally claimed.
- 4101.5 The Director shall reissue the applicant's annual permit when the owner pays the pro-rated permit fee for each additional publisher box installed for the duration of time remaining until the annual permit expires.
- 4101.6 To place a publisher box on public space lawfully, the owner of the publisher box must also have a basic business license with a general business endorsement in accordance with Section 3800 of Title 17 of the District of Columbia Municipal Regulations.

4102 DISPLAY OF ANNUAL STICKER ON PUBLISHER BOXES ON PUBLIC SPACE

- 4102.1 In addition to the annual public space permit, the Director shall issue an annual sticker for each publisher box owned by the applicant and located on public space. Each sticker shall have the following information:
- (a) The permit number of the annual public space permit issued to the applicant; and
 - (b) The expiration date of the annual public space permit.
- 4102.2 The applicant shall affix one (1) sticker to each publisher box in a visible location on the front side of the box at least one foot (1 ft.) above the sidewalk grade, unless another location is designated by the Director.
- 4102.3 The Director may issue additional permit stickers to the applicant free of charge at the time of permit issuance or at any other time for the duration of the annual permit.
- 4102.4 At no time shall an expired annual permit sticker be displayed on a publisher box.

4103 SPECIFICATIONS OF PUBLISHER BOXES ON PUBLIC SPACE

4103.1 No person shall place a publisher box on public space unless the publisher box complies with the following specifications:

- (a) The publisher box shall be no more than fifty-two inches (52 in.) tall, twenty-five inches (25 in.) wide, and twenty-two inches (22 in.) deep. In determining whether a publisher box is in compliance with these limits, each of the dimensions of the publisher box shall be measured at its widest point, including any coin mechanism;
- (b) The publisher box shall be sufficiently weighted at the base, or attached to other publisher boxes or a publisher box corral, so as to be secure in all expected weather conditions; and
- (c) Each publisher box shall display a sticker, decal, stencil or other printed sign displaying the name, mailing address, current phone number and email address of the person currently responsible for maintaining the publisher box on public space.

4103.2 The owner of the publisher box or the owner's authorized agent may use space on the publisher box to display the name and trademarks of the publication the publisher box is being used to distribute.

4104 MAINTENANCE OF PUBLISHER BOXES ON PUBLIC SPACE

4104.1 A publisher box on public space shall be maintained in good working order, including the following:

- (a) Any vandalized or otherwise damaged publisher box shall be repaired within a reasonable time, but no later than thirty (30) calendar days following the occurrence of the damage or within the time allowed by a compliance order sent by the Director;
- (b) The interior and exterior of the publisher box shall be reasonably clean and free of dents, blemishes, and discoloration;
- (c) The publisher box's clear or glass parts, if any, shall be unbroken and reasonably free of cracks, and discoloration;
- (d) Any lid or door for accessing the publications shall protect the publications from the weather at all times and prevent the publications from littering the surrounding area during windy conditions;

- (e) The interior of the publisher box shall be kept free of past issues of publications, food, clothing, trash, debris and other solid waste;
- (f) The exterior of the publisher box shall be kept free of graffiti and pasted bills; and
- (g) The publisher box shall be stocked with current publications and shall not remain empty of current publications for more than thirty (30) consecutive days. Any publisher box empty for longer than this period shall be deemed abandoned.

4104.2 No person shall place a publisher box on public space unless the publisher box placement complies with the following general placement requirements:

- (a) No publisher box shall be attached to a utility pole, street light pole, traffic signal light pole, regulatory sign, parking meter, trash receptacle, fire hydrant, directional sign, bicycle rack, bike station, bus shelter, street furniture, or other public street fixture, except as allowed by Subsection 4104.3;
- (b) No publisher box shall be placed on any space that reduces the width of the pedestrian circulation pathway on the sidewalk to less than the following:
 - (1) Ten feet (10 ft.) on sidewalks having a total width of twenty feet (20 ft.) or more;
 - (2) Eight feet (8 ft.) on sidewalks having a total width of sixteen feet (16 ft.) to twenty feet (20 ft.); or
 - (3) Six feet (6 ft.) in other areas.
- (c) No publisher box shall be placed within five feet (5 ft.) of the edge of a driveway or alley, a fire hydrant, a bus shelter, a bicycle rack, or a designated vending cart location;
- (d) No publisher box shall be placed on or within two feet (2 ft.) of a manhole cover, meter, or valve box cover or any utility access cover or vent cover for underground utilities or within two feet (2 ft.) of a traffic control cabinet;
- (e) No publisher box shall be placed within a designated bus zone or on a streetcar platform; and
- (f) No publisher box shall be placed on a tree space or on any other unpaved surface adjacent to the sidewalk;

- 4104.3 Notwithstanding Subsection 4104.2(a), a publisher box may be attached to a publisher box corral; provided there is available space within the corral for the publisher box.
- 4104.4 No person shall place a publisher box adjacent to the roadway curb on public space unless the publisher box placement complies with the following curbside placement requirements:
- (a) Publisher boxes shall be placed no less than eighteen inches (18 in.) and no more than twenty four inches (24 in.) from, and parallel to, the vertical face of the roadway curb, with the publisher box opening facing toward the sidewalk and away from the roadway;
 - (b) No publisher box shall be placed within three feet (3 ft.) of a parking meter or a multi-space parking meter, as measured parallel to the roadway curb, or within four feet (4 ft.) of a parking meter reserved for persons with disabilities;
 - (c) No publisher box shall be placed upon or within five feet (5 ft.) of a pedestrian access ramp, including the area between any two ramps on a given corner, or within two feet (2 ft.) of a marked pedestrian crosswalk;
 - (d) No publisher box shall be placed adjacent to the curved portion or radius of any roadway curb at the corner of any city block;
 - (e) No publisher box shall be placed within a designated commercial loading zone, taxi stand, valet staging zone, building entrance zone or other passenger drop-off zone as delineated by signage posted at the roadway curb;
 - (f) No publisher box shall be placed at a location where signage designates the curb space as being reserved parking for persons with disabilities; and
 - (g) Publisher boxes placed side by side, and not located within a publisher box corral, shall be arranged in groups of no more than seven (7) boxes. A space of at least six feet (6 ft.) shall separate each group of publisher boxes or shall separate a group of publisher boxes from an adjacent publisher box corral.
- 4104.5 No person shall place a publisher box at a location on public space which is adjacent to a building or wall unless the publisher box placement complies with the following requirements:
- (a) A publisher box shall be parallel to and not more than six inches (6 in.) from the building face or wall; and

- (b) A publisher box shall be located at least five feet (5 ft.) from either side of a building entrance, fire exit, fire hose connection, show window, display window, ATM or sidewalk café.

4105 PUBLISHER BOX CORRALS

4105.1 No person shall place or maintain a publisher box corral on the public sidewalk or other public space without first obtaining a public space permit from the Director.

4105.2 Unless in conflict with a legal priority established for a business improvement district (BID) concerning streetscape improvements, any person may submit a public space permit application to the Public Space Committee (PSC) for the purpose of installing and maintaining a publisher box corral on public space.

4105.3 An application for the installation of a publisher box corral shall include the following:

- (a) The name and contact information of the person that will be responsible for maintaining the publisher box corral;
- (b) A site plan drawn to scale showing the location and dimensions of the proposed publisher box corral and any associated new paving, including dimensions to the roadway curb and property line, a dimension specifying the distance to the nearest intersection, and showing all the existing conditions within thirty feet (30 ft.) of the corral location, including any business entrances, transit entrances, bus zones or street car platforms, crosswalks, regulatory signage, light poles, traffic signal lights, traffic control cabinet, and other public street fixtures;
- (c) A drawing of the publisher box corral showing the front and side views, the method of anchoring or attaching the corral to the ground, and, if proposed by the applicant, the placement and display of a logo or the name of the organization responsible for the corral;
- (d) A proposal for the allocation of space within the publisher box corral and any limits on the placement of publisher boxes that allows for the removal or addition of publisher boxes within the corral;
- (e) Any required approvals by the U. S. Commission of Fine Arts (CFA) and by the D.C. Historic Preservation Review Board; and
- (f) The application fee required under Section 225 of this title.

4105.4 The corral shall have an open design and shall be a height of no less than thirty-six inches (36 in.) and no more than forty-two inches (42 in.);

- 4105.5 The applicant's proposal for the allocation of space and any limits on the placement of publisher boxes within the publisher box corral shall be content neutral.
- 4105.6 In determining whether to approve an application, the PSC shall allow as much space for publisher boxes as is consistent with pedestrian and vehicular safety and other lawful uses of the public space.
- 4105.7 As a condition of the permit, the person responsible for maintaining the publisher box corral shall bear sole responsibility, including the cost, for installing and maintaining the publisher box corral, as well as its removal, should the Director determine that the sidewalk space is needed for another transportation related purpose, such as for a bus zone, bike station or tree space.
- 4105.8 The Director shall issue a public space permit for the installation and maintenance of the publisher box corral if:
- (a) The application has been approved by the PSC; and
 - (b) All permit fees, pursuant to Section 225 of this title, have been paid.
- 4105.9 No person shall place or maintain any advertising on any publisher box corral other than the logo or name of the organization responsible for the publisher box corral.

4106 RELOCATING OR REMOVING PUBLISHER BOXES

- 4106.1 Any person owning or maintaining a publisher box located within the perimeter of the Presidential Inauguration Parade Route, as defined by the U.S. Secret Service prior to the inauguration, shall remove or relocate the publisher box to a location outside the parade route perimeter at least one (1) day prior to the inauguration. The publisher box may be returned to its original position the day after the inauguration.
- 4106.2 An authorized agent of the D.C. government or the U.S. government may relocate a publisher box under circumstances where crowd control or public safety is an immediate concern as follows:
- (a) Relocating a publisher box from within the security perimeter of the presidential inauguration parade route the day before the inauguration;
 - (b) Relocating a publisher box from within the security perimeter established for an event when the Metropolitan Police Department (MPD) has determined that the presence of the publisher box poses an eminent safety threat to the public; provided advance notice of the event and the need for

relocating the publisher box has been sent by DDOT to the email address of the permittee and, if different, the person responsible for maintaining the publisher box; or

- (c) Replacing a fallen publisher box to its upright position.

- 4106.3 Prior to the start of a DDOT street reconstruction project, the temporary occupancy of public space in connection with construction work on private property, or other work in the sidewalk that will take longer than two (2) weeks and will require the temporary removal of a publisher box from public space, the contractor performing the work shall provide notice to the person responsible for maintaining the publisher box to remove the publisher box from the planned work zone provided the person's contact information is displayed on the publisher box.
- 4106.4 The contractor performing the work shall provide notice to remove a publisher box pursuant to § 4106.3 by mail and by email at least fifteen (15) days prior to the time the work will commence. The request shall include the following information:
- (a) A detailed description or map showing the location and extents of the work zone;
- (b) The approximate date the work will commence;
- (c) The approximate date when the work will be completed; and
- (d) The phone number and email address of the person who may be contacted for additional information.
- 4106.5 Upon the commencement of work, the contractor performing the work may relocate any publisher box that has not been removed from the work zone to the nearest available location on the adjacent sidewalk without providing additional notice.
- 4106.6 Prior to the commencement of a sidewalk replacement project or for other work performed in the sidewalk requiring the temporary relocation of a publisher box for no more than two (2) weeks, the contractor performing the work may temporarily relocate the publisher box to the nearest available location on the adjacent sidewalk without first providing notice to the person responsible for maintaining the publisher box.
- 4106.7 Following the completion of work in the sidewalk pursuant to § 4106.6, the contractor shall endeavor to return the publisher box to its original location on the sidewalk.
- 4106.8 Prior to the installation of transportation related infrastructure, such as a new bus zone, bus shelter or bike station, the Director shall provide notice to the person

responsible for maintaining the publisher box to relocate any publisher box under their control from the planned bus zone, bus shelter area or bike station area; provided the person's contact information or the permit sticker is displayed on the publisher box.

- 4106.9 The Director shall provide notice to relocate a publisher box pursuant to § 4106.8 by mail and by email at least fifteen (15) days prior to the time the new bus zone will be put into service. The request shall include the following information:
- (a) A detailed description or map showing the location of the new bus zone, bus shelter or bike station;
 - (b) The approximate date the bus zone will be put into service as a bus stop or the approximate date when a bus shelter or bike station will be installed;
 - (c) If applicable, the date when the enforcement of the bus zone placement violation may commence; and
 - (d) The phone number and email address of the person at DDOT who may be contacted for additional information.

4107 REMOVAL OF A HAZARDOUS PUBLISHER BOX

- 4107.1 No person shall leave in or upon any public space any hazardous publisher box. A hazardous publisher box shall be defined as any publisher box that is in a wrecked, incinerated or otherwise irreparable condition such that it poses an imminent hazard to public safety and welfare.
- 4107.2 Any publisher box that has been deemed to be an actual or potential hazardous publisher box may be removed from public space immediately by an authorized agent of DDOT.
- 4107.3 The removal of a hazardous publisher box shall be conducted in accordance with the requirements of D.C. Official Code § 921-19(d)(1), to include the issuance of a notice of infraction pursuant to the Civil Infractions Act and § 4109 of this chapter.
- 4107.4 Notwithstanding § 4107.3, if no legible contact or ownership information is available on the hazardous publisher box, the Director shall post information regarding the removal of the hazardous publisher box and the notice of infraction on the Department's website pursuant to § 4109 of this chapter and include the following additional information:
- (a) The condition of the hazardous publisher box necessitating its immediate removal from public space; and

- (b) A description of the publisher box, including any identifying information that is printed on or affixed to the publisher box.

4108 COMPLIANCE ORDERS

- 4108.1 When the Director has determined that a publisher box is in violation of a provision of this chapter, the Director shall serve a first notice of infraction (Compliance Order) to the owner by mail and email directing the owner and, if different, the person responsible for maintaining the publisher box to abate the violation within fifteen (15) days of the date the compliance order was sent. Additionally, the Director may post information regarding the Compliance Order on the agency's website.
- 4108.2 In the event that the Director has determined that a publisher box is in violation of a provision of this chapter and no contact or other ownership information is displayed on the publisher box, the Director shall affix the Compliance Order to a conspicuous location on the publisher box and shall post information regarding the Compliance Order on the Department's website as a means of providing the fifteen (15) day notice.
- 4108.3 Each Compliance Order shall display the following information:
- (a) The nature of the alleged violation, including the citation to the regulation that the respondent is violating;
 - (b) The conduct the respondent must cease or the action the respondent must take to correct the infraction;
 - (c) The date and time by which such conduct must be ceased or such action must be taken;
 - (d) A statement that the respondent has a right to timely challenge the order at a hearing before the Office of Administrative Hearings, where the hearing will determine whether the order is valid;
 - (e) A statement that to obtain a hearing, the respondent must request a hearing in writing within fifteen (15) days after the service of the order;
 - (f) The process by which the respondent may request a hearing; and
 - (g) A statement that if the respondent fails to comply with the order or request a hearing within the fifteen (15) days, the Director may impound or remove and dispose of the publisher box and recover up to three (3) times the cost and expense of removing and disposing of the non-compliant publisher box.

- 4108.4 Answering a Compliance Order shall be in accordance with 16 DCMR § 3103 (Answering a Notice of Infraction).
- 4108.5 The abatement of a Compliance Order shall be in accordance with 16 DCMR § 3104 (Abatement of Infractions).
- 4108.6 If a respondent does not request a hearing in writing within fifteen (15) days after the service of the Compliance Order, the order shall be deemed final.

4109 NOTICE OF INFRACTION

- 4109.1 If the respondent has been served with a Compliance Order, but failed to abate the violation or request a hearing within the fifteen (15) days allowed by the Compliance Order or the Director takes action pursuant to § 4107, the respondent shall be liable for civil penalties and expenses incurred by the Department due to the violation. Additionally, the Director may impound or remove the publisher box from public space.
- 4109.2 The Director shall serve a Notice of Infraction to the respondent by mail and email. In addition, the Director may post information regarding the Notice of Infraction on the Department's website.
- 4109.3 In the event that no contact or ownership information is displayed on the publisher box, the Director shall affix the Notice of Infraction to a conspicuous location on the publisher box and shall post information regarding the Notice of Infraction on the Department's website as a means of providing the fifteen (15) day notice.
- 4109.4 The Notice of Infraction shall state the following:
- (a) Any action the Department has taken, including the impoundment or removal of the publisher box from public space;
 - (b) The basis for the action;
 - (c) The nature of the alleged infraction, including a citation to the regulation that the respondent violated;
 - (d) A statement that the respondent has a right to challenge the action at a hearing before the Office of Administrative Hearings;
 - (e) A statement that to obtain a hearing, the respondent must request a hearing in writing within fifteen (15) days after the service of the notice;
 - (f) That the respondent has a right to request an expedited hearing by making this request in writing within five (5) days after service of the notice;

- (g) The process by which the respondent may request a hearing;
- (h) The method by which the respondent may recover the publisher box impounded or removed from public space;
- (i) The deadline by which the respondent must recover the publisher box; and
- (j) The amount owed the Department for the civil infraction pursuant to Chapter 32 of Title 16 DCMR, and expenses incurred by the Department.

4109.5 The Notice of Infraction shall be answered, abated and adjudicated in accordance with administrative procedures found in Chapter 31 of Title 16 DCMR.

4109.6 The Director shall store the publisher box which has been impounded or removed from the public space pursuant to § 4109.1 for fifteen (15) days after the service of the Notice of Infraction.

4109.7 If the respondent does not recover the property by the date set forth in the notice, the Director may, consistent with reasonable business practices, sell or otherwise dispose of the property.

4109.8 A respondent who fails to reclaim the property within the time prescribed shall nevertheless be entitled to recover the fair market value of any property disposed of pursuant to this subsection if:

- (a) The respondent timely requests a hearing;
- (b) The administrative law judge dismisses the notice or order or finds no violation; and
- (c) The respondent establishes the property’s fair market value by a preponderance of the evidence; provided that if the District has sold the property, the price paid by a good faith purchaser, other than the respondent, shall establish a rebuttable presumption of the fair market value of the property.

4109.9 If the respondent who fails to request a hearing or to otherwise abate the Notice of Infraction or is ordered to make payment by the administrative law judge pursuant to 16 DCMR § 3113, the respondent shall be responsible for the payment of all fines, costs and expenses imposed in accordance with Chapter 31 of Title 16 DCMR.

4110 CIVIL INFRACTIONS, ADMINISTRATIVE PROCEDURES AND SCHEDULE OF FINES APPLICABLE

4110.1 The civil infractions set forth pursuant this chapter are subject to the provisions of Chapter 31 (Administrative Procedures) and Chapter 32 (Schedule of Fines) of Title 16 (Consumers, Commercial Practices, and Civil Infractions) DCMR.

4110.2 The civil infractions set forth pursuant this chapter are found under the DDOT infractions chapter of Title 16 (Consumers, Commercial Practices, and Civil Infractions) DCMR.

4199 DEFINITIONS

4199.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

Bus zone – a ten foot (10 ft.) wide strip of sidewalk parallel to the roadway and measured from the vertical face of the roadway curb toward the building line that runs the entire length of the area delineated as a bus zone by signage posted at the roadway curb.

DDOT or Department – District Department of Transportation.

Director – Director of the District Department of Transportation, or the Director's agent, representative, or designee.

Fixture - District government-authorized furniture or equipment that is secured or permanently affixed to public space.

Mail – Delivery of notice by U.S. Postal Service, electronic mail or other method of written message delivery.

MPD - Metropolitan Police Department of the District of Columbia.

Owner – a person that owns or is in control of one or more publisher boxes placed, installed, or maintained on public space. Each publisher box shall have a single owner for the purposes of this chapter.

Person – an individual or entity.

Public Space Committee - the Public Space Committee of the District of Columbia as established by Mayor's Order 2009-114 on June 18, 2009.

Publisher box – a self-service or coin-operated box, container, storage unit, display or dispenser installed, used, or maintained for the display, distribution, or sale of newspapers or other periodicals.

Publisher box corral – a fixture, approved by the Public Space Committee, installed on public space for the purpose of controlling the placement of publisher boxes.

Streetcar platform - the public right of way designated for public use as an embarkation/disembarkation or waiting area for the streetcar and which includes streetcar shelters, adjoining stairways, ramps and sidewalks and all attached equipment or fixtures.

DEPARTMENT OF MOTOR VEHICLES**NOTICE OF PROPOSED RULEMAKING**

The Director of the Department of Motor Vehicles (“Director”), pursuant to the authority set forth in Sections 1825 and 1826 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code §§ 50-904 and 50-905 (2014 Repl.)), Sections 6, 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.)), and Mayor’s Order 2016-077, dated May 2, 2016, hereby gives notice of the intent to adopt the following rulemaking that will amend Section 112 (Special Identification Cards) of Chapter 1 (Issuance of Driver Licenses) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (“DCMR”).

The proposed rule, similar to what is already required for a driver license, learner permit or provisional permit, will require an applicant for a special identification card who is under eighteen years of age to provide a written notarized statement signed by a parent or guardian of the applicant consenting to the issuance of the card.

The Director hereby gives notice of intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days from the date of 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 112, SPECIAL IDENTIFICATION CARDS, is amended by adding a new Subsection 112.17 to read as follows:

112.17 The application of any person under eighteen (18) years of age for a special identification card shall be accompanied by a written notarized statement signed by a parent or guardian of the applicant consenting to the issuance of the card.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, with David Glasser, General Counsel, D.C. Department of Motor Vehicles, 95 M Street, S.W., Suite 300, Washington, D.C. 20024, dmvpubliccomments@dc.gov, or online at www.dcregs.dc.gov. Comments must be received not later than thirty (30) days after the publication of this notice in the *D.C. Register*. Copies of this proposed rulemaking may be obtained, at cost, by writing to the above address.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING**RM29-2016-02, IN THE MATTER OF 15 DCMR CHAPTER 29-RENEWABLE ENERGY PORTFOLIO STANDARD-RENEWABLE ENERGY STANDARD EXPANSION AMENDMENT ACT OF 2016**

1. The Public Service Commission of the District of Columbia (“Commission”), pursuant to its authority under D.C. Official Code §§ 2-505 and 34-802 (2001), hereby gives notice of its intent to amend Chapter 29, “Renewable Energy Portfolio Standard,” of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations (DCMR), Renewable Energy Portfolio Standard, in accordance with the “Renewable Portfolio Standard Expansion Amendment Act of 2016”¹ (“Act”) in not less than 30 days after publication of this notice in the *D.C. Register*.

2. The Act, *inter alia*, adds raw or treated wastewater used as a heat source or sink for a heating or cooling system as a Tier One renewable source. This legislation also increases the solar energy compliance fee starting with the 2017 compliance year. Under the Act, energy supply contracts entered into prior to the Act’s effective date (October 8, 2016) shall not be subject to the increased solar energy compliance fees as required by that act for five years after the effective date of that Act; but any extension or renewal of such contracts shall be subject to the increased solar energy compliance fees as required by that Act. In addition, this legislation increases the capacity of participating solar energy systems, which are not located on property owned by the Government of the District of Columbia or by any agency or independent authority of the Government of the District of Columbia, to fifteen (15) megawatts.

Chapter 29, RENEWABLE ENERGY PORTFOLIO STANDARD, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is amended as follows:

2901 RPS COMPLIANCE REQUIREMENTS

Subsection 2901.2 is amended in its entirety to read as follows:

2901.2 An Electricity Supplier shall meet the solar portion of the Tier One requirement by obtaining the equivalent amount of RECs from solar energy systems no larger than fifteen megawatts (15 MW) in capacity that are located within the District of Columbia or in locations served by a distribution feeder serving the District of Columbia, except that RECs generated by solar energy facilities that are not located within the District of Columbia nor in locations served by a distribution feeder serving the District of Columbia that the Commission certified prior to February 1, 2011, may be used to meet the solar requirement. However, an

¹ D.C. Law 21-154 (October 8, 2015).

Electricity Supplier may also meet the solar requirement by obtaining RECs from solar energy systems larger than fifteen megawatts (15 MW) in capacity, provided that these solar energy systems are located on property owned by the Government of the District of Columbia or by any agency or independent authority of the Government of the District of Columbia. In addition, Electricity Suppliers may meet the non-solar portion of the Tier One renewable source requirement of the renewable energy portfolio standard by obtaining renewable energy credits from solar energy systems that are not located within the District of Columbia or in locations served by a distribution feeder serving the District of Columbia, regardless of capacity.

Subsection 2901.14 is amended in its entirety to read as follows:

2901.14 Energy supply contracts entered into prior to August 1, 2011, shall not be subject to the increased solar energy requirement as required by the Distributed Generation Amendment Act of 2011, D.C. Law 19-36; but any extension or renewal of such contracts, executed on or after August 1, 2011, shall be subject to the increased solar energy requirement as required by this act. Energy supply contracts entered into prior to the effective date of the Renewable Portfolio Standard Expansion Amendment Act of 2016 (D.C. Law 21-154), October 8, 2016, shall not be subject to the increased solar energy compliance fees as required by that act for five years after the effective date of that act; but any extension or renewal of such contracts shall be subject to the increased solar energy compliance fee as required by that act.

Subsection 2901.15 is amended in its entirety to read as follows:

2901.15 The Compliance Fee shall be:

- (a) Fifty dollars (\$50) for each REC shortfall for Tier One resources;
- (b) Ten dollars (\$10) for each REC shortfall for Tier Two resources; and
- (c) Three hundred dollars (\$300) for each REC shortfall for Solar Energy resources in 2008; five hundred dollars (\$500) for each REC shortfall for Solar Energy resources in 2009 through 2023; four hundred dollars (\$400) for each REC shortfall for Solar Energy resources in 2024 through 2028; three hundred dollars (\$300) for each REC shortfall for Solar Energy resources in 2029 through 2032; and fifty dollars (\$50) for each REC shortfall for Solar Energy resources in 2033 and thereafter.

2902 GENERATOR CERTIFICATION AND ELIGIBILITY

Subsection 2902.1 is amended in its entirety to read as follows:

2902.1 Renewable generators, including behind-the-meter (BTM) generators, must be certified as a qualified resource by the Commission. The Commission shall not certify any Tier One solar energy system larger than fifteen megawatts (15 MW) in capacity – except for solar energy systems larger than fifteen megawatts (15 MW) in capacity that are located on property owned by the Government of the District of Columbia or by any agency or independent authority of the Government of the District of Columbia – located within the District of Columbia or in locations served by a distribution feeder serving the District of Columbia. In addition, solar energy systems that are not located within the District of Columbia or in locations served by a distribution feeder serving the District of Columbia, regardless of capacity may be certified as a qualified resource to meet the non-solar portion of the Tier One renewable source requirement of the renewable energy portfolio standard.

2999 DEFINITIONS

The following definition in Subsection 2999.1 is amended in its entirety to read as follows:

Tier One renewable source - one (1) or more of the following types of energy sources:

- (a) Solar energy;
- (b) Wind;
- (c) Qualifying biomass used at a generation unit that achieves a total system efficiency of at least 65% on an annual basis, can demonstrate that it achieved a total system efficiency of at least 65% on an annual basis through actual operational data after one year, and that started commercial operation after January 1, 2007;
- (d) Methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant;
- (e) Geothermal;
- (f) Ocean, including energy from waves, tides, currents, and thermal differences;
- (g) Fuel cells producing electricity from a Tier One renewable source under paragraph (c) or (d) of this paragraph; and

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

The qualifications to qualifying biomass in subsection (c) shall not apply to RECs retired for compliance purposes with respect to electricity consumed by SOS customers on or before May 31, 2015; or with respect to electricity consumed by non-SOS customers on or before December 31, 2017, provided that these RECs were produced by a facility certified as a Tier I energy source before April 30, 2015 and were purchased by an Electricity Supplier pursuant to a contract executed before April 30, 2015. In all other instances, subsection (c) shall apply as of April 30, 2015.

3. Any person interested in commenting on the subject matter of this NOPR may submit written comments and reply comments thirty (30) and forty-five (45) days, respectively, after the publication of this Notice in *D.C. Register*. Comments and reply comments are to be addressed to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington D.C., 20005. After the comment period expires, the Commission will take final rulemaking action.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

Z.C. Case No. 08-06F

(Text Amendment – 11 DCMR)

(Subtitle A § 102, Vested Rights Under the Previous 1958 Zoning Regulations, as Amended and § 304, Deviations and Modifications Permitted by Zoning Administrator's Ruling; and Subtitle X § 301 Minimum Land Area for Planned Unit Developments)

The Zoning Commission for the District of Columbia, (Commission) pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797), as amended; D.C. Official Code § 6-641.01 (2012 Rep1.), hereby gives notice of its intent to amend Subtitles A (Authority and Applicability) and X (General Procedures) of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR).

The Zoning Regulations of 2016 became effective on September 6, 2016 and replaced the Zoning Regulations of 1958. The proposed amendments to Subtitle A would clarify when proposed modifications to developments approved under the Zoning Regulations of 1958 must comply with the 2016 Regulations and broaden the circumstances when the Zoning Administrator may permit modifications to plans approved by orders of the Board of Zoning Adjustment. The proposed amendments would also repeal provisions in Subtitle X § 311 that are repeated in Subtitle A. Subtitle X would also be amended to correct the references in the Zone Groups identified in the table appended to § 301.1 and to add new text to existing § 301.3 to permit the Commission to waive the minimum land area requirements for planned unit development applications in Zone Groups 2, 5, and 6 to not less than five thousand square feet (5,000 sq. ft.). The current rule limits the waiver to fifty percent (50%) of the specified minimum. The existing waiver limitations for Zone Groups 1, 3, and 4 would remain.

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

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

Title 11-A DCMR, AUTHORITY AND APPLICABILITY, is amended as follows:

Chapter 1, INTRODUCTION TO TITLE 11, is amended as follows:

Subsection 102.4 of § 102, VESTED RIGHTS UNDER THE PREVIOUS 1958 ZONING REGULATIONS, AS AMENDED, is amended to read as follows:

102.4 ~~Any proposed amendment or modification~~ **An application to the Board of Zoning Adjustment or the Zoning Commission for a modification (other than a minor modification)** to a vested project identified within this section that cannot be granted by the Zoning Administrator as a deviation permitted by Subtitle A § 304 or as a minor modification permitted by Subtitle X § 311.6 shall

conform with the 2016 Regulations as the 2016 Regulations apply to the requested modification and if no building permit has been issued for the vested project, the entire project must conform with the 2016 Regulations.

Chapter 3, ADMINISTRATION AND ENFORCEMENT, § 304, DEVIATIONS AND MODIFICATIONS PERMITTED BY ZONING ADMINISTRATOR'S RULING, is amended to read as follows:

- 304.1 The flexibility or deviation deviations from the Zoning Regulations and modifications to approved plans permitted provided by this section shall not be applicable for any calculation or for determining compliance with Subtitle U §§ 301.2 or 320.2.
- 304.2 The Zoning Administrator is authorized to permit the following deviations, from the Zoning Regulations for building permits that are not otherwise authorized by an approved order of the Zoning Commission or the Board of Zoning Adjustment, if the Zoning Administrator, pursuant to Subtitle A § 304.3, determines that the deviation or deviations will not impair the purpose of the otherwise applicable regulations:
- (a) Deviations not to exceed two percent (2%) of the area requirements governing minimum lot area, maximum percentage of lot occupancy, and area standards of courts;
 - (b) Deviations not to exceed the lesser of two percent (2%) or twelve inches (12 in.) of the linear requirements governing minimum lot width;
 - (c) Deviations not to exceed the lesser of ten percent (10%) or twelve inches (12 in.) of the linear requirements governing minimum rear yard, minimum side yard, and court width; and
 - (d) Deviations not to exceed two percent (2%) of the linear frontage limitation for eating/drinking establishments in Subtitle K § 811.9.
- 304.3 The Zoning Administrator shall consider the following issues, as applicable, in determining whether any deviation will ~~not~~ impair the purpose of the applicable regulations pursuant to Subtitle A § 304.2:
- (a) The light and air available to neighboring properties shall not be unduly affected;
 - (b) The privacy of neighboring properties shall not be unduly compromised;
 - (c) The level of noise in the neighborhood shall not be unduly increased;

- (d) The use and enjoyment of neighboring properties shall not be unduly compromised;
- (e) No trees which would otherwise be protected by this title or other District of Columbia regulation, shall be damaged or removed; and
- (f) The general scale and pattern of buildings on the subject street frontage and the neighborhood shall be maintained consistent with the development standards of this title.

304.4 An applicant for a building permit seeking a deviation permitted by Subtitle A § 304.2 shall submit a written request to the Zoning Administrator that is signed by the property owner and that includes a comprehensive list identifying the type and extent of all proposed deviations and a written statement explaining how the requested deviations comply with Subtitle A §§ 304.2 and 304.3.

304.5 For building permits that are authorized by an approved order of the Zoning Commission ~~or the Board of Zoning Adjustment~~, the Zoning Administrator, **following receipt of a request made pursuant to Subtitle A § 304.6, is authorized to permit only the following minor modifications to approved plans listed in Subtitle A § 304.5 if the if the Zoning Administrator determines that the proposed modification is consistent with the intent of the Zoning Commission or Board of Zoning Adjustment in approving the application and the Zoning Commission did not also grant the same area of relief:**

- (a) A change not to exceed two percent (2%) in height, percentage of lot occupancy, or gross floor area of any building that is the direct result of structural or building code requirements;**
- (b) A change not to exceed two percent (2%) in the number of dwelling units, hotel rooms, institutional rooms, or gross floor area to be used for commercial or accessory uses within the approved square footage;**
- (c) A change not to exceed two percent (2%) in the number of parking or loading spaces; and**
- (d) The relocation of any building within five feet (5 ft.) of its approved location, in order to retain flexibility of design or for reasons of unforeseen subsoil conditions or adverse topography.**

304.5 ~~The following minor deviations to approved plans shall be permitted unless the Zoning Commission or the Board of Zoning Adjustment have already granted modifications or variances for the same area of relief:~~

- (a) ~~Deviations not to exceed two percent (2%) in percentage of lot occupancy, or gross floor area of any building that is the direct result from structural or building code requirements;~~
- (b) ~~Deviations not to exceed two percent (2%) in the number of residential units, hotel rooms, institutional rooms, or gross floor area to be used for commercial or accessory uses within the approved square footage;~~
- (c) ~~Deviations not to exceed two percent (2%) in the number of parking or loading spaces; and~~
- (d) ~~The relocation of any building within five feet (5 ft.) of its approved location, for reasons of unforeseen subsoil conditions or adverse topography.~~

304.6 **An applicant for a building permit seeking a modification to approved plans permitted by Subtitle A § 304.5 shall submit a written request to the Zoning Administrator that is signed by the property owner and that includes a comprehensive list identifying the type and extent of all proposed modifications to the approved plans and a written statement explaining how the requested modifications comply with Subtitle A § 304.5. The applicant shall at the same time serve a complete copy of the request including any supporting plan documents on all parties to the applicable case, including but not limited to the affected ANC(s).**

304.7 ~~For building permits that are authorized by an approved order of the Zoning Commission, the~~ **The Zoning Administrator shall report to the Zoning Commission, and at the same time shall report to all parties to the applicable case, including but not limited to the affected ANC(s), any modification approved under Subtitle A § 304.5. No modified building permit shall be issued for forty-five (45) days after a report is sent to the Zoning Commission. If prior to the expiration of this time period the Zoning Commission decides that the modification exceeded the scope of a minor modification, the Zoning Administrator shall not approve the building permit, but shall instruct the applicant to seek a modification pursuant to the appropriate procedures of this title Subtitle Z §§ 703 or 704, as applicable.**

304.78 ~~No building permit that requires the approval of a minor modification~~ **pursuant to Subtitle A § 304.5** may be issued during a forty-five (45) day period that begins on the date of a report made pursuant to Subtitle Z unless the Zoning Commission advises the Zoning Administrator that it concurs that the modification is ~~permitted by Subtitle A § 304.5~~ **permitted by Subtitle A § 304.5** ~~minor~~.

304.9 **Any modifications proposed to approved plans pursuant to Subtitle A § 304.5 that cannot be approved by the Zoning Administrator shall be submitted to**

and approved by the Zoning Commission pursuant to Subtitle Z §§ 703 or 704, as applicable.

304.10 For building permits that are authorized by an order of the Board of Zoning Adjustment (the Order), the Zoning Administrator, following receipt of a request made pursuant to Subtitle A § 304.11, is authorized to permit modifications to approved plans in addition to those modifications specifically authorized pursuant to flexibility granted by the Order if the Zoning Administrator determines that the proposed modifications are consistent with the intent of the Board of Zoning Adjustment and the modifications would not:

- (a) Violate any condition of approval included in the Order;
- (b) Increase, expand, or extend any area of relief granted by the Order;
- (c) Create any need for new relief;
- (d) Change a principal use from that approved in the Order;
- (e) Increase the number of stories;
- (f) Increase by more than two percent (2%) the building gross floor area, the percentage of lot occupancy, building height, or penthouse height; provided that the permitted increase of two percent (2%) or less must be the direct result of structural or building code requirements;
- (g) Increase by more than two percent (2%) the number of dwelling units, hotel rooms, or institutional rooms within the approved square footage; or
- (h) Increase or decrease by more than two percent (2%) the number of parking or loading spaces depicted on the approved plans.

304.11 An applicant for a building permit seeking a modification to approved plans permitted by Subtitle A § 304.10 shall submit a written request to the Zoning Administrator that is signed by the property owner and that includes a comprehensive list identifying the type and extent of all proposed modifications to the approved plans and a written statement explaining how the requested modifications comply with Subtitle A § 304.10. The applicant shall at the same time serve a complete copy of the request, including any supporting plan documents, on all parties to the applicable case, including but not limited to, the affected ANC(s).

304.12 The Zoning Administrator shall send written notification of any modifications approved pursuant to Subtitle A § 304.10 to all parties to the applicable case, including, but not limited to, the affected ANC(s). The written notice shall be sent no later than seven (7) days after the date of the approval.

304.13 Any modifications proposed to approved plans that cannot be approved by the Zoning Administrator pursuant to Subtitle A § 304.10 shall be submitted to and approved by the Board of Zoning Adjustment pursuant to Subtitle Y §§ 703 or 704 as applicable.

Title 11-X DCMR, GENERAL PROCEDURES, is amended as follows:

Chapter 3, PLANNED UNIT DEVELOPMENTS, is amended as follows:

Section 301, MINIMUM LAND AREA (PUD), is amended to read as follows:

301.1 The minimum area included within a proposed development application, including the area of public streets or alleys proposed to be closed, shall be as follows:

TABLE X § 301.1: MINIMUM PUD LAND AREA

Zone Group	Applicable Zone	Minimum Area
1	Any R zone Any RF zone RF-1, RF-3	2 acres
2	RA-1, -RA-2 RC-1 MU-11	1 acre
3	RF-2 RA-8, RA-9, RA-10 MU-15, MU-16 MU-22	1 acre
4	MU-17, MU-18, MU-19, MU-20, MU-21	0.5 acre
5	NC-7, NC-8, NC-9, NC-10, NC-11, NC-12, NC-13, NC-14, NC-15, NC-16, NC-17	10,000 sq. ft.
6	Any Other Zone	15,000 sq. ft.

301.2 The Zoning Commission may waive not more than fifty percent (50%) of the minimum area requirement of Subtitle X § 301.1 for applications in ~~Zone Groups 1, 2, 5, and 6,~~ **Zone Group 1** provided that the Zoning Commission shall find after the public hearing that the development is of exceptional merit and is in the best interests of the District of Columbia or the country and one (1) of the following:

- (a) The development is identified in an approved Small Area Plan and will be generally not inconsistent with the Small Area Plan;
- (b) The development will be constructed or operated by the District of Columbia or federal government and serves a compelling government interest; or
- (c) If the development is to be located outside the Central Employment Area, at least eighty percent (80%) of the gross floor area of the development shall be used exclusively for dwelling units and uses accessory thereto.

301.3 The Zoning Commission may waive the minimum area requirement of Subtitle X § 301.1 to no less than five thousand square feet (5,000 sq. ft.) for applications in Zone Groups 2, 5, and 6, provided the Zoning Commission shall find after the public hearing that the development is of exceptional merit and is in the best interests of the District of Columbia or the country and one (1) of the following:

- (a) The development is identified in an approved Small Area Plan and will be generally not inconsistent with the Small Area Plan;**
- (b) The development will be constructed or operated by the District of Columbia or federal government and serves a compelling government interest; or**
- (c) If the development is to be located outside the Central Employment Area, at least eighty percent (80%) of the gross floor area of the development shall be used exclusively for dwelling units and uses accessory thereto.**

301.34 The Zoning Commission may waive up to five percent (5%) of the minimum area requirement of Subtitle X § 301.1 for applications in Zone Groups 3 and 4 provided that the Zoning Commission shall find after the public hearing the development is of exceptional merit and is in the best interests of the District of Columbia or the country.

Section 311, IMPLEMENTATION, is amended as follows:

Subsections 311.6 through 311.9 are repealed.

Subsections 311.10 and 311.11 are renumbered as §§ 311.6 and 311.7.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice

in the *D.C. Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, through the Interactive Zoning Information System (IZIS) at <https://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Ms. Schellin may be contacted by telephone at (202) 727-6311 or by email at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

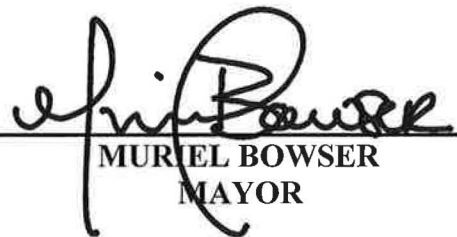
Mayor's Order 2016-172
November 4, 2016

SUBJECT: Appointment – Interim Director, Department of Corrections

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl. and 2016 Supp.), it is hereby **ORDERED** that:

1. **QUINCY BOOTH** is appointed Interim Director, Department of Corrections, and shall serve in that capacity at the pleasure of the Mayor.
2. This Order supersedes Mayor's Order 2015-28, dated January 8, 2015.
3. **EFFECTIVE DATE:** This Order shall become effective on November 5, 2016.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

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

Mayor's Order 2016-173
November 7, 2016

SUBJECT: Reappointments and Appointments – Commission on Latino Community Development

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl. and 2016 Supp.), and in accordance with section 401 of the District of Columbia Latino Community Development Act, effective September 29, 1976, D.C. Law 1-86, D.C. Code § 2-1322 (2012 Repl.), it is hereby **ORDERED** that:


1. The following individuals are appointed as public members to the Commission on Latino Community Development (hereafter referred to as “**Commission**”), for a term to end July 26, 2019:
 - a. **ANGELIQUE SINA**, replacing Jose Gutierrez;
 - b. **RICARDO VILLALBA**, replacing Gutavo A. Viteri; and
 - c. **YEFFERSON ASPRILLA**, replacing Sandra Gutierrez.

2. The following individuals are appointed as public members to the Commission to fill an unexpired term to end, September 11, 2016, and reappointed for a term to end September 11, 2019:
 - a. **JOHNNY S. GARCIA**, replacing Anne M. Garcia;
 - b. **MARGARITA DILONE**, replacing Juan Sebastian Velazquez;
 - c. **YASMIN SERRATO-MUNOZ**, replacing Maria Patricia Corrales;
 - d. **ANA REYES**, replacing Francisco Javier Fimbres;
 - e. **FELIZ SANCHEZ**, replacing Juan Rondon;
 - f. **CATALINA TALERO**, replacing Daniel Trejo; and

- g. **JONAS MININO**, replacing Sarahi Marilyn Uribe.
3. The following individuals are appointed as public members to the Commission for terms to end, July 26, 2017:
- a. **LUIS ANGELO GOMEZ**, replacing Carmen C. Ramirez;
 - b. **GUNTHER SANABRIA**, replacing Sonia Gutierrez;
 - c. **JESSIE HERNANDEZ**, replacing Anaelsa Aviles; and
 - d. **LILY NAJERA**, replacing Roland E. Roebuck.
4. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* March 17, 2016.



MURIEL BOWSER
MAYOR

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

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

Mayor's Order 2016-174
November 8, 2016

SUBJECT: Reappointments and Appointments — Mayor's Council on Physical Fitness, Health, and Nutrition


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl. and 2016 Supp.), and in accordance with section 2 of the Mayor's Council on Physical Fitness, Health, and Nutrition Establishment Act of 2011, effective December 2, 2011 (D.C. Law 19-58, D.C. Official Code § 7-121) (2012 Repl.), it is hereby **ORDERED** that:


1. The following persons are reappointed as public members of the Mayor's Council on Physical Fitness, Health, and Nutrition ("**Council**") to serve for terms to end September 30, 2018:
 - a. **SHARI CURTIS**
 - b. **REGINA DAVIS**
 - c. **MICHAEL EVERTS**
 - d. **AUDREY HIPKINS**
 - e. **LILLIE MONROE-LORD**
 - f. **MARY TIERNEY**

2. The following persons are appointed as public members of the Council to serve for terms to end September 30, 2018:
 - a. **COURTNEY PUIDK**, replacing Alexandra Ashbrook;
 - b. **LAELA SHALLAL**, replacing Djinge Lindsay;
 - c. **JENNIFER LEO**, replacing Melissa Musiker;
 - d. **GERARD BURLEY**, replacing Jackson Peyton;
 - e. **MICHELE JONES**, replacing Edith Westfall;
 - f. **CARRIE STOLTZFUS**, replacing Charles Harney;

- g. **COREY REDDEN**, replacing Carla Williams; and
 - h. **TAL ALTER**, replacing Lyndsey Miller-Viera.
3. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM


Mayor's Order 2016-175
November 8, 2016

SUBJECT: Appointment — Statewide Health Coordinating Council


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl. and 2016 Supp.)), and in accordance with section 4 of the Health Services Program Planning Re-Establishment Act of 1996, effective April 9, 1997 (D.C. Law 11-191, D.C. Official Code § 44-403) (2012 Repl.)), it is hereby **ORDERED** that:

1. **JAMES WORTING** is appointed as *ex-officio*, non-voting District government member of the Statewide Health Coordinating Council, representing the District Department of Behavioral Health, filling a vacant seat, and shall serve at the pleasure of the Mayor.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

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

Mayor's Order 2016-176
November 8, 2016

SUBJECT: Appointments — Board of Social Work

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl. and 2016 Supp.), pursuant to section 212 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986, D.C. Law 6-99, D.C. Official Code § 3-1202.12 (2012 Repl.), and in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142; D.C. Official Code § 1-523.01 (2014 Repl. and 2015 Supp.), it is hereby **ORDERED** that:

1. **DAVIDA HARPER**, pursuant to the Board of Social Work Davida Harper Confirmation Resolution of 2016, effective September 24, 2016, PR 21-0796, is appointed as a member and chairperson of the Board of Social Work, replacing Ann Selee, for a term to end March 3, 2019.
2. **SELERYA MOORE**, pursuant to the Board of Social Work Selerya Moore Confirmation Resolution of 2016, effective September 24, 2016, PR 21-0797, is appointed as a member of the Board of Social Work, replacing Michelle Rose, for a term to end March 2, 2017.
3. **MYWEN BAYSAH** pursuant to the Board of Social Work Mywen Baysah Confirmation Resolution of 2016, effective September 24, 2016, PR 21-0795, is appointed as a member of the Board of Social Work, replacing Dr. Cathleen Ann Gray, for a term to end March 3, 2018.

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



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

DC COMMISSION ON THE ARTS AND HUMANITIES**NOTICE OF FUNDING AVAILABILITY****Open Call to District Curators**

Deadline: Friday, January 5, 2017 at 11:59PM

The DC Commission on the Arts and Humanities (DCCAH) invites individual curators residing in the District of Columbia to propose an exhibition concept to present in the DCCAH Gallery located at 200 I (Eye) Street, SE. This new initiative seeks to support local curators in the development of innovative exhibition proposals that have robust educational, cultural, and/or conceptual components.

Proposed Exhibition Dates: Exhibition may occur between April 7 and June 1, 2017.

Gallery Hours: Monday to Friday, 9AM-6PM. Weekend hours are not available due to the security restrictions of the building.

Eligibility: Curators or curatorial teams must demonstrate District residency of at least one year prior to the time of application. Proposals for solo, duo, or group exhibitions are acceptable. Curators must be over the age of 18.

Artwork: Two and three-dimensional works including, but not limited to prints, drawings, mixed media compositions, paintings, photographs, ceramics, video works, and sculptures in the round can be accommodated within the DCCAH Gallery. Performance art is also acceptable. Both pre-existing works in addition to commissioned works can be intermixed as curator deems appropriate. Site visits to DCCAH's Gallery at 200 I (Eye) Street are highly recommended when considering prospective artwork for inclusion. Artwork must be able to load in through the front entrance (site visit required to obtain entrance dimensions) and works greater than 100lbs must be pre-approved for load-bearing capacity (for walls, floor, and ceiling). Suspension of work from the gallery ceiling is limited to specific areas, and is subject to approval based on load-bearing capacity of the proposed area(s). Curator(s) must utilize the exhibition space in its current state, requiring no additional construction or lighting.

Budget: Curator(s) will be awarded a grant of \$15,000 to execute the selected project.

Applications may be submitted online at dcarts.dc.gov beginning Monday, November 28, 2016. Deadline to apply is Friday, January 5, 2017.

For additional information, contact Zoma Wallace, zoma.wallace@dc.gov or 202-724-5613.

D.C. CRIMINAL CODE REFORM COMMISSION**NOTICE OF NEW AGENCY AND PUBLIC MEETING**

On October 1, 2016, a new District government agency, the D.C. Criminal Code Reform Commission, began operation. The D.C. Criminal Code Reform Commission was established as part of the Council of the District of Columbia's Fiscal Year 2017 Budget Support Act of 2016. The Criminal Code Reform Commission's mandate is as follows:

(a) By October 1, 2018, the Commission shall submit to the Mayor and the Council comprehensive criminal code reform recommendations that revise the language of the District's criminal statutes to:

- (1) Use clear and plain language;
- (2) Apply consistent, clearly articulated definitions;
- (3) Describe all elements, including mental states, that must be proven;
- (4) Reduce unnecessary overlap and gaps between criminal offenses;
- (5) Eliminate archaic and unused offenses;
- (6) Adjust penalties, fines, and the gradation of offenses to provide for proportionate penalties;
- (7) Organize existing criminal statutes in a logical order;
- (8) Identify any crimes defined in common law that should be codified, and propose recommended language for codification, as appropriate;
- (9) Identify criminal statutes that have been held to be unconstitutional and recommend their removal or amendment;
- (10) Propose such other amendments as the Commission believes are necessary; and
- (11) Enable the adoption of Title 22 as an enacted title of the District of Columbia Official Code.

On Thursday, November 10, 2016 at 1:00 pm, the D.C. Criminal Code Reform Commission held the first meeting of its Criminal Code Revision Advisory Group (CRAG). The meeting agenda, minutes, and other documents will be available online at <http://www.open-dc.gov/public-bodies/meetings>.

Notice of future meetings will be published in the *D.C. Register*.

For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or richard.schmechel@dc.gov.

OFFICE OF THE DEPUTY MAYOR FOR EDUCATION

NOTICE OF PUBLIC MEETING

CROSS-SECTOR COLLABORATION TASK FORCE

Deputy Mayor for Education Jennifer Niles announces the scheduling of a Cross-Sector Collaboration Task Force meeting.

- Date:** November 22, 2016
- Time:** 6:00 p.m. – 8:00 p.m.
- Location:** EducationCounsel
101 Constitution Ave., NW Suite 900
Washington, DC 20001
- Contact:** Office of the Deputy Mayor for Education
202.727.3636 or dcpsrising@dc.gov

Agenda:

The purpose of the meeting will be to consider the mid-year mobility policies discussed at the November Task Force Retreat and the community engagement plan around those policies.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FUNDING AVAILABILITY

FISCAL YEAR 2017

DC EARLY LITERACY INTERVENTION GRANTS

Request for Application (RFA) Release Date: December 2, 2016 (12:00 noon EST)

The Office of the State Superintendent of Education (OSSE) is soliciting grant applications for the District of Columbia Early Literacy Intervention Grant, as defined in the “Early Literacy Grant Program Amendment Act of 2015,” effective October 22, 2015 (D.C. Law 21-158; D.C. Code 38-2602(b)(24)). The purpose of this grant is to increase the percentage of third graders who are proficient or advanced in reading to 75% by 2016-2017 through implementation of an early literacy grant program targeting third grade reading success.

Eligibility: OSSE will make these grants available through a competitive process. Eligible applicants must be able to provide a full continuum of early literacy intervention services, through professionally coached interventionists, for all grades Pre-K through 3rd grade consisting of developmentally appropriate components for each grade. Eligible applicants must also use a comprehensive evidence-based intervention model and must provide a rationale for the intervention based on data that demonstrates need. This funding is intended to build capacity and may not be used to supplant existing services. In addition, eligible applicants will be expected to demonstrate prior effectiveness through a rigorous program evaluation and will be expected to include an evaluation plan as a component of its application. Finally, eligible applicant will be expected to provide direct services each day that school is in session and collect data on student progress monthly.

Local Educational Agencies (LEA) are not eligible for this funding, however eligible applicants must secure partnerships with the LEAs with which they intend to work and will be required to verify these partnerships.

Length of Award: The grant award period is one year.

Available Funding for Award: The total funding available for this award period is \$1,600,000. Each applicant may apply for up to \$1,600,000.

An external review panel or panels will be convened to review, score, and rank each application. The review panel(s) will be composed of neutral, qualified, professional individuals selected for their expertise, knowledge or related experiences. The application will be scored against a rubric and application will have multiple reviewers to ensure accurate scoring. Upon completion of its review, the panel(s) shall make recommendations for awards based on the scoring rubric(s). OSSE’s Division of Elementary, Secondary, and Specialized Education will make all final award decisions.

For additional information regarding this grant competition, please contact:

Celina Ketelsen
Training Administrator
Office of the State Superintendent of Education
Division of Elementary, Secondary, and Specialized Education
Phone: (202) 727-1675
E-mail: Celina.ketelsen@dc.gov

The RFA and applications will be available on www.osse.dc.gov.

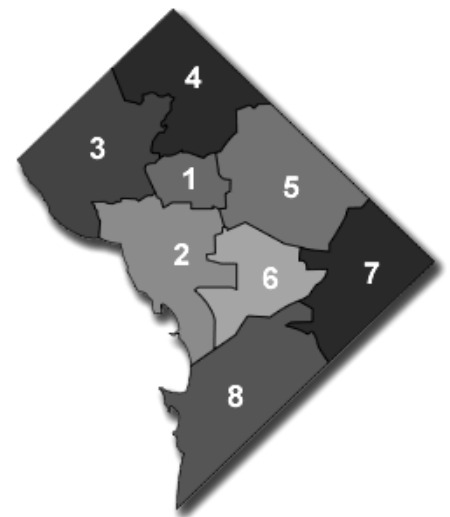
**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION SUMMARY
As Of OCTOBER 31, 2016**

WARD	DEM	REP	STG	OTH	N-P	TOTALS
1	45,446	2,960	650	324	11,420	60,800
2	30,841	5,904	210	333	10,783	48,071
3	38,461	6,718	345	296	11,167	56,987
4	49,503	2,306	527	241	8,916	61,493
5	51,397	2,315	556	309	9,009	63,586
6	54,538	7,022	488	434	13,499	75,981
7	47,523	1,270	428	208	6,606	56,035
8	45,933	1,367	417	224	7,199	55,140
Totals	363,642	29,862	3,621	2,369	78,599	478,093
Percentage By Party	76.06%	6.25%	.76%	.50%	16.44%	100.00%

**DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF
VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS
AS OF THE END OF OCTOBER 31, 2016**

COVERING CITY WIDE TOTALS BY:
WARD, PRECINCT AND PARTY

ONE JUDICIARY SQUARE
441 4TH STREET, NW SUITE 250N
WASHINGTON, DC 20001
(202) 727-2525
<http://www.dcboee.org>



**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 1 REGISTRATION SUMMARY
As Of OCTOBER 31, 2016**

PRECINCT	DEM	REP	STG	OTH	N-P	TOTALS
20	1,436	29	10	10	241	1,726
22	3,930	398	31	26	1,022	5,407
23	2,883	200	43	28	767	3,921
24	2,657	261	31	32	800	3,781
25	3,817	445	47	22	1,089	5,420
35	3,550	224	50	21	828	4,673
36	4,351	269	59	26	1,072	5,777
37	3,388	164	49	23	815	4,439
38	2,852	126	47	26	712	3,763
39	4,216	217	73	22	964	5,492
40	4,039	191	92	29	1,037	5,388
41	3,592	206	62	28	1,018	4,906
42	1,839	80	33	13	455	2,420
43	1,785	62	16	10	360	2,233
137	1,111	88	7	8	240	1,454
TOTALS	45,446	2,960	650	324	11,420	60,800

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 2 REGISTRATION SUMMARY
As Of OCTOBER 31, 2016**

PRECINCT	DEM	REP	STG	OTH	NP	TOTALS
2	831	179	8	22	486	1,526
3	1,650	391	23	23	664	2,751
4	1,936	502	5	21	761	3,225
5	2,145	617	12	25	782	3,581
6	2,328	915	19	29	1,266	4,557
13	1,287	242	5	10	407	1,951
14	2,927	504	21	27	946	4,425
15	3,066	408	28	35	896	4,433
16	3,570	442	23	33	970	5,038
17	4,748	623	29	40	1,475	6,915
129	2,397	391	14	24	905	3,731
141	2,420	326	13	22	640	3,421
143	1,536	364	10	22	585	2,517
TOTALS	30,841	5,904	210	333	10,783	48,071

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 3 REGISTRATION SUMMARY
As Of OCTOBER 31, 2016

PRECINCT	DEM	REP	STG	OTH	N-P	TOTALS
7	1,283	396	16	11	560	2,266
8	2,471	637	30	16	770	3,924
9	1,196	506	7	21	485	2,215
10	1,823	418	19	19	694	2,973
11	3,494	966	40	49	1,297	5,846
12	476	196	0	6	210	888
26	2,966	356	21	17	873	4,233
27	2,524	268	23	13	613	3,441
28	2,446	500	36	14	755	3,751
29	1,364	256	12	19	430	2,081
30	1,311	214	12	10	297	1,844
31	2,460	310	19	17	570	3,376
32	2,729	303	20	13	585	3,650
33	2,944	312	22	10	692	3,980
34	3,725	437	33	25	1,088	5,308
50	2,141	271	15	13	477	2,917
136	861	102	8	2	266	1,239
138	2,247	270	12	21	505	3,055
TOTALS	38,461	6,718	345	296	11,167	56,987

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 4 REGISTRATION SUMMARY
As Of OCTOBER 31, 2016

PRECINCT	DEM	REP	STG	OTH	N-P	TOTALS
45	2,276	69	29	13	383	2,770
46	2,912	96	35	18	521	3,582
47	3,361	164	42	26	766	4,359
48	2,849	134	28	10	546	3,567
49	919	47	17	7	205	1,195
51	3,395	520	26	14	635	4,590
52	1,274	162	8	2	238	1,684
53	1,281	75	22	6	242	1,626
54	2,447	98	24	6	462	3,037
55	2,514	81	17	12	439	3,063
56	3,120	92	33	22	624	3,891
57	2,529	82	34	18	475	3,138
58	2,294	66	20	11	365	2,756
59	2,622	87	31	14	429	3,183
60	2,153	70	21	13	592	2,849
61	1,605	54	14	3	275	1,951
62	3,235	128	25	6	382	3,776
63	3,700	129	56	21	643	4,549
64	2,338	75	19	12	343	2,787
65	2,679	77	26	7	351	3,140
Totals	49,503	2,306	527	241	8,916	61,493

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 5 REGISTRATION SUMMARY
As Of OCTOBER 31, 2016**

PRECINCT	DEM	REP	STG	OTH	N-P	TOTALS
19	4,364	197	62	21	976	5,620
44	2,780	240	25	27	656	3,728
66	4,434	102	43	18	553	5,150
67	2,882	107	21	13	398	3,421
68	1,893	167	23	12	379	2,474
69	2,065	66	18	10	274	2,433
70	1,462	79	20	7	219	1,787
71	2,373	68	25	13	319	2,798
72	4,259	137	36	33	702	5,167
73	1,896	97	23	13	343	2,372
74	4,430	240	57	25	905	5,657
75	3,831	217	48	31	815	4,942
76	1,447	66	22	11	288	1,834
77	2,850	116	23	16	465	3,470
78	2,991	93	40	17	478	3,619
79	2,090	86	19	17	371	2,583
135	3,034	185	37	19	592	3,867
139	2,316	52	14	6	276	2,664
TOTALS	51,397	2,315	556	309	9,009	63,586

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 6 REGISTRATION SUMMARY
As Of OCTOBER 31, 2016

PRECINCT	DEM	REP	STG	OTH	N-P	TOTALS
1	4,742	578	48	44	1,269	6,681
18	4,881	367	43	38	1,055	6,384
21	1,212	58	9	6	263	1,548
81	4,651	389	45	32	965	6,082
82	2,620	265	36	17	576	3,514
83	4,982	706	36	43	1,353	7,120
84	2,002	413	20	15	548	2,998
85	2,757	518	16	21	735	4,047
86	2,186	254	25	17	464	2,946
87	2,722	273	16	14	581	3,606
88	2,177	288	15	11	517	3,008
89	2,615	655	19	20	771	4,080
90	1,629	257	14	14	476	2,390
91	4,054	390	38	37	971	5,490
127	4,050	300	42	36	845	5,273
128	2,523	214	30	18	648	3,433
130	802	309	6	5	295	1,417
131	2,371	617	15	32	752	3,787
142	1,562	171	15	14	415	2,177
TOTALS	54,538	7,022	488	434	13,499	75,981

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 7 REGISTRATION SUMMARY
As Of OCTOBER 31, 2016**

PRECINCT	DEM	REP	STG	OTH	N-P	TOTALS
80	1,541	86	19	9	259	1,914
92	1,578	36	13	7	228	1,862
93	1,530	41	19	7	230	1,827
94	2,006	55	20	6	301	2,388
95	1,595	47	14	5	268	1,929
96	2,360	65	19	12	352	2,808
97	1,453	40	14	8	199	1,714
98	1,877	42	23	9	249	2,200
99	1,458	47	15	10	216	1,746
100	2,234	45	14	11	270	2,574
101	1,575	29	14	7	182	1,807
102	2,392	54	20	9	321	2,796
103	3,486	82	41	13	520	4,142
104	2,983	86	29	21	422	3,541
105	2,390	60	21	12	378	2,861
106	2,825	55	17	14	386	3,297
107	1,754	63	15	8	223	2,063
108	1,096	30	7	3	124	1,260
109	948	36	5	0	87	1,076
110	3,676	94	20	14	411	4,215
111	2,614	71	29	8	402	3,124
113	2,111	54	21	10	258	2,454
132	2,041	52	19	5	320	2,437
TOTALS	47,523	1,270	428	208	6,606	56,035

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 8 REGISTRATION SUMMARY
As Of OCTOBER 31, 2016

PRECINCT	DEM	REP	STG	OTH	N-P	TOTALS
112	2,145	64	18	11	290	2,528
114	3,456	129	28	23	562	4,198
115	2,876	73	21	19	601	3,590
116	4,085	99	37	18	635	4,874
117	2,090	49	19	15	345	2,518
118	2,764	74	32	14	416	3,300
119	2,867	111	34	14	523	3,549
120	1,998	38	17	4	276	2,333
121	3,356	82	26	9	470	3,943
122	1,755	42	19	9	237	2,062
123	2,294	151	25	24	370	2,864
124	2,615	59	19	8	345	3,046
125	4,577	113	35	18	717	5,460
126	3,757	135	44	22	680	4,638
133	1,307	43	10	0	172	1,532
134	2,145	46	26	8	285	2,510
140	1,846	59	7	8	275	2,195
TOTALS	45,933	1,367	417	224	7,199	55,140

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION ACTIVITY

For voter registration activity between 9/30/2016 and 10/31/2016

NEW REGISTRATIONS	DEM	REP	STG	OTH	N-P	TOTAL
Beginning Totals	349,253	28,552	3,486	2,033	73,777	457,101
BOEE Over the Counter	788	48	8	17	224	1,085
BOEE by Mail	308	29	3	7	154	501
BOEE Online Registration	5,512	551	47	165	2,129	8,404
Department of Motor Vehicle	3,124	425	39	54	1,167	4,809
Department of Disability Services	3	0	0	0	0	3
Office of Aging	1	0	0	0	1	2
Federal Postcard Application	32	3	0	0	22	57
Department of Parks and Recreation	0	0	0	0	0	0
Nursing Home Program	47	11	1	0	21	80
Dept, of Youth Rehabilitative Services	2	0	0	0	0	2
Department of Corrections	12	0	0	0	1	13
Department of Human Services	20	1	1	0	5	27
Special / Provisional	0	0	0	0	0	0
All Other Sources	292	12	1	0	119	424
+Total New Registrations	13,519	1417	131	307	5,083	20,430

ACTIVATIONS	DEM	REP	STG	OTH	N-P	TOTAL
Reinstated from Inactive Status	2,315	136	28	33	564	3,076
Administrative Corrections	27	3	0	0	61	91
+TOTAL ACTIVATIONS	2,342	139	28	33	625	3,167

DEACTIVATIONS	DEM	REP	STG	OTH	N-P	TOTAL
Changed to Inactive Status	6	1	0	0	2	9
Moved Out of District (Deleted)	0	0	0	0	0	0
Felon (Deleted)	0	0	0	0	0	0
Deceased (Deleted)	53	6	0	0	4	63
Administrative Corrections	2,906	196	34	162	499	3,797
-TOTAL DEACTIVATIONS	2,965	203	34	162	505	3,869

AFFILIATION CHANGES	DEM	REP	STG	OTH	N-P	N-P
+ Changed To Party	2,749	405	102	294	1783	5,333
- Changed From Party	-1,256	-448	-92	-136	-2,164	-4,096
ENDING TOTALS	363,642	29,862	3,621	2,369	78,599	478,093

DEPARTMENT OF ENERGY AND ENVIRONMENT**NOTICE OF FUNDING AVAILABILITY****Community Stormwater Solutions Grants**

The Department of Energy and Environment (the Department) seeks eligible entities to provide start-up funding for community-oriented projects that improve stormwater management in the District. For background on this grant program and other related programs, please visit <http://doee.dc.gov/service/community-stormwater-solutions-grants>. This program builds on DOEE's existing efforts, including the vision set out in the recently signed, multi-jurisdictional [Anacostia Accord](#), which seeks "to ensure that the Anacostia, and all our waterways, are not polluted by any material that renders them unsightly, creates a nuisance, or impacts any designated use."

A total of \$140,000 is available for this competition. This amount is subject to availability of funding and approval by the appropriate agencies. DOEE expects to make multiple awards for up to \$20,000. Applicants are welcome to submit applications for more than one project. (Each project requires a complete application.)

Beginning 11/18/2016, the full text of the Request for Applications (RFA) will be available on the Department's website. A person may obtain a copy of this RFA by any of the following means:

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

Email a request to Community.stormwatersolutions2017@dc.gov with "Request copy of RFA 2016-1705-SWMD" in the subject line.

Pick up a copy in person from the Department's reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. To make an appointment, call Emily Rice at (202) 535-2679 and mention this RFA by name.

Write DOEE at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Emily Rice RE:2016-1705-SWMD" on the outside of the envelope.

DOEE will host public information sessions. Visit <http://doee.dc.gov/release/community-stormwater-solutions-notice-funding-availability> for details.

The deadline for application submissions is 1/20/2017, at 5:00 p.m. Applications must be submitted online.

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

- Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;
- Faith-based organizations;
- Government agencies
- Universities/educational institutions; and
- Private Enterprises.

Additional eligibility requirements are described in the full RFA.

For additional information regarding this RFA, write to:

Community.stormwatersolutions2017@dc.gov.

DEPARTMENT OF ENERGY AND ENVIRONMENT**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue air quality permit No. 7042 to 610/620 F Street, A Condominium to operate an existing 660 kWe emergency generator set with a 1,120 HP diesel-fired engine at 620 F Street NW, Washington DC. The contact person for the facility is Kimberly Davis, at (202) 359-4338.

The proposed emission limits are as follows::

- a. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions from the emergency generator set, assuming 500 hours of operation per year, are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Particulate Matter (PM Total)	0.116
Sulfur Oxides (SO _x)	0.002
Nitrogen Oxides (NO _x)	3.96
Volatile Organic Compounds (VOC)	0.116
Carbon Monoxide (CO)	0.908

The permit application and supporting documentation, along with the draft permit are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a public hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after December 19, 2016 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DEPARTMENT OF ENERGY AND ENVIRONMENT**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, Washington, DC, intends to issue Permit #7096 to Potomac Electric Power Company, to operate an existing 125 kWe Delco emergency generator set. The unit is located at the Fort Slocum Substation at 5900 North Dakota Avenue, NW, Washington, DC 20032. The contact person for the facility is Mary Pekot, Manager Electric Maintenance, phone number: (202) 388-2626.

The proposed emission limits are as follows:

- a. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions from the emergency generator engine set are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.35
Oxides of Nitrogen (NO _x)	1.62
Volatile Organic Compounds (VOC)	0.13
Total Particulate Matter (PM Total)	0.11
Oxides of Sulfur (SO _x)	0.11

The application to operate the emergency generator and the draft permit are available for public inspection at AQD and copies may be made between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments, a written request for a public hearing, or both, on the draft permit action within thirty (30) days of publication of this notice. The written comments or a written request for a public hearing must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments or outcome from a public hearing will be considered in issuing the final permit.

Comments or a request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
stephen.ours@dc.gov

No written comments postmarked after December 19, 2016 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DEPARTMENT OF ENERGY AND ENVIRONMENT**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, Washington, DC, intends to issue Permit #7097 to Potomac Electric Power Company, to operate an existing 125 kWe Delco emergency generator. The unit is located at the 12th & Irving Substation at 425 12th Street, SW, Washington, DC 20024. The contact person for the facility is Mary Pekot, Manager, Electric Maintenance, phone number: (202) 388-2626.

The proposed emission limits are as follows:

- a. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions from the emergency generator engine set are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.35
Oxides of Nitrogen (NO _x)	1.62
Volatile Organic Compounds (VOC)	0.13
Total Particulate Matter (PM Total)	0.11
Oxides of Sulfur (SO _x)	0.11

The application to operate the emergency generator and the draft permit are available for public inspection at AQD and copies may be made between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments, a written request for a public hearing, or both, on the draft permit action within thirty (30) days of publication of this notice. The written comments or a written request for a public hearing must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments or outcome from a public hearing will be considered in issuing the final permit.

Comments or a request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
stephen.ours@dc.gov

No written comments postmarked after December 19, 2016 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DEPARTMENT OF ENERGY AND ENVIRONMENT**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, Washington, DC, intends to issue Permit #7099 to Potomac Electric Power Company, to operate a 125 kWe International Electric Corporation emergency generator set. The unit is located at the Champlain Substation at 2119 Champlain Street NW, Washington, DC 20024. The contact person for the facility is Mary Pekot, Manager Electric Maintenance, phone number: (202) 388-2626.

The proposed emission limits are as follows:

- a. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions from the emergency generator engine set are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.35
Oxides of Nitrogen (NO _x)	1.62
Volatile Organic Compounds (VOC)	0.13
Total Particulate Matter (PM Total)	0.11
Oxides of Sulfur (SO _x)	0.11

The application to operate the emergency generator and the draft permit are available for public inspection at AQD and copies may be made between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments, a written request for a public hearing, or both, on the draft permit action within thirty (30) days of publication of this notice. The written comments or a written request for a public hearing must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments or outcome from a public hearing will be considered in issuing the final permit.

Comments or a request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
stephen.ours@dc.gov

No written comments postmarked after December 19, 2016 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DEPARTMENT OF ENERGY AND ENVIRONMENT**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, Washington, DC, intends to issue Permit #7100 to Potomac Electric Power Company, to operate an existing 125 kWe Stewart & Stevenson Services, Inc. emergency generator set. The unit is located at the O Street Substation at 1100 O Street, NW, Washington, DC 20005. The contact person for the facility is Mary Pekot, Manager Electric Maintenance, phone number: (202) 388-2626.

The proposed emission limits are as follows:

- a. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions from the emergency generator engine set are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.35
Oxides of Nitrogen (NO _x)	1.62
Volatile Organic Compounds (VOC)	0.13
Total Particulate Matter (PM Total)	0.11
Oxides of Sulfur (SO _x)	0.11

The application to operate the emergency generator and the draft permit are available for public inspection at AQD and copies may be made between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments, a written request for a public hearing, or both, on the draft permit action within thirty (30) days of publication of this notice. The written comments or a written request for a public hearing must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments or outcome from a public hearing will be considered in issuing the final permit.

Comments or a request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
stephen.ours@dc.gov

No written comments postmarked after December 20, 2016 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DEPARTMENT OF ENERGY AND ENVIRONMENT**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, Washington, DC, intends to issue Permit #7101 to Potomac Electric Power Company, to operate an existing 125 kWe Stewart & Stevenson Services, Inc. emergency generator set. The unit is located at the Southwest Substation at 225 E Street SW, Washington, DC 20024. The contact person for the facility is Mary Pekot, Manager Electric Maintenance, phone number: (202) 388-2626.

The proposed emission limits are as follows:

- a. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions from the emergency generator engine set are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.35
Oxides of Nitrogen (NO _x)	1.62
Volatile Organic Compounds (VOC)	0.13
Total Particulate Matter (PM Total)	0.11
Oxides of Sulfur (SO _x)	0.11

The application to operate the emergency generator and the draft permit are available for public inspection at AQD and copies may be made between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments, a written request for a public hearing, or both, on the draft permit action within thirty (30) days of publication of this notice. The written comments or a written request for a public hearing must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments or outcome from a public hearing will be considered in issuing the final permit.

Comments or a request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
stephen.ours@dc.gov

No written comments postmarked after December 19, 2016 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DEPARTMENT OF ENERGY AND ENVIRONMENT**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, Washington, DC, intends to issue Permit #7102 to Potomac Electric Power Company, to operate an existing 125 kWe Delco emergency generator set. The unit is located at the 9th Street Substation at 422 8th Street, NW, Washington, DC 20024. The contact person for the facility is Mary Pekot, Manager Electric Maintenance, phone number: (202) 388-2626.

The proposed emission limits are as follows:

- a. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions from the emergency generator engine set are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.35
Oxides of Nitrogen (NO _x)	1.62
Volatile Organic Compounds (VOC)	0.13
Total Particulate Matter (PM Total)	0.11
Oxides of Sulfur (SO _x)	0.11

The application to operate the emergency generator and the draft permit are available for public inspection at AQD and copies may be made between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments, a written request for a public hearing, or both, on the draft permit action within thirty (30) days of publication of this notice. The written comments or a written request for a public hearing must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments or outcome from a public hearing will be considered in issuing the final permit.

Comments or a request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
stephen.ours@dc.gov

No written comments postmarked after December 20, 2016 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DEPARTMENT OF ENERGY AND ENVIRONMENT**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, Washington, DC, intends to issue Permit #7103 to Potomac Electric Power Company, to operate an existing 125 kWe Delco emergency generator set. The unit is located at 1025 10th Street NW, Washington, DC 20001. The contact person for the facility is Mary Pekot, Manager Electric Maintenance, phone number: (202) 388-2626.

The proposed emission limits are as follows:

- a. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions from the emergency generator engine set are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.35
Oxides of Nitrogen (NO _x)	1.62
Volatile Organic Compounds (VOC)	0.13
Total Particulate Matter (PM Total)	0.11
Oxides of Sulfur (SO _x)	0.11

The application to operate the emergency generator and the draft permit are available for public inspection at AQD and copies may be made between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments, a written request for a public hearing, or both, on the draft permit action within thirty (30) days of publication of this notice. The written comments or a written request for a public hearing must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments or outcome from a public hearing will be considered in issuing the final permit.

Comments or a request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
stephen.ours@dc.gov

No written comments postmarked after December 19, 2016 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DEPARTMENT OF ENERGY AND ENVIRONMENT**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, Washington, DC, intends to issue Permit #7104 to Potomac Electric Power Company, to operate an existing 300 kWe Delco emergency generator set. The unit is located at the Van Ness Substation at 400 Van Ness Street NW, Washington, DC 20016. The contact person for the facility is Mary Pekot, Manager Electric Maintenance, phone number: (202) 388-2626.

The proposed emission limits are as follows:

- a. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions from the emergency generator engine set are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.84
Oxides of Nitrogen (NO _x)	3.90
Volatile Organic Compounds (VOC)	0.31
Total Particulate Matter (PM Total)	0.28
Oxides of Sulfur (SO _x)	0.26

The application to operate the emergency generator and the draft permit are available for public inspection at AQD and copies may be made between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments, a written request for a public hearing, or both, on the draft permit action within thirty (30) days of publication of this notice. The written comments or a written request for a public hearing must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments or outcome from a public hearing will be considered in issuing the final permit.

Comments or a request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
stephen.ours@dc.gov

No written comments postmarked after December 20, 2016 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

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

Office of Government Ethics

October 31, 2016

Angie M. Gates
Lawrence N. Cooper, Esquire
Office of Cable Television, Film, Music and Entertainment
1899 9th Street, N.E.
Washington, D.C. 20018

Dear Director Gates and Mr. Cooper:

This responds to your October 24, 2016 memorandum, attached hereto as Exhibit A, in which you request an advisory opinion from the Board of Ethics and Government Accountability ("Ethics Board") as to whether certain activities by the Office of Cable Television, Film, Music and Entertainment ("OCTFME") violate the Code of Conduct.¹ Specifically, you have requested whether OCTFME would violate the Code of Conduct by:

- (1) Creating, producing, broadcasting, distributing, and/or streaming media aimed at educating District residents on statehood and the Advisory Ballot Referendum on behalf of the D.C. Statehood Commission ("DC SC"), the Executive Office of the Mayor ("EOM"), the D.C. Council ("Council"), or Congresswoman Eleanor Holmes Norton;
- (2) Broadcasting, distributing, and/or streaming media created by others that is aimed at educating District residents on statehood and the Advisory Ballot Referendum on behalf of the DC SC, EOM, the Council, or Congresswoman Norton; and
- (3) Creating and producing media aimed at educating District residents on statehood and the Advisory Ballot Referendum using the slogan "Create the State" and simultaneously advocating for the right to vote.

While your request is addressed to the Ethics Board, I view it as invoking my authority as the Director of Government Ethics under section 219(a) of the Ethics Act.²

¹ Your memorandum also requests advice from the Office of Campaign Finance ("OCF") and the Board of Elections ("BOE") "on expenditures" related to these same activities.

² Section 219(a) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 ("Ethics Act"), effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.19(a)). The section provides that "[u]pon application made by an employee or public official subject to the Code of Conduct, the Director of Government Ethics shall, within a reasonable period of time, provide an advisory opinion as to whether a specific transaction or activity inquired of would constitute a violation of a provision of the Code of Conduct over which the Ethics Board has primary jurisdiction."

As a preliminary matter, the Code of Conduct is only applicable to employees of the District of Columbia and not to District agencies.³ Accordingly, I view your request as relating to the employees of OCTFME, as opposed to the agency itself. Based on the information in your memorandum, I conclude that the activities outlined in it would not violate the Local Hatch Act,⁴ section 1801 of the Merit Personnel Act,⁵ or 6B DCMR § 1808, all of which are elements of the Code of Conduct.⁶ I also conclude that the activities would not violate any other relevant provision of the Code of Conduct.

Background

OCTFME formed as a result of the merger of two offices, the Office of Cable Television and the Office of Motion Picture and Television Development. As a result of that merger, OCTFME is statutorily charged with, among other things, “[p]roducing content for the government and educational channels and managing those channels and producing video content for District government agencies and residents”⁷ In fact, a 2005 Mayor’s Order specifically designated OCTFME as “the primary agency to produce programming for District government agencies” with the first right of refusal.⁸ To that end, OCTFME has created media content in support of the District’s initiatives. And, in fact, it has already broadcasted statehood related content.⁹

In anticipation that DC SC, EOM, the Council, Congresswoman Norton, and other District agencies will request that OCTFME create and broadcast media related to statehood and the Advisory Referendum on their behalf, OCTFME has requested the instant advisory opinion. The Advisory Referendum, which is attached hereto as Exhibit B, provides as follows:

To ask the voters on November 8, 2016, through an advisory referendum, whether the Council should petition Congress to enact a statehood admission act to admit the State of New Columbia to the Union. Advising the Council to approve this proposal would establish that the citizens of the District of Columbia (“District”):

³ The Board of Ethics and Government Accountability is statutorily authorized to enforce the Code of Conduct as to “all employees and public officials serving the District of Columbia, its instrumentalities, subordinate and independent agencies, the Council of the District of Columbia, boards and commissions, and Advisory Neighborhood Commissions” Section 201a of the Ethics Act (D.C. Official Code § 1-1162.01 a); *see also* section 202(a)(1) (D.C. Official Code § 1-1162.02(a)(1)).

⁴ The Prohibition on Government Employee Engagement in Political Activity Act of 2010, effective March 31, 2011 (D.C. Law 18-335; D.C. Official Code § 1-1171.01 *et seq.*).

⁵ Section 1801 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-618.01) (“Section 618.01”).

⁶ Respectively, *see* section 101(7)(B), (E), and (E-i) of the Ethics Act (D.C. Official Code § 1-1161.01(7)(B), (E), and (E-i)).

⁷ Office of Cable Television, Film, Music, and Entertainment Act of 2015, effective October 22, 2015 (D.C. Law 21-36, § 2072(d); D.C. Official Code § 34-1252.01 (a)(2)).

⁸ Section 3(A) and (B) of Mayor’s Order 2005-162 (dated October 25, 2005).

⁹ *See* Exhibit A at 2.

(1) agree that the District should be admitted to the Union as the State of New Columbia;

(2) approve of a Constitution of the State of New Columbia to be adopted by the Council;

(3) approve the State of New Columbia's boundaries, as adopted by the New Columbia Statehood Commission on June 28, 2016; and

(4) agree that the State of New Columbia shall guarantee an elected representative form of government.

It concludes by asking voters to vote yes or no as to the following question: "Shall the voters of the District of Columbia advise the Council to approve or reject this proposal?"

The Local Hatch Act

The Local Hatch Act limits the political activities of District government employees. With few exceptions, the Local Hatch Act is applicable to District employees, who are defined as "[a]ny individual paid by the District government from grant or appropriated funds for his or her services or holding office in the District of Columbia."¹⁰ It regulates political activity, which is defined as "any activity that is regulated by the District *directed toward the success or failure* of a political party, candidate for partisan political office, partisan political group, ballot initiative, or referendum."¹¹

I previously issued an advisory opinion regarding whether certain District employees could engage in statehood related activities leading up to an advisory referendum without violating the Code of Conduct.¹² In that opinion, I concluded that an Advisory Referendum regarding statehood is nonbinding and "functions essentially as nothing more than a public survey or opinion poll . . ."¹³ Moreover, the "considerations of 'success or failure' [which are necessary components of political activity] . . . are absent."¹⁴ Similarly, activities regarding statehood

¹⁰ D.C. Official Code § 1-1171.01(3)(A).

¹¹ D.C. Official Code § 1-1171.01(8)(A) (emphasis added). *See also* Report of the Committee on Government Operations and the Environment on Bill 18-460, the Prohibition on Government Employee Engagement in Political Activity Act of 2010, at 5-6 (Council of the District of Columbia, November 16, 2010) (discussing definitions in bill) ("Political activity means conduct whose goal is the success or failure of a partisan candidate or political group, ballot initiative, or referendum.").

¹² Response to Request for Opinion Regarding Statehood Related Activities, 1009-010 (June 14, 2016) (available at <http://www.bega-dc.gov/sites/default/files/documents/6.14.16%20Advisory%20Opinion%20Re%20Statehood%20Related%20Activities.pdf>).

¹³ *Id.* at 4-5.

¹⁴ *Id.*

described in your memorandum do not fit the statutory definition of political activity, as they are neither aimed at the success or failure of a ballot initiative or referendum. The activities proposed by OCTFME, therefore, do not violate the Local Hatch Act.

Section 618.01 of the Merit Personnel Act

Section 618.01(a) of the Merit Personnel Act provides as follows:

Each employee, member of a board or commission, or a public official of the District government must at all times maintain a high level of ethical conduct in connection with the performance of official duties, and shall refrain from taking, ordering, or participating in any official action which would adversely affect the confidence of the public in the integrity of the District government.¹⁵

I have previously advised that “individuals . . . may engage in the statehood-related activities outlined in [the requester’s] memorandum without violating section 618.01(a), **as long as they do so by using funds and other District government resources that are authorized for that purpose.**”¹⁶ In that same vein, OCTFME employees may engage in the Advisory Referendum and statehood-related activities outlined in your memorandum without violating section 618.01(a), as long as they do so by using funds and other District government resources that are authorized for that purpose.

With regard to the activities proposed in your memorandum, the first and second questions can easily be answered in the affirmative. More specifically, OCTFME employees may create and produce media aimed at educating District residents on statehood and the Advisory Ballot Referendum and they may broadcast, distribute and/or stream the same (irrespective of whether created by OCTFME), if done on behalf of the DC SC, EOM, the Council, Congresswoman Norton, or another District agency whose activities directly support the Mayor’s Statehood agenda. The D.C. Code, as well as Mayor’s Order 2005-162, contemplates OCTFME as the entity principally responsible for creating media on behalf of the aforementioned groups, including, but not limited to, media related to the Advisory Referendum and statehood. Based upon that authority, the conduct contemplated in the first and second questions of your memorandum are permitted.

The third question, however, requests whether OCTFME employees can create the aforementioned media that include a “Create the State” slogan on its own. OCTFME employees are statutorily required to produce content for the government and educational channels.¹⁷ This language does not limit OCTFME’s ability to generate its own content. In fact, the statutory language explicitly contemplates that OCTFME will create content on its own. Similarly, the

¹⁵ For an in depth discussion regarding Section 618.01 and statehood related activities, *see id.* at 2-4.

¹⁶ *Id.* at 4 (emphasis added).

¹⁷ D.C. Official Code § 34-1252.01(a)(2).

statute does not limit the type of content that OCTFME can produce. Nevertheless, and as is the case above, OCTFME employees must create content by using funds and other District government resources that are authorized for that purpose in order to avoid violating section 618.01(a). Accordingly, the conduct described in the third question does not violate section 618.01(a), so long as the funds and resources used are authorized for that purpose and the content created does not run afoul of its own policies regarding content creation.¹⁸

Please note, however, that the Office of Campaign Finance (“OCF”) may take a different view with respect to permissible expenditures in this area. It is OCF, and not this Office, that has authority to opine on the prohibition concerning expenditures of government resources for “campaign related activities” and to define what constitutes such activities.

In sum, the activities proposed in the memorandum do not violate Section 618.01(a) of the Merit Personnel Act.

6B DCMR § 1808

A District government employee “has a duty to protect and conserve government property and shall not use such property, or allow its use, for other than authorized purposes.”¹⁹ Further, given the wide-ranging nature of the activities described in the memorandum, the definition of “government property” is equally as broad, covering everything from paperclips to intangible property interests.²⁰

Therefore, considerations very similar to those discussed above in the context of CMPA section 618.01(a) lead me to the same conclusion of permissibility regarding participation in the activities described in your memorandum, when viewing the activities (along with associated resources) in light of 6B DCMR § 1808.

Because this advisory opinion is provided to you pursuant to section 219 of the Ethics Act (D.C. Official Code § 1-1162.19), be advised that the opinion must be published in the *D.C. Register* within 30 days of its issuance, but your identity will not be disclosed unless you consent to such

¹⁸ See Exhibit A at 2 (“OCTFME’s programming policy provides ‘ . . . persons advocating any cause, viewpoint or policy, proposed or otherwise, will not be eligible to appear on DCC, DCN or DKN, except in a program or series where the formal allows for . . . all sides of an issue to be heard on an equal basis and within the same format.’”)

¹⁹ 6B DCMR § 1808.1. The term “authorized purposes” is defined by 6B DCMR § 1808.2(b) as meaning “those purposes for which government property is made available to members of the public or those purposes authorized by an agency head in accordance with law or regulation.”

²⁰ See 6B DCMR § 1808.2(a) (defining “government property” as including “any form of real or personal property in which a federal, District, state, or local government agency or entity has an ownership, leasehold, or other property interest as well as any right or other intangible interest that is purchased with government funds, including the services of contractor personnel. The term includes office supplies, telephone and other telecommunications equipment and services, the government mails, automated data processing capabilities, printing and reproduction facilities, government records, and government vehicles.”).

disclosure in writing.²¹ We encourage individuals to so consent in the interest of greater government transparency. Please, then, let me know your wishes about disclosure.

Please let me know if you have any questions or wish to discuss this matter. I may be reached at 202-481-3411, or by email at darrin.sobin@dc.gov.

Sincerely,



DARRIN P. SOBIN
Director of Government Ethics
Board of Ethics and Government Accountability

Attachments:

- (1) October 24, 2016 memorandum
- (2) Advisory Referendum on the State of New Columbia Admission Act Resolution of 2016

#1566-001

²¹ See section 219(b) (D.C. Official Code § 1-1162.19(b)). Also, in terms of the safe harbor against enforcement of a violation of the Code of Conduct afforded by section 219(d) (D.C. Official Code § 1-1162.19(d)), be advised that this opinion is limited in scope to the statehood-related activities outlined in your memorandum and is intended to operate prospectively from October 24, 2016.

EXHIBIT A

**OFFICE OF CABLE TELEVISION, FILM, MUSIC
AND ENTERTAINMENT**

To: Office of Campaign Finance
Board of Elections
Board of Ethics and Government Accountability

From: Angie M. Gates, Director
Lawrence. N. Cooper, General Counsel

Date: October 24, 2016

RE: Request for Expedited Formal Advisory Opinion from BEGA on Activities
Related to Advisory Ballot Referendum and Expedited Interpretive Opinion
from OCF and BOE on Activities Related to Advisory Ballot Referendum

The Office of Cable Television, Film, Music and Entertainment (OCTFME) requests guidance regarding involvement in certain District of Columbia Statehood campaigning to affirm compliance with law. Specifically seeking guidance on Hatch Act and ethics laws from BEGA and advice on expenditures from OCF and BOE.

Background:

OCTFME was formed as a result of the merger of two former District agencies, the Office of Cable Television, and the Office of Motion Picture and Television Development. One of the OCTFME's statutory responsibilities involves producing content for and managing the District's public educational and governmental (PEG) cable channels. Program content and information regarding the Mayor and the Mayor's initiatives as well content in the public interest of District residents is broadcast on the District of Columbia Network (DCN). Live DC Council proceedings and other matters related to the DC Council members are broadcast on the District of Columbia Council Channel (DCC). Educational programming and content of interest to younger District residents is broadcast on the District Knowledge Network (DKN). In addition to the linear local cable channels, OCTFME also engages residents with distribution of program content and information via its website and several social media platforms, including YouTube, FaceBook, Twitter and Instagram.

Also as part of its statutory public service responsibilities, and pursuant to Mayoral Order 2005-162¹, OCTFME produces a range of content for other District agencies including public service announcements (PSAs) and other video presentations that highlight or support various District initiatives; or that help inform District residents of various agency and District-wide services. Because statehood has continued to be a major initiative at all levels of District government and affects all District residents, OCTFME has previously broadcast statehood

¹ District agencies are required to provide OCTFME with the right of first refusal for any cable programming or messaging needs. We have attached a copy of the 2005 Mayoral Order for your convenience.

related content for the purpose of informing residents on what statehood means for them. In light of the Advisory Ballot Referendum on statehood, the agency anticipates additional requests for the creation of content to support the District's statehood initiative. These requests may come from the Statehood Commission or its members, District agencies under the Mayor's Office, as well as Congresswoman Eleanor Holmes Norton. Generally, content that is produced by OCTFME is broadcast on its channels, streamed via the internet on the agency website, and could be promoted and further distributed as links via social media.

OCTFME's programming policies expressly prohibit broadcasts of any political programming, except under narrow circumstances.² Furthermore, the programming policy is clear that all PEG channel programming is established based on direction from the Office of the Mayor and the Council of the District of Columbia. Accordingly, as a prime media communications outlet for the District government, OCTFME broadcasts and distributes content that supports initiatives important to the Mayor (and by extension the Mayor's agencies) or the Council, unless prohibited from doing so by law.

Recently, your offices issued opinions in response to a Memorandum dated June 3, 2016 from Beverly Perry, Senior Advisor to the Mayor (Office of Federal and Regional Affairs) and Betsy Cavendish, General Counsel (Executive Office of the Mayor).³ The opinions addressed whether certain statehood-related activities described in the June 3rd Memorandum would violate the DC Hatch Act, ethics laws or election expenditures laws. BEGA's opinion found that "...statehood-related activities leading up to the advisory referendum in November, as well as participation in the vote itself, are not forms of political activity as defined in the Local Hatch Act and are, therefore, permissible."⁴ The OCF interpretive opinion similarly concluded "it does not appear that any activities that the New Columbia Statehood Commission intends to undertake in connection with an Advisory Ballot Referendum are within the scope of the applicable provisions of the District of Columbia Campaign Finance Act."⁵

While activities of EOM administration officials for several agencies were specifically referenced in the June 3rd Memorandum as being critical to the statehood efforts, and OCTFME was not listed as one of these agencies, we found no restrictions in the advisory

² The OCTFME programming policy states that declared candidates for any elective public office and persons advocating any cause, viewpoint or policy, proposed or otherwise, will not be eligible to appear on DCC, DCN or DKN, except in a program or series where the format allows for all candidates or sides of an issue to be heard on an equal basis and within the same format. Candidates for public office may appear on a bona fide news program; a news documentary, if the appearance of the candidate is incidental to presentation of the subject matter; or in coverage of official City meetings such as City Council, Commissions, or Committees. OCTFME must make every effort to ensure that an authorized appearance by any qualified political candidate on DCC, DCN or DKN will abide by these restrictions, and will tailor such appearances so as to minimize the fact of their candidacy.

³ The Board of Ethics and Government Accountability released its Opinion on June 14, 2016; The Office of Campaign Finance released its Opinion on June 17, 2016.

⁴ Response to Request for Opinion Regarding Statehood Related Activities, 1009-010 Op. BEGA 6 (2016).

⁵ Response to Request for Interpretive Opinion Regarding Activities Relating To An Advisory Ballot Referendum, Interpretive Opinion 2016-01 (2016).

opinion or interpretive opinion that would exclude OCTFME's statehood-related efforts in support of EOM from the scope of the opinions.

Questions:

We seek confirmation that OCTFME would not be in violation of the Hatch Act, ethics laws or election expenditures laws, if it were to engage in the following:

- A. Creation and production of program content and information aimed at educating DC residents on statehood and the Advisory Ballot Referendum, and the broadcast, distribution and/or streaming of such content across each of OCTFME's media platforms (including, but not limited to DCC, DKN, DCN, the agency webpage, YouTube, FaceBook, Twitter and Instagram) on behalf of, or at the request of the DC Statehood Commission, Executive Office of the Mayor, DC Council or Congresswoman Eleanor Holmes Norton.
- B. Broadcast, distribution and/or streaming of program content and information (not created by OCTFME) aimed at educating DC residents on statehood and the Advisory Ballot Referendum across each of OCTFME's media platforms (including, but not limited to DCC, DKN, DCN, the agency webpage, YouTube, FaceBook, Twitter and Instagram) on behalf of, or at the request of the DC Statehood Commission, Executive Office of the Mayor, DC Council or Congresswoman Eleanor Holmes Norton.
- C. Creation and production of content and information aimed at educating DC residents on statehood and the Advisory Ballot Referendum using the slogan "Create the State" and simultaneously advocating for the right to vote without use of any messages to "vote for" the Advisory Ballot Referendum.

We believe that OCTFME would not be in violation of the Hatch Act, ethics laws or election expenditures laws by supporting the District's statehood initiative or using its resources to support, discuss, or disseminate program content or information regarding DC statehood and the Advisory Ballot Referendum in accordance with the June 3rd Memorandum. OCTFME's channels, website and social media accounts are dedicated media platforms for District of Columbia governmental communications and are critical resources in implementing the New Columbia Statehood Commission's statehood activities and efforts. In accordance with your prior advisory and interpretive opinions, OCTFME's proposed activities in educating residents about or supporting statehood and the Advisory Ballot Referendum should not constitute prohibited political activities under the Hatch Act or ethics laws, nor violate any provisions of the DC Campaign Finance Act.

cc: Beverly Perry, Senior Advisor to the Mayor, Office of Federal and Regional Affairs
Betsy Cavendish, General Counsel, Executive Office of the Mayor

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2005-162
October 24, 2005**SUBJECT: Policy for the Production of Video Programming
by District Government Agencies****ORIGINATING AGENCY: Office of Cable Television and Telecommunications**

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422 (11) of the District of Columbia Home Rule Act of 1973, as amended, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22 (11) (2001), and pursuant to section 202 (8) of the Cable Television Communications Act of 1981, as amended, D.C. Law 4-142, D.C. Official Code § 34-1252.02(8) (2004 Supp.), it is hereby **ORDERED**:

1. PURPOSE:

The purpose of this Order is to establish a policy regarding the production of video programming ("programming") by District of Columbia government agencies that are subject to the administrative authority of the Mayor (hereafter "agency" or "agencies").

2. RATIONALE

A. The District of Columbia Office of Cable Television and Telecommunications ("OCTT") is responsible for the coordination, management and oversight of District government television channels and the programming that appears on those channels. As a part of OCTT's duties, it produces programming and provides coverage of events and proceedings that concern the District government and community. OCTT provides coverage of hearings and proceedings before the Council of the District of Columbia, events organized by the Mayor and executive branch government agencies, and other events that take place within the District of Columbia. Additionally, OCTT produces original programming for the purpose of providing information to District residents.

B. This Order establishes the responsibilities of District agencies regarding the creation of audio-visual information. Specifically, this Order establishes parameters designed to ensure that these agencies' messages are consistent with the communications of the Mayor and District government and that the District government's resources are used in the most efficient manner possible.

C. Additionally, this Order sets forth the procedures to be used regarding the production of programming on behalf of District government agencies.

1-3147-75

3 **AUTHORITY OF THE OFFICE OF CABLE TELEVISION AND TELECOMMUNICATIONS:**

A. Pursuant to D.C. Official Code § 34-1252.02(8) (2004 Supp.), OCTT is designated as the primary agency to produce programming for District government agencies. OCTT's Executive Director shall have the authority to coordinate and manage all video programming produced in accord with this Order. Except as otherwise provided by this Order, the production of all video programming for District agencies shall be obtained from OCTT.

B. District agencies are prohibited from contracting to produce programming with any person or entity that is not an agency of the District government (i.e., "third-party programming") without first affording OCTT an opportunity to produce the requested programming pursuant to the specifications of the agency's "Justification for Commercial Vendor," as provided in Paragraph 4 of this Order.

C. This Order shall apply to all District government departments, agencies and offices subject to the administrative authority of the Mayor (collectively, "agency" or "agencies").

4. **RESPONSIBILITIES OF DISTRICT AGENCIES:**

A. Each agency shall follow written rules and procedures to be established and published by OCTT regarding the production of programming to be distributed to the general public.

B. All agencies shall coordinate with OCTT on all programming projects and activities.

C. In advance of any project, agencies shall submit related plans to OCTT within a reasonable period of time for review. Proposal information shall include the project's topic, timeframe for completing project, length of the program, preferred format, preferred program features and whether the contracting agency proposes that an entity other than a District government agency produce the programming.

D. The contracting agency shall enter into a memorandum of understanding (MOU) with OCTT to provide for the transfer of intra-District funds and to set the specific terms and specifications for the project.

E. The contracting agency shall authorize OCTT to cablecast any programming that OCTT produces.

F. If an agency seeks to procure programming from a commercial vendor or other organization other than OCTT:

(i) The agency shall provide OCTT a "Justification for Commercial Vendor," wherein the agency shall set forth the proposed costs of the project, detailed specifications for the project, and the reasons that the project is to be produced by the requested contractor rather than by OCTT.

(ii) OCTT shall have a right of first refusal to produce the proposed programming. The agency shall allow OCTT a reasonable time in which to determine whether it can produce the requested programming pursuant to the specifications of the agency's Justification for Commercial Vendor. OCTT may elect to produce the proposed programming for the agency, provided that OCTT is capable of satisfying each of the material specifications set forth in the agency's Justification for Commercial Vendor.

(iii) Should OCTT elect not to invoke this right of first refusal regarding a particular proposed project, OCTT shall notify the involved agency of that decision within a reasonable time.

(iv) Any third-party programming contract shall comply with applicable law and any procurement requirements.

G. In the event that OCTT exercises its right of first refusal, or fails to respond to the agency's third-party programming proposal within a reasonable time, the agency may seek review in the Office of the Deputy Mayor for that agency's cluster. The Deputy Mayor may refer the agency's request for review to the Office of the City Administrator. The decision of the Deputy Mayor or the City Administrator (as the case may be) will be final and binding on both OCTT and the agency.

5. **RESPONSIBILITIES OF THE OFFICE OF CABLE TELEVISION AND TELECOMMUNICATIONS:**

A. OCTT shall reasonably cooperate with all agencies regarding the production of government programming projects.

B. If OCTT produces an agency programming project, it shall provide management services for that project, including assistance and supervision to successfully administer the project.

C. OCTT shall complete programming projects on a timely basis and in accord with the specifications of the contracting agency.

D. In the event that OCTT decides to exercise its right of first refusal to produce requested programming from a commercial vendor, it will do so pursuant to the terms set forth in Sections 4 (F) and (G) of this Agreement.

6. **MEMORANDUM OF UNDERSTANDING (MOU):**

A. In the event OCTT agrees to produce programming for a requesting agency, it shall enter into a related MOU with the agency.

B. Any MOU between OCTT and a District government agency to produce programming shall include:

- i. A description of the programming to be produced, including the theme, length and any other specifications.
- ii. The dollar amount of the MOU.
- iii. The specific responsibilities of OCTT and of the contracting agency.
- iv. The responsibility of the involved agency to pay OCTT via an intra-District MOU.
- v. OCTT and the government agency's right to terminate the MOU.
- vi. Any other information that is relevant to the project and that supports the successful completion of such programming.

7. **EXCEPTIONS:**

In accordance with the District's rules regarding donations (*see* Mayor's Memorandum 2002-1), this Order shall not apply to programming to be produced for an agency by an outside organization as a donation to the District government or the agency.

8. **APPLICABILITY:**

This Order shall apply to all District government departments, agencies and offices under the administrative authority of the Mayor.

9. **PROCEDURES:**

The Executive Director of OCTT shall develop procedures, as necessary, for the implementation of this Order.

10. **DEFINITIONS:**

"Programming" means any audio-visual production including, but not necessarily limited to, television shows, public service announcements, features, commercials and training videos meant to be distributed via a broadcast, cablecast or otherwise shown to the general public. The term does not include bona fide news programs or similar live events.

"Cablecast" means the act of distributing audio-video programs over a cable television system.

"News program" means a bona fide newscast, news interview, news documentary, press conference, or on-the-spot coverage of news events.

11. EFFECTIVE DATE: This Order shall be effective immediately.


ANTHONY A. WILLIAMS
MAYOR

ATTEST: 
PATRICIA ELWOOD
INTERIM SECRETARY OF THE DISTRICT OF COLUMBIA

EXHIBIT B

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

The proposed Advisory Referendum will be presented to the voters at the General Election to be conducted on Tuesday, November 8, 2016.

ADVISORY REFERENDUM B

SHORT TITLE

“Advisory Referendum on the State of New Columbia Admission Act Resolution of 2016”

SUMMARY STATEMENT

To ask the voters on November 8, 2016, through an advisory referendum, whether the Council should petition Congress to enact a statehood admission act to admit the State of New Columbia to the Union. Advising the Council to approve this proposal would establish that the citizens of the District of Columbia (“District”):

- (1) agree that the District should be admitted to the Union as the State of New Columbia;
- (2) approve of a Constitution of the State of New Columbia to be adopted by the Council;
- (3) approve the State of New Columbia’s boundaries, as adopted by the New Columbia Statehood Commission on June 28m 2016; and
- (4) agree that the State of New Columbia shall guarantee an elected representative form of government.

Shall the voters of the District of Columbia advise the Council to approve or reject this proposal?

YES, to approve _____

NO, to reject _____

DEPARTMENT OF HEALTH CARE FINANCE

PUBLIC NOTICE

MEDICAID FEE SCHEDULE UPDATES FOR PERSONAL CARE AIDE SERVICES

The Director of Health Care Finance (DHCF), in accordance with the requirements set forth in Sections 988, 4211 and 5015 of Title 29 of the District of Columbia Municipal Regulations, announces changes to the rates for reimbursement for providers of personal care aide (PCA) services under the Medicaid State Plan and Home and Community-Based Waiver for Persons who are Elderly and Individuals with Physical Disabilities.

DHCF is increasing the reimbursement rate for PCA services to comply with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.* (2012 Repl.)). For services rendered on or after January 1, 2017, the reimbursement rates for PCA services will be as follows:

Five Dollars and Five Cents (\$5.05) per unit of service for allowable services as authorized per the plan of care, of which no less than three dollars and forty-nine cents (\$3.49) per fifteen (15) minutes for services rendered by a PCA, shall be paid to the PCA to comply with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.* (2012 Repl.)).

The new rates will be included on the Medicaid Fee Schedule located on the DHCF website at www.dc-medicaid.com.

For further information or questions regarding this fee schedule update, please contact Bidemi Isiaq, Associate Director, Office of Rates, Reimbursement and Financial Analysis, Department of Health Care Finance, at 441 4th Street, N.W., 9th Floor, Suite 900S, Washington, DC 20001, or Bidemi.Isiaq@dc.gov or (202) 442-9202.

DEPARTMENT OF HEALTH**PUBLIC NOTICE**

The District of Columbia Board of Social Work (“Board”) hereby gives notice of a cancellation of its regular meetings, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, D.C. Official Code § 3-1204.05 (b)) (2012 Repl.).

Due to the holiday schedule, the Board’s regular monthly meetings scheduled for Monday, November 29, 2016 and Monday, December 26, 2016, will be cancelled. The Board’s next regular meeting will resume on Monday, January 23, 2017. The meeting will be 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. In accordance with Section 405(b) of the Open Meetings Act of 2010, D.C. Official Code § 2-574(b), the meeting will be closed from 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 Board’s regular meetings will be held on every fourth Monday of each month in 2017 from 9:00 AM to 12:30 PM.

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health’s Events webpage at www.doh.dc.gov/events to view the agenda.

DC DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF SOLICITATION FOR OFFERS

(Washington, DC) - On November 29, 2016, the DC Department of Housing and Community Development (DHCD) will release a Solicitation for Offers (SFO) for the development of six District-owned properties in Historic Anacostia.

Through the SFO, DHCD is seeking public offers to build (re)development projects that promote the provision of family-style affordable housing, a commitment to long-term affordability, the revitalization of local neighborhoods and elimination of blight in the District on the following sites:

WARD	SSL	Address	Vacancy	Issue Date
8	5800 0811	1220 Maple View Place, SE	BLDG	Nov 29
8	5766 0800	15 th Street, SE	LOT	Nov 29
8	5765 0884	1648 U Street, SE	BLDG	Nov 29
8	5779 0814	1518 W Street, SE	BLDG	Nov 29
8	5779 0824	1528 W Street, SE	LOT	Nov 29
8	5799 0849	1326 Valley Place, SE	BLDG	Nov 29

The Solicitation for Offer application materials will be available by November 29, 2016 on the DHCD website, www.dhcd.dc.gov.

A Pre-Bid meeting will be held at 10:00 a.m., Tuesday, December 13, 2016 at DHCD's Housing Resource Center located at 1800 Martin Luther King, Jr. Avenue, SE, Washington, DC 20020. The **new deadline** for submitting proposals is 4:00 p.m., Thursday, January 12, 2017. Respondents are asked to plan accordingly.

For additional updates, information and questions please go to our website <http://dhcd.dc.gov/service/property-acquisition-and-disposition> or contact padd.sfo@dc.gov.

KIPP DC PUBLIC CHARTER SCHOOLS
REQUEST FOR PROPOSALS

HR Information Systems

KIPP DC is soliciting proposals from qualified vendors for HR Information Systems (HRIS). The RFP can be found on KIPP DC's website at <http://www.kippdc.org/procurement>. Proposals should be uploaded to the website no later than 11:59 P.M., EST, on December 9, 2016. Questions can be addressed to tavie.clay@kippdc.org and adam.roberts@kippdc.org.

Two-Way Radios

KIPP DC is soliciting proposals from qualified vendors for Two-Way Radios. The RFP can be found at <http://www.kippdc.org/procurement>. Proposals should be uploaded to the website no later than 5:00PM EST, on December 2, 2016. Questions can be addressed to jessica.gray@kippdc.org.

HVAC Maintenance

KIPP DC is soliciting proposals from qualified vendors for HVAC maintenance. The RFP can be found at <http://www.kippdc.org/procurement>. Proposals should be uploaded to the website no later than 5:00PM EST, on December 13, 2016. Questions can be addressed to jsalsbury@pmmcompanies.com and nate.schwartz@kippdc.org.

MONUMENT ACADEMY PUBLIC CHARTER SCHOOL**NOTICE OF INTENT TO ENTER INTO A
SOLE SOURCE CONTRACT****Dated: November 7, 2016**

Pursuant to the School Reform Act, D.C. 38-1802 (SRA) and the D.C. Public Charter Schools procurement policy, Monument Academy Public Charter School (MAPCS) hereby submits this public notice of intent to award the following sole source contract:

Contract: Psychological Assessment Services (PAS)

MAPCS intends to enter into a sole source contract with PAS for the following services:

- Developmental, cognitive, educational, psychoeducational, clinical, and ADHD assessments
- Attendance at IEP meetings and reviews of school records
- Therapeutic intervention services
- Training and workshops for staff

The contract will amount to greater than \$25,000. The exact amount will be dependent on the number of services rendered.

For further information regarding this sole source notice, please contact Jeff McHugh via email by close of business November 22, 2016.

Jeff McHugh, Director of Operations
Monument Academy Public Charter School
500 19th Street NE
Washington, D.C. 20002
tel: 914-721-0613
email: jeff.mchugh@monumentacademydc.org

**UNIVERSITY OF THE DISTRICT OF COLUMBIA
BOARD OF TRUSTEES**

NOTICE OF REGULAR PUBLIC MEETING

The regular meeting of the Board of Trustees of the University of the District of Columbia will be held on Tuesday, November 22, 2016 at 5:00 p.m. in the Board Room, Third Floor, Building 39 at the Van Ness Campus, 4200 Connecticut Avenue, N.W., Washington, D.C. 20008. Below is the planned agenda for the meeting. The final agenda will be posted to the University of the District of Columbia's website at www.udc.edu.

For additional information, please contact: Beverly Franklin, Executive Secretary at (202) 274-6258 or bfranklin@udc.edu.

Planned Agenda

- I.** Call to Order and Roll Call
- II.** Approval of the Minutes – July 26, 2016
- III.** Action Items
- IV.** Report of Chairperson
- V.** Report of the President
- VI.** Committee Reports
 - a. Executive – Dr. Crider
 - b. Committee of the Whole – Dr. Crider
 - c. Academic and Student Affairs – Mr. Wyner
 - i. Alumni Task Force – Mr. Shelton
 - ii. Communications Task Force – Mr. Mills
 - d. Audit, Budget and Finance – Mr. Felton
 - e. Community College – Dr. Tardd
 - f. Operations – Mr. Bell
- VII.** Unfinished Business
- VIII.** New Business
- IX.** Closing Remarks

Adjournment

Expected Meeting Closure

In accordance with Section 2-575 (b) (10) of the D. C. Code, the Board of Trustees hereby gives notice that it may conduct an executive session, for the purpose of discussing the appointment, employment, assignment, promotion, performance, evaluation, compensation, discipline, demotion, removal, or resignation of government appointees, employees, or officials.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19147 of Symi Rom-Rymer, pursuant to 11 DCMR § 3104.1¹ for a special exception under § 223 to allow a one-story rear addition to an existing three-story, one-family semi-detached dwelling, not meeting requirements for lot occupancy under § 403.2, in the R-2 District at premises 3097 Ordway Street, N.W. (Square 2067, Lot 121)

HEARING DATE: February 23, 2016

DECISION DATE: February 23, 2016

DECISION AND ORDER

This application was submitted on September 23, 2015 by Symi Rom-Rymer (the “Applicant”), the owner of the property that is the subject of the application. The application requested a special exception to allow a one-story rear addition to a one-family semi-detached dwelling, not meeting requirements for lot occupancy under § 403.2 in the R-2 zone at 3097 Ordway Street, N.W. (Square 2067, Lot 121). Following a public hearing, the Board of Zoning Adjustment (“Board”) voted to approve the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated October 6, 2015, the Office of Zoning provided notice of the application to the Office of Planning (“OP”); the District Department of Transportation (“DDOT”); the Councilmember for Ward 3; Advisory Neighborhood Commission (“ANC”) 3C, the ANC in which the subject property is located; and Single Member District/ANC 3C05. Pursuant to 11 DCMR § 3112.14, on October 8, 2015 the Office of Zoning mailed letters providing notice to the Applicant, ANC 3C, and the owners of all property within 200 feet of the subject property of the Applicant’s request for expedited review of the application, which was tentatively scheduled for the public meeting on December 15, 2015. When ANC 3C filed a submission in opposition to the application, a public hearing was scheduled on February 23, 2016. (*See* 11 DCMR § 3118.7(a); Hearing Transcript of January 26, 2016, p. 7.)

Party Status. The Applicant and ANC 3C were automatically parties in this proceeding. There were no requests for party status in support of or in opposition to the application.

¹ This and all other references in this Order to provisions contained in Title 11 DCMR, except those references made in the final all-capitalized paragraphs, are to provisions that were in effect on the date this Application was decided by the Board of Zoning Adjustment (“the 1958 Regulations”), but which were repealed as of September 6, 2016 and replaced by new text. The repeal and replacement of the 1958 Regulations has no effect on the validity of the Board’s decision or the validity of this order.

Applicant's Case. The Applicant provided evidence and testimony describing plans to enlarge the one-family dwelling with a one-story rear addition intended for use as a guest room.

OP Report. By memorandum dated December 8, 2015, the Office of Planning recommended approval of the requested zoning relief. (Exhibit 26.)

DDOT. By memorandum dated January 5, 2015, the District Department of Transportation indicated no objection to approval of the application. (Exhibit 27.)

ANC Report. At a public meeting on January 19, 2015, with a quorum present, ANC 3C approved a resolution objecting to the Applicant's proposal and urging "the owners to reconfigure their addition to meet the maximum lot occupancy requirements." (Exhibit 29.)

FINDINGS OF FACT

The Subject Property

1. The subject property is an interior lot located on the north side of Ordway Street, N.W. near its intersection with 34th Street (Square 2067, Lot 121).
2. The subject property is a rectangular parcel 33.25 feet wide and 100 feet deep, with a lot area of 3,325 square feet.
3. The subject property is improved with a three-story, semi-detached one-family dwelling, without a basement. Its side yard, on the west side of the lot, is approximately 8.75 feet wide. A rear deck addition has a ramp providing access to the rear yard, which slopes steeply away from the dwelling. A chimney projection, six feet wide and two feet deep, is located at the center of the rear wall of the dwelling between two windows.
4. The existing lot occupancy of the subject property is 33%, where a maximum of 40% is permitted as a matter of right. (11 DCMR § 403.2.)
5. The Applicant proposes to replace the deck with a new one-story rear addition featuring brick veneer to resemble the existing masonry of the dwelling as well as siding, casement windows, and a door providing access to the side yard. The windows will be installed on the west and north exterior walls of the addition, facing the side and rear yards. The east wall of the addition will be a new face-on-line two-hour fire-rated wall.
6. The planned addition will be approximately 23 feet wide and 15.5 feet deep. Its construction will increase lot occupancy to 44% and reduce the rear yard to approximately 24 feet.

7. Properties in the vicinity of the subject property are improved primarily with one-family detached dwellings to the north, west, and south, as well as other one-family semi-detached dwellings to the east.
8. The property abutting the subject property to the east is improved with another one-family dwelling that is attached to the Applicant's dwelling. In conjunction with the construction of the new addition, the Applicant will replace in kind the face-on-line privacy wall that currently separates the two properties.
9. The property abutting the subject property to the west is improved with a one-family dwelling that fronts onto 34th Street, so that its rear yard abuts the side yard of the subject property. The two residences are separated by landscaping, including a row of trees, a driveway serving the abutting property, and a brick screen wall as well as a slight change in grade toward 34th Street. The rear yards of the properties to the north and west are also separated from the subject property by a change in grade.
10. The R-2 District consists of those areas that have been developed with one-family semi-detached dwellings, and is designed to protect them from invasion by denser types of residential development. (11 DCMR § 300.1.)

CONCLUSIONS OF LAW AND OPINION

The Applicant seeks a special exception under § 223 of the Zoning Regulations to allow a one-story rear addition to a one-family semi-detached dwelling, not meeting requirements for lot occupancy under § 403.2 in the R-2 zone at 3097 Ordway Street, N.W. (Square 2067, Lot 121). The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2012 Repl.) to grant special exceptions, as provided in the Zoning Regulations, where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific conditions. (*See* 11 DCMR § 3104.1.)

Pursuant to § 223, an addition to a one-family dwelling may be permitted as a special exception, despite not meeting specified zoning requirements, including lot occupancy, subject to certain conditions. These conditions include that the addition must not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, and in particular the light and air available to neighboring properties must not be unduly affected, the privacy of use and enjoyment of neighboring properties must not be unduly compromised, and the addition, together with the original building, as viewed from the street, alley, and other public way, must not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage.

Based on the findings of fact, the Board finds that the requested special exception satisfies the requirements of §§ 223 and 3104.1. The proposed addition will not unduly affect light or air available to neighboring properties, or compromise the privacy of use or enjoyment of neighboring properties. The new addition will not unduly affect the light and air available to neighboring properties due to its relatively small size and location. The addition will comply with the applicable side yard requirement, and the rear yard of the enlarged dwelling will remain compliant with zoning requirements. Similarly, the distance between the new construction and the surrounding dwellings will avoid any compromise of the privacy of use or enjoyment of the neighboring properties. The new addition will create an enclosed room where an open deck is now located, and will not include any windows facing the attached residence or its yard. Instead, the new addition will replicate an existing screening wall that now separates the Applicant's property from the neighboring attached dwelling. The rear addition will not affect the landscaping that now exists on the subject property.

The Board does not find that the new addition, together with the original building, will substantially visually intrude on the character, scale, and pattern of houses along the street frontage. The one-story addition will be constructed at the rear of the dwelling, largely invisible from the street.

The Board is required to give "great weight" to the recommendation of the Office of Planning. (D.C. Official Code § 6-623.04 (2012 Repl.)) In this case, as discussed above, the Board concurs with OP's recommendation that the application should be approved.

The Board is also required to give "great weight" to the issues and concerns raised by the affected ANC. (Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)).) In this case, ANC 3C adopted a resolution objecting to the Applicant's current proposal and urging a reconfiguration of the addition "to meet the maximum lot occupancy requirements," explaining that "the ANC strives to maintain the openness of rear yards and the light, air, and privacy of residents who use rear yards for recreation, as well as to preserve open green space between closely situated houses." (Exhibit 29.) For the reasons discussed above, the Board does not find ANC's recommendations to be persuasive. The Applicant provided drawings of various options for a rear addition that would not require zoning relief, and asserted that none would be suitable to provide a guest room since the new construction would be limited to 223 square feet and the layout would be hindered by the existing chimney projection and the slope of the rear yard to both the north and east. The Board agrees. An addition spanning the width of the existing dwelling would allow a room 9.5 feet deep, with an interior depth of only 6.5 feet, inconsistent with its purpose as a guest room. Other designs, which would align an outer wall of the addition with either the eastern property line or the western edge of the dwelling, or would center the addition along the rear wall of the existing dwelling, would create unusable outdoor space at either side, or both sides, of the new addition, besides resulting in a room too small for its intended purpose. The ANC did not proffer a different design but asserted that the Applicant's "large guest room" was proposed because "the size room per lot occupancy restrictions would be

smaller than they desire.” In fact, the Applicant demonstrated that the proposed design, requiring an increase in lot occupancy four percent beyond the limit allowed without zoning relief, represented the smallest addition that would create a viable guest room. In light of the various options submitted by the Applicant to illustrate the limits imposed by the maximum lot occupancy permitted as a matter of right, the Board does not agree with ANC 3C, and finds instead that the application satisfies the requirements for special exception approval of an increase in lot occupancy in accordance with § 223. As noted by the Applicant, in reviewing an application for a special exception, the Board’s discretion is limited to determining whether the proposed relief satisfies the relevant zoning requirements, and if the prerequisites are satisfied, the Board ordinarily must grant the application. *See, e.g., Nat’l Cathedral Neighborhood Ass’n v. District of Columbia Board of Zoning Adjustment*, 753 A.2d 984, 986 (D.C. 2000).

The Board concludes that the new addition will satisfy the requirements of § 223 and is unlikely to result in a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, or affect light and air available to neighboring properties. The Board also concludes that the addition will be in harmony with the general purpose and intent of the Zoning Regulations because the new construction will be consistent with the intent of the R-2 District to protect areas developed with one-family semi-detached dwellings.

Based on the findings of fact and conclusion of law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the request for a special exception to allow a one-story rear addition to a one-family semi-detached dwelling, not meeting requirements for lot occupancy, in the R-2 zone at 3097 Ordway Street, N.W. (Square 2067, Lot 121). Accordingly, it is **ORDERED** that the application is **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 8 – ARCHITECTURAL PLANS AND ELEVATIONS, AS REVISED BY EXHIBIT 12 – ARCHITECTURAL PLANS AND ELEVATIONS.**

VOTE: 3-0-2 (Frederick L. Hill, Marnique Y. Heath, and Marcie I. Cohen to APPROVE; Jeffrey L. Hinkle, not participating; one Board seat vacant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: November 7, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

BZA APPLICATION NO. 19147
PAGE NO. 5

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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. 19323 of Christopher D. French, as amended¹, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle F § 5201, from the lot occupancy requirements of Subtitle F § 304.1, the rear yard requirements of Subtitle F § 305.1, and the nonconforming structure requirements under Subtitle C § 202.2, and under Subtitle C § 703, from the vehicle parking requirements of Subtitle C § 704.1, to add a third-floor addition to an existing two-story, one-family dwelling in the RA-2 Zone at premises 929 5th Street S.E. (Square 824, Lot 31).

HEARING DATES: September 27, 2016 and November 2, 2016²
DECISION DATE: November 2, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibits 5 (original) and 35 (updated).) 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") 6D and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6D, which is automatically a party to this application. The ANC submitted a report dated September 12, 2016, recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 12, 2016, at which a quorum was present, the ANC voted 5-1-0 to support the application. (Exhibit 38.) The Single Member District commissioner 6D07 also testified in support of the application at the public hearing on November 2, 2016.

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 34.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 28.)

¹ The Applicant amended the application at the public hearing on November 2, 2016 to add special exception relief under Subtitle C § 202.2 from nonconforming structure requirements. The caption has been changed accordingly.

² The public hearing was postponed from September 13, 2016 and held on September 27, 2016 and continued to November 2, 2016.

Twenty-four letters in support of the application were submitted by neighbors. (Exhibits 30-33, 47-58, 61-68.)

Six letters in opposition, including letters from adjacent neighbors who also testified in opposition, were submitted to the record. At the hearing on September 27, 2016, Aaron Lorenzo, an adjacent homeowner, testified in opposition to the application. At the November 2, 2016 hearing, testimony in opposition was taken from adjacent property owners Lexer Quamie Mayers and Aaron Lorenzo, as well as from the owners across the street, Anne and Bruce Darconte. (Exhibits 40-42, 44, 59-60.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for special exceptions under Subtitle F § 5201, from the lot occupancy requirements of Subtitle F § 304.1, the rear yard requirements of Subtitle F § 305.1, and the nonconforming structure requirements under Subtitle C § 202.2, and under Subtitle C § 703, from the vehicle parking requirements of Subtitle C § 704.1, to add a third-floor addition to an existing two-story, one-family dwelling in the RA-2 Zone. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, Subtitle F §§ 5201, 304.1, and 305.1, and Subtitle C §§ 202.2, 703, and 704.1, 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 Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 45 AND WITH THE FOLLOWING CONDITION:**

1. The Applicant shall eliminate the lighting elements from the rooftop design that are shown in Exhibit 45, Sheets Z-102 and Z-103.

VOTE: **3-0-2** (Frederick L. Hill, Peter G. May, and Anita Butani D'Souza, to APPROVE; Jeffrey L. Hinkle, not participating or one Board seat vacant.)

BZA APPLICATION NO. 19323
PAGE NO. 2

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: November 4, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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.

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**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19348 of 1719 Corcoran, LLC (formerly Gladiola Woods)¹, as amended², pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle F § 5201, from the lot occupancy requirements of Subtitle F § 604.1, and pursuant to 11 DCMR Subtitle X, Chapter 10, for a variance from the nonconforming structure requirements under Subtitle C § 202.2, to construct an addition to existing three-unit apartment house in the RA-8 Zone at premises 1717 Corcoran Street, N.W. (Square 155, Lot 169).

HEARING DATES: October 18, 2016 and November 2, 2016

DECISION DATE: November 2, 2016

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Revised self-certification, Exhibit 47.) 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. 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 September 14, 2016, at which a quorum was present, the ANC voted 8-0-0 to support the application. (Exhibit 34.)

¹ The application was originally filed under the name of the owner at the time – Gladiola Woods. (Exhibit 1.) At the hearing of November 2, 2016, the Applicant testified that the property has been purchased by 1719 Corcoran LLC, and that the name should be changed as reflected in the caption above.

² The Applicant originally requested variances from the floor area ratio ("FAR") (Subtitle F § 602.1) and lot occupancy (Subtitle F § 604.1) provisions. (Exhibit 5.) The Applicant amended the application (Exhibit 36) by changing the lot occupancy variance to a special exception, and by adding a variance from the nonconforming structure provisions. The Applicant revised the plans (Exhibit 46) and filed a second revised self-certification (Exhibit 47) withdrawing the request for FAR relief. These revisions are reflected in the caption above.

The Office of Planning (“OP”) submitted a timely report recommending approval of special exception relief for the lot occupancy and nonconforming structure, but denial of the FAR variance relief. (Exhibit 39.) After the amendment of the application to eliminate the FAR relief, OP filed a supplemental report recommending approval of the amended relief and testified in support of the application at the hearing of November 2, 2016.³ (Exhibit 48.)

The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 38.)

The neighbor residing adjacent to the property testified at the hearing of October 18, 2016, neither in support nor opposition, but expressing her concerns about the design of the project. The Board continued the hearing to allow the Applicant an opportunity to work with its neighbor and make revisions to the plans. At the continued hearing of November 2, 2016, the Applicant’s representative testified that he worked with the adjacent property owner who now has “no objection” to the project. The neighbor was not in attendance at the continued hearing.

Two letters were filed in the record by a nearby neighbor who resides at 1710 R Street, N.W. The first letter was generally in support for the project, but expressed concerns about the handling of the trash in the alley at the site. (Exhibit 30.) The second letter expressed support for the application. (Exhibit 41.)

Variance Relief

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for an area variance from the nonconforming structure requirements under Subtitle C § 202.2 to construct an addition to an existing three-unit apartment house in the RA-8 Zone. 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 Subtitle C § 202.2, the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without

³ Attached to the original OP Report was an Historic Preservation Review Board (“HPRB”) Staff Report recommending that the HPRB “find the concept consistent with the historic district and consistent with the preservation act, with final delegation to staff, on the condition that the penthouse structure and railings are proven to not be visible from 17th Street.” (See Exhibit 34, pp. 7-8.)

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 Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle F §§ 5201 and 604.1 – the lot occupancy 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 and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle F §§ 5201 and 604.1, 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 Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 46 – REVISED PLANS.**

VOTE: 3-0-2 (Frederick L. Hill, Anita Butani D’Souza, and Peter G. May to APPROVE; Jeffrey L. Hinkle, not present; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: November 7, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN

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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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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. 19349 of 1719 Corcoran, LLC, as amended¹, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle F § 5201, from the lot occupancy requirements of Subtitle F § 604.1, and pursuant to 11 DCMR Subtitle X, Chapter 10, for a variance from the non-conforming structure requirements under Subtitle C § 202.2, to construct an addition to an existing three-unit apartment house in the RA-8 Zone at premises 1719 Corcoran Street, N.W. (Square 155, Lot 168).

HEARING DATES: October 18, 2016 and November 2, 2016
DECISION DATE: November 2, 2016

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Updated Zoning self-certification, Exhibit 46.) 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. 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 September 14, 2016, at which a quorum was present, the ANC voted 8-0-0 to support the application. (Exhibit 35.) The Office of Planning ("OP") submitted a timely report recommending approval of special exception relief for the lot occupancy and nonconforming structure, but denial of the request for FAR variance relief. (Exhibit 40.) After the amendment of the application to eliminate the request for FAR relief, OP filed a supplemental report recommending approval of the amended

¹ The Applicant originally requested variances from the floor area ratio ("FAR") (Subtitle F § 602.1) and lot occupancy (Subtitle F § 604.1) provisions. (Exhibit 5.) The Applicant amended the application (Exhibit 37) by changing the lot occupancy variance to a special exception, and by adding a variance from the nonconforming structure provisions. The Applicant revised the plans (Exhibit 36) and filed a second revised self-certification (Exhibit 46) withdrawing the request for FAR relief. Final revised plans were also filed. (Exhibit 47.) These revisions are reflected in the caption above.

relief and testified in support of the application at the hearing of November 2, 2016.² (Exhibit 48.)

The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 39.)

The neighbor residing adjacent to the property testified at the hearing of October 18, 2016, neither in support nor opposition, but expressing her concerns about the design of the project. The Board continued the hearing to allow the Applicant an opportunity to work with its neighbor and make revisions to the plans. At the continued hearing of November 2, 2016, the Applicant’s representative testified that he worked with the adjacent property owner who now has “no objection” to the project. The neighbor was not in attendance at the continued hearing.

Two letters were filed in the record by a nearby neighbor who resides at 1710 R Street, N.W. The first letter was generally in support for the project, but expressed concerns about the handling of the trash in the alley at the site. (See companion case, BZA Application No. 19348, Exhibit 30.³) The second letter expressed support for the application. (Exhibit 42.)

Variance Relief

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for an area variance from the non-conforming structure requirements under Subtitle C § 202.2, to construct an addition to an existing three-unit apartment house in the RA-8 Zone. 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 Subtitle C § 202.2, the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the 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.

² Attached to the original OP Report was an Historic Preservation Review Board (“HPRB”) Staff Report recommending that the HPRB “find the concept consistent with the historic district and consistent with the preservation act, with final delegation to staff, on the condition that the penthouse structure and railings are proven to not be visible from 17th Street.” (See Exhibit 40, pp. 7-8.)

³ Application Nos. 19348 and 19349 were heard simultaneously. The letter referenced here was filed only in the record of Application No. 19348, but not 19349; however, the letter pertains to both applications.

Special Exception Relief

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle F §§ 5201 and 604.1 – the lot occupancy 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 and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle F §§ 5201 and 604.1, 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 Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 47 – REVISED PLANS.**

VOTE: 3-0-2 (Frederick L. Hill, Anita Butani D'Souza, and Peter G. May to APPROVE; Jeffrey L. Hinkle, not present; one Board seat vacant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: November 10, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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

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AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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. 19359 of Alison B. Ross, Trustee, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D § 5201, from the lot occupancy requirements of Subtitle D § 304.1, the side yard requirements of Subtitle D § 307.1, and the nonconforming structure requirements under Subtitle C § 202.2, to add a second-story rear addition to an existing one-family dwelling in the R-2 Zone at premises 3520 35th Street N.W. (Square 1956, Lot 88).

HEARING DATE: November 2, 2016

DECISION DATE: November 2, 2016

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (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") 3C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3C, which is automatically a party to this application. The ANC submitted a resolution indicating the ANC had no objection to approval of the application and which stated that the resolution was approved by a voice vote at a regularly scheduled and properly noticed public meeting of the ANC held on September 19, 2016, at which a quorum was present. (Exhibit 27.)

The Office of Planning ("OP") submitted a timely report (Exhibit 34) 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 31.)

A letter in support of the application was submitted by the adjacent property owner to the south. (Exhibit 35.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle D § 5201, from the lot occupancy requirements of

Subtitle D § 304.1, the side yard requirements of Subtitle D § 307.1, and the nonconforming structure requirements under Subtitle C § 202.2, to add a second-story rear addition to an existing one-family dwelling in the R-2 Zone. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, Subtitle D §§ 5201, 304.1, and 307.1, and Subtitle C § 202.2, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE REVISED APPROVED PLANS AT EXHIBIT 33.**

VOTE: **3-0-2** (Frederick L. Hill, Anita Butani D'Souza, and Peter G. May to APPROVE; Jeffrey L. Hinkle, not participating or voting, one Board seat vacant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: November 4, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING

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THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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. 19364 of Shane Harris, pursuant to 11 DCMR Subtitle X, Chapter 10, for variances from the rear yard coverage requirements of Subtitle B § 100, the nonconforming structure requirements of Subtitle C § 202.2, the lot occupancy requirements of Subtitle E § 304.1, and the rear yard requirements of Subtitle E § 306.1, to construct a two-story rear deck addition to an existing one-family dwelling in the RF-1 Zone at premises 34 Seaton Place N.W. (Square 3106, Lot 109).

HEARING DATE: November 2, 2016

DECISION DATE: November 2, 2016

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated August 4, 2016, from the Zoning Administrator, certifying the required relief. (Exhibit 8.)

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 5E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5E, which is automatically a party to this application. The ANC submitted a resolution of support for the application. The ANC stated that the resolution was approved by a vote of 10-0-0 at a regularly scheduled and properly noticed public meeting of the ANC held on October 18, 2016, at which a quorum was present. (Exhibit 35.)

The Office of Planning (“OP”) submitted a timely report (Exhibit 36) 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 32.)

Five letters, including letters from both adjacent neighbors, were submitted in support of the application. (Exhibits 37.)

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for area variances from the rear yard coverage requirements of Subtitle B § 100, the nonconforming structure requirements of Subtitle C § 202.2, the lot occupancy requirements of Subtitle E § 304.1, and the rear yard requirements of Subtitle E § 306.1, to construct a two-story rear deck addition to an existing one-family dwelling in the RF-1 Zone. The only parties to the

case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking variances from 11 DCMR Subtitle B § 100, Subtitle C § 202.2, and Subtitle E §§ 304 and 306.1. the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the 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 Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 6.**

VOTE: **3-0-2** (Anita Butani D'Souza, Frederick L. Hill, and Peter G. May to APPROVE; Jeffrey L. Hinkle, not participating or voting, one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: November 7, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING

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THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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. 15-33**

Z.C. Case No. 15-33

Insight E Street, LLC

**(Consolidated Planned Unit Development & Related Map Amendment @ Square 1043)
September 12, 2016**

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on June 30, 2016, to consider an application from Insight E Street, LLC ("Applicant") for the consolidated review and approval of a planned unit development ("PUD") and a related Zoning Map amendment for the subject property (collectively, the "Application"). The Commission considered the Application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR")¹. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the Application.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. On December 22, 2015, the Applicant filed an application with the Commission for the consolidated review and approval of a PUD and a related Zoning Map amendment for the subject property which is located in Square 1043, including Lots 128, 156, 157, 818, and 819 (the "Site").
2. The Applicant proposes to build a four-story apartment house on the Site. The proposed PUD will have approximately 123,549 square feet of gross floor area and will include approximately 152 units (the "Project"). The maximum height of the building is 46 feet, three inches to the highest point of the roof and 50 feet, three inches to the top of the parapet. The Project includes a habitable penthouse, which has a height of 13 feet to the top of the parapet, while the elevator override within the penthouse rises to a maximum height of 15 feet. The Project also includes approximately 90 parking spaces.
3. The Site is currently zoned C-M-1. The Applicant requests a rezoning of the Site to the R-5-B Zone District.
4. At its public meeting held on February 8, 2016, the Commission voted to schedule a public hearing on the Application.
5. On April 8, 2016, the Applicant submitted a Prehearing Statement with architectural plans (Exhibits ["Ex."] 15-15F, 16A1-16A9.) The Prehearing Statement responded to questions raised by the Commission at the setdown meeting, including additional

¹ Chapter 24 and all other provisions of Title 11 DCMR were repealed on September 6, 2016. Chapter 24 was replaced by Chapter 3 of Subtitle 11-X. However, because this application was set down for hearing prior to that date, the Commission's approval was based upon the standards set forth in Chapter 24.

information regarding the building and penthouse design, additional renderings showing a view through the alleys, and additional information regarding the Inclusionary Zoning (“IZ”) that results from the habitable space in the penthouse. The Prehearing Statement also provided updated information as requested by the Office of Planning (“OP”).

6. On June 9, 2016, the Applicant submitted a Supplemental Prehearing Statement with architectural plans, which provided updated information regarding the Project’s compliance with the IZ Regulations and updated information regarding the Project’s public benefits and amenities. The Supplemental Prehearing Statement also included the Applicant’s Comprehensive Transportation Review (“Traffic Report”) with updated Transportation Demand Management (“TDM”) measures. (Ex. 27-27I.)
7. On June 30, 2016, the Applicant submitted a response to OP’s Final Report. (Ex. 34-34D.) The response provided turning diagrams for trash, delivery, and other vehicles; additional renderings of the rooftop amenity space and interior courtyard; an IZ Unit Layout Plan; and updated information regarding LEED Certification.
8. After proper notice, the Commission held a public hearing on the Application on June 30, 2016.
9. The parties to the case were the Applicant and Advisory Neighborhood Commission (“ANC”) 6B.
10. Five principal witnesses testified on behalf of the Applicant at the public hearing, including Sarah Davidson, on behalf of Insight Property Group LLC, representing the Applicant; Dennis Connors, an expert in architecture, on behalf of SK&I Architecture, the architects for the project; Trini Rodriguez, an expert in architecture and design, on behalf of Parker Rodriguez Inc.; and Erwin N. Andres, an expert in transportation planning and analysis, on behalf of Gorove/Slade Associates, Inc. Ryan Brannan of Bowman Consulting, an expert in civil engineering also testified on behalf of the Applicant. Based upon their professional experience, as evidenced by the resumes submitted for the record, Mr. Connors, Ms. Rodriguez, Mr. Andres, and Mr. Brannan were qualified by the Commission as experts in their respective fields.
11. OP testified in support of the Project at the public hearing. The District Department of Transportation (“DDOT”) testified in support of the Project at the public hearing with conditions.
12. ANC 6B, the ANC within which the Site is located, submitted a letter in support of the Application. (Ex. 30.) Commissioner Nick Burger (the Single-Member District Representative) also testified at the public hearing on behalf of the ANC and indicated that ANC 6B supported the Project.
13. No individuals or organizations testified in opposition to the Project. Damon Horn, who owns property at 1333 E Street, S.E., which is located to the west of the Site, submitted a

letter stating concerns related to the impacts on his property. At the public hearing, the Applicant testified that it met with the property owner prior to the hearing, and Mr. Horn did not testify at the hearing. (Ex. 25.)

14. At the conclusion of the public hearing, the Commission took proposed action to approve the Application.
15. On July 14, 2016, the Applicant submitted a Post-Hearing Statement in response to the Commission's comments at the public hearing. The Post-Hearing Statement included a revised LEED Scorecard, Updated Supplemental Plans, and a revised IZ Unit Layout Plan. (Ex. 39-39C.)
16. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") on July 6, 2016, under the terms of the District of Columbia Home Rule Act. (Ex. 37.) NCPC did not submit a report in this case.
17. The Commission took final action to approve the Application on September 12, 2016.

The Site and the Area

18. The Site includes Lots 128, 156, 157, 818, and 819 in Square 1043. Square 1043 is bounded to the south by G Street, S.E. and Pennsylvania Avenue, S.E., to the east by 14th Street, S.E., to the north by E Street, S.E., and to the west by 13th Street, S.E. The Site contains approximately 41,183 square feet of land area.
19. The Site is currently used as a trash truck facility, an auto collision repair center, and as unimproved parking areas for the trash truck facility and auto collision repair center. The Square also includes a public alley system of varying widths and access points, which bound the site on the east, west, and southern edges.

Existing and Proposed Zoning

20. The Site is currently zoned C-M-1. The C-M-1 Zone District is intended to provide sites for heavy commercial and light manufacturing activities employing large numbers of people and requiring some heavy machinery under controls that minimize any adverse effect on other nearby, more restrictive districts. (11 DCMR § 800.1.) New dwellings are not permitted in the C-M-1 Zone District. The C-M-1 Zone District permits a maximum height of 45 feet, with a three-story limit, and a maximum density of 3.0 floor area ratio ("FAR"). (11 DCMR §§ 840.1, 841.1.) Under the PUD guidelines for the C-M-1 Zone District, the maximum height is 60 feet and the maximum FAR is 3.0. (11 DCMR §§ 2405.1, 2405.2.) Parking is required in the C-M-1 Zone District at a rate of one space for every 1,000 square feet of gross floor area. (11 DCMR § 2101.1.)
21. The Application includes a request to rezone the Site to the R-5-B Zone District. The R-5 Zone Districts are General Residence Districts designed to permit flexibility of design by

permitting all types of urban residential development if they conform to the height, density, and area requirements established for these districts. (11 DCMR § 350.1.) The R-5-B Zone District is intended to permit moderate height and density. (11 DCMR § 350.2.) The R-5-B Zone District permits a maximum height of 50 feet, with no limit on the number of stories, and a maximum density of 1.8 FAR. (11 DCMR §§ 770.1, 770.2.) Under the PUD guidelines for the R-5-B Zone District, the maximum height is 60 feet and the maximum density is 3.0 FAR. (11 DCMR §§ 2405.1, 2405.2.) Parking is required in the R-5-B Zone District at a rate of one space for every two dwelling units. (11 DCMR § 2101.1.)

Description of the PUD Development

22. The Project proposes re-development of a site where the current uses are inconsistent with the surrounding neighborhood and the Comprehensive Plan. The Project will consist of a four-story, rectangular, multifamily residential building with a central green courtyard and below-grade parking.
23. The Project has a maximum height 46 feet, three inches to top of the main roof, and 50 feet, three inches to the top of the parapet. It will include a penthouse containing residential units, amenity space, and mechanical equipment.
24. The Project will incorporate many sustainable design elements such as using approved Low Impact Development techniques to address stormwater management to meet or exceed the District requirements and Stormwater Management Regulations. Features such as bioretention areas and a central courtyard that functions as a green roof will incorporate natural systems to filter, reduce, and detain stormwater runoff through storage and evapotranspiration. In addition, the rooftops of the building and penthouse habitable space will house photovoltaic solar panels that will generate approximately one percent of the energy for the Project.
25. Access to the below-grade parking garage will be provided from the public alley to the south of the Site. The alley is accessible from E Street and G Street. The parking garage will contain approximately 90 parking spaces.
26. The Project incorporates one loading berth at 30 feet and one 100-square-foot loading platform. Access to the loading facilities berth will be taken from the alley to the south of the Site, which is accessible from E Street and G Street. This location is situated off the square's widest alley, having a width of approximately 30 feet.
27. The Project also incorporates a significant number of bicycle parking spaces. A minimum of one bike parking space will be provided for every three dwelling units. Based on the current proposal, the minimum number of off-street bicycle parking spaces to be provided will be 51 spaces, and an enclosed bike storage and repair area will be provided within the building.

28. The penthouse habitable space will have a maximum height of 12 feet and will contain approximately one-foot-high photovoltaic solar panels on the rooftop, which will be screened by a one-foot parapet. The photovoltaic solar panels will also be located behind a guardrail, which will be set back 1:1 from the penthouse roof edge. In response to the Commission's comments at the public hearing, the Applicant confirmed that the guardrail will not extend above a height of 15 feet. In addition, the portion of the penthouse devoted to the elevator override will have a maximum height of 15 feet. The rooftop egress stairwell has a height of 10 feet. The penthouse includes approximately 881 square feet of amenity space, 555 square feet of mechanical space, and 6,962 square feet (.17 FAR) of residential space, all of which are excluded from the total FAR calculation for the Project. All portions of the penthouse will be set back 1:1 from the edge roof on which it sits. The penthouse may include private outdoor terrace space to be exclusively available to and accessed from the residential unit located at the southern end of the penthouse habitable space.

Development Incentives and Flexibility

29. The Applicant requested the following areas of flexibility from the Zoning Regulations:
- a. *Lot Occupancy.* The Applicant requests flexibility to have a building with a maximum lot occupancy of 73.76%, where a lot occupancy of 60% is permitted under § 403.2 of the Zoning Regulations. The design of the building is appropriate in scale with the surrounding residential neighborhood, and the height of the building is less than the height permitted under the PUD guidelines in the R-5-B Zone District. In order to keep the building lower and provide setbacks from the homes to the east of the site, the building will have a flatter profile and a slightly larger footprint, which necessitates this relief;
 - b. *Rear Yard.* The Applicant requests flexibility to have a rear yard of four inches in lieu of the 16.67 feet that is required pursuant to § 404.1 of the Zoning Regulations. The reduced rear yard will not result in any adverse impacts to the open space on the Site or on nearby properties. There is ample open space, light, and air surrounding the building on all sides. Specifically, the Project is surrounded by a 25-foot-wide alley and large open court to the east of the Site, which has a width of 17 feet up to almost 26 feet from the abutting property line. At the rear of the structure, a 30-foot-wide alley separates this building from the industrial properties to the south. Furthermore, the Applicant is setting back the building by five feet along the west side of the Site to create a wider alley of 20 feet;
 - c. *Side Yard.* The Applicant requests flexibility to have a side yard of five feet where 12.5 feet is required pursuant to § 404.1 of the Zoning Regulations. In the R-5-B Zone District, no side yard is required, but if a side yard is provided, it must be at least three inches wide per foot of building height, but not less than eight feet wide. The building will be set back five feet from the western lot line in order to

widen the north-south alley adjacent to building on the west from 15 feet to 20 feet;

- d. *Parking.* The Applicant requests flexibility to have contiguous compact parking spaces located in groupings of less than five where § 2115.4 of the Zoning Regulations requires that compact parking spaces be placed in groupings of at least five contiguous spaces with access from the same aisle. The Applicant designed the below-grade parking garage to maximize the number of parking spaces on the Site and to increase efficiency of the parking facility for building residents. Vehicles accessing parking spaces will have sufficient maneuverability for both ingress and egress;
- e. *Loading.* The Applicant requests flexibility to provide a 30-foot loading berth and a 100-square-foot loading platform in lieu of a 55-foot loading berth and a 200-square-foot loading platform as required under § 2201.1 of the Zoning Regulations. According to the Traffic Report, the proposed loading of one berth at 30 feet and one 100-square-foot platform will be sufficient to accommodate the expected demand of this Project;
- f. *Record Lot.* The Applicant requests flexibility to construct two buildings with no meaningful connection on one record lot. Subsection 3202.3 of the Zoning Regulations states “that a building permit shall not be issued for the proposed erection, construction, or conversion of any principal structure...unless the land for the proposed erection, construction or conversion has been divided so that each structure will be on a separate record lot.” The existing rowhouse with its separate entrance currently situated on Lot 156 will largely be preserved in order to maintain design consistency and a transition to the residential buildings to the east. Accordingly, it will be separate from the main building but on the same record lot;
- g. *Penthouse Enclosing Walls.* The Applicant requests flexibility to provide a separate height for the enclosing walls of the separate egress stairwell, which is situated on the southeast portion of the roof of the building. This stairwell is not connected to the main penthouse structure in order to minimize the amount of penthouse structure and to allow for additional light for the interior courtyard. Subsection 411.6 of the Zoning Regulations permits a rooftop egress stairwell enclosure not containing any other form of habitable or mechanical space within a separate enclosure. Subsection 411.9 allows up to two heights for enclosed mechanical space and habitable space. The main penthouse structure includes these two heights (i.e., 13 feet and 15 feet). However, the rooftop stairwell will have a height of only 10 feet to maintain it as low as possible. The rooftop stairwell will be set back from the edge of the building 10 feet; and
- h. *Elderly Development Center.* The Applicant requests flexibility to provide an elderly development center that can accommodate up to 25 individuals. Based on

the anticipated programming for the existing rowhouse on Lot 156, the use of the proposed amenity space will constitute an elderly development center under the Zoning Regulations. An elderly development center is permitted as a matter of right in the R-5-B Zone District, so long as it is limited to 16 individuals.

Public Benefits and Amenities

30. The following benefits and amenities will be created as a result of the PUD:
- a. *Urban Design, Architecture, Landscaping, and Open Space (§ 2403.9(a))*. The Applicant has presented an exceptional and appropriate architectural design for the Project which will benefit the surrounding residential neighborhood. Particular attention has been paid to the characteristics of the existing residential development that surrounds the Site in order to create a design that complements the adjacent buildings. The Project includes a central green courtyard that will increase the amount of open space, light, and air available to the Project residents. In addition, the Project incorporates a large open court to the east, which provides an appropriate buffer to the residential uses to the east. The Project is also surrounded on three sides by a wide public alley system. The Applicant has focused on creating a pedestrian-friendly streetscape. The design proposal includes substantial streetscape improvements including new paving for the sidewalks, street lighting fixtures, new and replacement shade trees, and four bike racks. The Applicant will prune the groundcover on two existing tree boxes that are located on E Street, between the eastern edge of the Applicant's property line and 14th Street, S.E., and the Applicant will provide a decorative, low metal fence around these two existing tree boxes. In addition, the building façade has been set back from the western property line to increase the width of the adjacent alley from 15 feet to 20 feet. This additional width will enhance the pedestrian experience and circulation within the alley. The five-foot expansion of the adjacent alley will be paved, and lighting will be placed on the building façade that fronts the alley;
 - b. *Site Planning and Efficient Economical Land Utilization (§ 2403.9(b))*. The Project was designed to minimize the impact on the adjacent residential community. The building design is sculpted away from the neighboring residences to the east. In addition, the replacement of the existing improvements and uses on the Site with the Project constitutes a significant benefit, and will bring the Site into compliance with the goals of the Future Land Use Map and Comprehensive Plan. The Project will also retain the portion of the existing rowhouse on Lot 156, which fronts on E Street, to maintain continuity with the surrounding residences to the east;
 - c. *Housing & Affordable Housing (§ 2403.9(f))*. The Project results in the creation of new housing and replaces industrial uses in an area designated for residential use and consistent with the goals of the Zoning Regulations and the

Comprehensive Plan and Future Land Use Map. The Project will replace existing non-residential uses with up to 123,549 square feet of gross floor area as well as additional floor area in both the penthouse and cellar dedicated to residential use. The Project will include a range of units, including three-bedroom, family-oriented homes on a site on which residential use would otherwise not be permitted. If the Site was developed as a matter of right, no residential uses would be permitted since the current Site zoning is C-M-1. The Project will contain approximately 11,518 square feet of gross floor area dedicated to affordable housing in accordance with the IZ regulations. This amount of affordable housing represents a substantial increase in residential floor area when compared to the fact that no affordable housing would be generated if the Site was developed as a matter of right. In an effort to provide greater affordability, the Applicant will set aside the first three units for households of one or more individuals with a total annual income adjusted for household size equal to less than 50% of the Metropolitan Statistical Area median, followed by each additional odd number unit being set aside for households of one or more individuals with a total annual income adjusted for household size equal to less than 50% of the Metropolitan Statistical Area median. The result is one additional unit within the required amount of IZ. The Applicant will dedicate a minimum of two three-bedroom units as affordable housing within the 11,518 square foot affordable housing provided. One of the three-bedroom units will be affordable for households of one or more individuals with a total annual income adjusted for household size equal to less than 50% of the Metropolitan Statistical Area median, and the other three-bedroom unit shall be affordable to a household of one or more individuals with a total annual income adjusted for household size equal to between 51% and 80% of the Metropolitan Statistical Area median. In response to the Commission's comments, the Applicant revised the IZ unit layout so that fewer IZ units reserved for households making equal to less than 50% of the Metropolitan Statistical Area median faced the interior courtyard;

- d. *Environmental Benefits* (§ 2403.9(h)). The Project incorporates a variety of sustainable design features such as on-site rooftop photovoltaic solar panels, which will generate approximately one percent of the energy for the Project. In response to the Commission's comments at the public hearing, the Applicant commits to designing the project to achieve 60 points under LEED 2009 for New Construction, which is equivalent to the USGBC LEED-Gold standard;
- e. *Transportation Features* (§ 2403.9(c)). The Project is a transit-oriented development and will provide a TDM Plan, including the following elements:
 - i. The Applicant will offer an annual Capital Bikeshare, or car sharing membership and usage credit, of approximate equivalent value for each residential unit for a period of five years from the opening of the development;

- ii. Fifty-one bike parking spaces will be provided in a secure space in the below-grade parking garage as well as eight short-term spaces along the E Street frontage of the building. A bicycle repair station with work bench and bicycle cleaning facilities will be provided within the bicycle storage room;
- iii. The residential building lobby will display transit and other alternate mode information, using an electronic message board;
- iv. The Applicant will establish a TDM marketing program;
- v. Printed materials related to local transportation alternatives will be distributed to each resident upon move-in that includes information such as:
 - a) Promotion for DDOT's goDCgo website;
 - b) Brochures on car-sharing, ride-sharing, and bike-sharing programs;
 - c) Tips on apps and websites to use to navigate public transportation;
 - d) Maps for nearby bicycle trail routes and bike lanes; and
 - e) Maps for Metro, bus and streetcar routes;
- vi. A cargo bicycle will be made available for residents to use for errands;
- vii. Two grocery carts with wheels will be made available for residents to use for grocery shopping purposes.
- viii. The development will be designed to enable residents to better work from home, which may include conference room facilities, copying/printing capabilities, free Wi-Fi in common area spaces, and common areas for meeting; and
 - ix. The Applicant will provide one electric car-charging station in its below-grade parking garage;
- f. *Social Services and Facilities (§ 2403.9(g))*. The Applicant will dedicate approximately 1,200 square feet of space in the Project to facilitate the delivery of programs and services assisting seniors living in the neighborhood. The Applicant will renovate the existing rowhouse located at 1355 E Street, S.E. with low-impact universal design elements and dedicate it rent-free in perpetuity to the Capitol Hill community to advance the delivery of services and programs to serve the senior population in Capitol Hill. Capitol Hill Village ("CHV") will serve as the lead facilitator with community members and partners to explore models for senior services and facilitate a community process to determine the most pressing

needs, the programs that will be delivered, and the entity that can best deliver those services. CHV and the Applicant will work to ensure that services and programs are responsive and available to low-income seniors living in the community. The Applicant will deliver the existing rowhouse as “warm-lit shell”, which will include: (i) basic mechanical, electrical, and plumbing infrastructure; (ii) drywall; (iii) one bathroom; and (iv) sub-flooring. All fit-out and finishes will be the responsibility of the eventual occupant. The Memorandum of Understanding between the Applicant and CHV includes provisions regarding transition of the amenity space to another organization in the event that the selected service provider ceases to operate. These provisions will ensure that the value of the amenity is maintained within the community. The Applicant will dedicate one parking space in the Project’s below-grade parking garage for the occupant’s staff to use. The parking garage may be accessed via a card access reader and will be provided at no cost to the occupant; and

- g. *Special Value to the Neighborhood (§ 2403.9(i)).* The Project provides a variety of amenities that provide special value to the neighborhood. These include the following:
- i. Feasibility Evaluation for the Redevelopment of Square 1042, Lot 826 (the “Peter Bug Site”). At the direction of ANC 6B or its successor, the Applicant will either: (a) expend \$20,000; or (b) place \$20,000 in an escrow account to be used by the Applicant for costs and fees associated with the feasibility evaluation and concept design for the future redevelopment of the Peter Bug Site into a public park. All funds paid out by the Applicant in connection with the feasibility evaluation and concept design for the future redevelopment of the Peter Bug Site will be used as approved by ANC 6B;
 - ii. Improvements to the Potomac Avenue Metro Plaza. The Applicant will expend \$65,000 towards improvements and programming at the Potomac Avenue Metro Plaza, if approved by WMATA and DDOT. In the event that DDOT and WMATA do not agree to the proposed improvements to Potomac Avenue Metro Plaza, the Applicant will work with ANC 6B to identify a public and/or recreation space improvement project and the Applicant will either: (i) expend \$65,000; or (ii) place \$65,000 in an escrow account to be used by the Applicant to pay for costs and fees related to such project. The scope of the project and funds paid out will be as directed by ANC 6B;
 - iii. Screened Trash Collection. The Applicant will provide a screened trash collection area in the eastern alley that can accommodate approximately nine District issued trash toters and will be made available to the owners of Lots 80, 81, 82, 83, 84, 840, 47, 48, and 864 all in Square 1043;

- iv. Expanded Alley System. The Applicant will repave the five-foot expansion along with the entire western alley adjacent to the Project. The paving will differentiate pedestrian and vehicular spaces to increase safety within the alley system. The Applicant will place lighting on its building façade that fronts the alleys abutting the western and southern property lines. All lighting will be affixed on the building at a level that is not more than the second story in order to minimize possible impacts on surrounding properties and will be located solely on private property. Security cameras may be added to building exteriors to monitor loading dock and garage entrance areas. The Applicant will affix mirrors to facades of its buildings abutting the intersection of the north-south and east-west alleys in order to help improve safety for vehicles, pedestrians and bikes moving through the alley network. All mirrors will be located on private property. The Applicant may convert the intersection of the north-south and east-west alleys to a four-way stop, if approved by DDOT. The Applicant will ensure that areas of the public alley system abutting the west and south façades of the Project are cleared of snow within 24 hours of a snowfall of more than three inches;
 - v. Construction Management Plan. The Applicant will abide by a construction management plan including those elements identified in the Memorandum of Understanding between the Applicant and ANC 6B; (Ex. 30.) and
 - vi. Reduction in Curb Cuts. The Applicant will eliminate existing curb cuts, which may result in creating six additional on-street parking spaces.
31. The relative value of the Project amenities and public benefits offered is sufficient given the degree of development incentives requested and any potential adverse effects.

Compliance with PUD Standards

32. The Application complies with the standards for a PUD set forth in Chapter 24 of the Zoning Regulations.
33. The Project offers a high level of public benefits and project amenities. When compared with the amount of development flexibility requested and project impacts, the Application satisfies the balancing test required in § 2403.8 of the Zoning Regulations.
34. The Site is approximately 41,183 square feet in land area, or .95 acres. For a PUD in the R-5-B Zone District, the Zoning Regulations require a minimum land area of one acre. (11 DCMR § 2401.1(b).) The Commission may waive not more than 50% of the minimum area requirements provided: (i) after a public hearing it determines that the development is of exceptional merit and in the best interest of the city or country; and (ii) at least 80% of the gross floor area of the development shall be used exclusively for dwelling units and uses accessory thereto. (11 DCMR §2401.2.) Pursuant to § 2401.2 of the Zoning Regulations, the Applicant requested a waiver from the area requirements.

35. The development is of exceptional merit and in the best interest of the city. The Project will significantly improve the existing area by virtue of the exceptional architectural design and the replacement of existing buildings and uses that are inconsistent with the Comprehensive Plan. In addition, the entire Project is devoted to residential use. Accordingly, the Commission approved the requested waiver from the minimum land area requirements.
36. The Project has been evaluated under the PUD guidelines for the R-5-B Zone District. The density of the project is within the height and density permitted for a PUD within the R-5-B District.
37. The project has been evaluated by the relevant District agencies.

**Compliance with Guiding Principles of the Comprehensive Plan Amendment Act of 2006
(D.C. Law 16-300, effective March 8, 2007)**

38. The District of Columbia Comprehensive Plan Future Land Use Map designates the Site as Moderate-Density Residential. According to the Framework Element, the Moderate-Density Residential land use designation is used to define the District's rowhouse neighborhoods, as well as its low-rise garden apartment complexes. This designation also applies to areas characterized by a mix of single-family homes, two-four unit buildings, rowhouses, and low-rise apartment buildings. The zone districts that are typically considered to be within the Moderate-Density Residential category include R-3, R-4, and R-5-A. The R-5-B Zone District can also be considered consistent with this land use designation in some locations
39. The Applicant's proposal to construct residential uses on the Site is consistent with the Future Land Use Map's designations of the Site. Currently, the Site is zoned C-M-1, a light-industrial zone that falls within the Comprehensive Plan's Production, Distribution, and Repair ("PDR") land use designation. The requested PUD map amendment to rezone the Site from C-M-1 to R-5-B is not only consistent with the Moderate-Density Residential land use designation applicable to the Site, but it will also remedy what currently is an inconsistency between the existing industrial zoning and the Future Land Use Map.
40. According to the Comprehensive Plan Generalized Policy Map, the Site is located within a "Neighborhood Conservation Area", which is generally described on the map as an area with very little vacant or underutilized land that is primarily residential in character. Over the next 20 years, major changes in land use and density are not expected in these areas, and where change does occur, it is expected to be modest in scale. The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, maintain land uses and building types, and to promote compatibility of scale and architecture between new and existing development.

41. The Project's residential land use and moderate density is consistent with the guiding philosophy that is intended to inform development within a Neighborhood Conservation Area. The proposed residential development will enhance a portion of the well-established, historic neighborhood of Capitol Hill by replacing a collection of light-industrial uses located on an underutilized Site with a compatible residential use. The residential use relates to the scale, massing, and architecture of the surrounding neighborhood.
42. The requested R-5-B zoning is also compatible with existing zoning in the surrounding area. It will provide an appropriate transition between the moderate-density C-2-A zoned areas, located to the south of the Site along Pennsylvania Avenue and immediately north of the Site at the existing grocery store site, and the surrounding moderate-density R-4 neighborhood.
43. The proposed PUD is also consistent with many guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, increasing access to education and employment, connecting the city, and building green and healthy communities, as follows:
 - a. *Managing Growth and Change.* The Project is consistent with several of the principles contained within this section which focus on overcoming physical, social, and economic obstacles to ensure that the benefits and opportunities available to District residents are equitably distributed. Specifically, the Project will expand the selection of housing types within the Capitol Hill neighborhood by providing an array of dwelling units that range from studios to three-bedroom units (§ 217.3). This range will help attract a diverse population of households, including families, and complement the surrounding neighborhood which primarily consists of one-family row dwellings and flats. In addition, the Project will substantially advance the District's affordable housing goals by devoting approximately 11,518 square feet of gross floor area to low- and moderate-income households (§ 217.2). This equates to 10% of the total proposed residential gross floor area of the Project as well as the residential habitable space in the penthouse. In addition, it is 100% more than what would be required if the Applicant developed the Site in conformance with the existing industrial zoning since residential uses are not permitted. The Project also exhibits many of the characteristics that are typical of a successful, transit-oriented, infill project. (§ 217.6). The Site is in a very walkable and bike-friendly neighborhood and is in close proximity to the Potomac Avenue and Eastern Market Metrorail Stations. It is also within close walking distance to schools and several neighborhood serving amenities, including grocery stores, pharmacies, and several eating and drinking establishments, which will allow residents to fulfill most daily errands on foot. Finally, the Project has been thoughtfully designed with input from the community, in a manner that respects the surrounding context and will strengthen the stability of the neighborhood;

- b. *Creating Successful Neighborhoods.* The guiding principles for creating successful neighborhoods include protecting, maintaining, and improving the residential character of neighborhoods through zoning, historic preservation, and other means. These principles also recognize the important role that businesses, retail and service uses, parks, schools and other institutional facilities play in the strength, character, and livability of a neighborhood, and the impact that occurs on housing affordability in highly sought after neighborhoods that possess these amenities. The Project and related map amendment advances these principles. First, the requested R-5-B map amendment is consistent with the Comprehensive Plan Future Land Use Map and is more compatible with the surrounding neighborhood than the Site's current industrial zoning (§ 218.1). Furthermore, the Project will improve the residential character of the neighborhood by replacing the existing light-industrial uses with a new residential use that has been designed with input provided by the community. The development is also respectful of the height, scale, massing, and materials of nearby buildings, some of which hold architectural significance (§ 218.4). The Project furthers the guiding principles related to the need for growing an inclusive city and addressing ongoing challenges to housing affordability through the construction of both market-rate and affordable housing. Finally, the Applicant's proffered amenity for the dedication of the existing rowhouse to CHV will assist in addressing the issues of inclusivity and affordability;
- c. *Increasing Access to Education and Employment.* The guiding principles pertaining to increasing access to education and employment focus on growing economic activity in the District, as well as improving the lives and economic well-being of District residents (§ 219.1). To do this from a policy and transportation perspective, the Comprehensive Plan recognizes the importance of improving access to education and jobs by capitalizing on the city's location at the center of the region's transportation systems. Providing more efficient, convenient, and affordable transportation for residents increases resident access jobs within the District and the surrounding region (§§ 219.2 and 219.7). The Project will advance the District's goals of improving access to jobs and education by replacing the existing industrial, vehicle-oriented use with a new, multi-family residential use that is in close walking distance to Metrorail stations and several Metrobus routes. The close proximity to transit will increase resident's ability to access educational opportunities and jobs without owning a vehicle and without the added expenses associated with vehicle ownership. This is especially relevant to those residents living in the affordable dwelling units that will be integrated into the Project and made available to low- and moderate-income households;
- d. *Connecting the City.* The Project is consistent with the guiding principles that pertain to connecting the city. The Project is located in a walkable, bike-friendly, and transit-rich location. The Project includes several streetscape improvements that will improve mobility and circulation around the Site and the overall

neighborhood (§ 220.2). These improvements consist of the reconstruction of the public space abutting the Project, the removal of existing curb cuts, the pruning of the groundcover on two existing tree boxes that are located on E Street, between the eastern edge of the Site and 14th Street, S.E., and providing a decorative, low metal fence around the two existing tree boxes, as well as the addition of several new street trees. In addition, the Applicant will widen the existing public alley located along the west side of the Site from 15 feet to 20 feet, thereby providing an enhanced and safer pedestrian and vehicle circulation pattern within the alley system serving the block. Finally, as a proffered amenity, the Applicant is in the process of working with ANC 6B and two other developers who are planning PUDs in the vicinity of the Project to coordinate physical improvements and programming at the Potomac Avenue Metro Station. Since the station is located along Pennsylvania Avenue, these improvements will reinforce and improve the streetscape's aesthetic quality and safety of one of the District's most important avenues. (§ 220.3); and

- e. *Building Green and Healthy Communities.* The Project is fully consistent with the Comprehensive Plan's guiding principles pertaining to building green and healthy communities. Compared to the Site's existing condition, the Project will be a significant benefit from an urban design and environmental standpoint. First, the Project will improve the existing land use pattern of the area by replacing the existing industrial use with a residential use that is compatible with the rest of the surrounding residential neighborhood (§ 221.4). Furthermore, as a result of past activity on the site, the Site is almost entirely impervious, devoid of vegetation, and disruptive to pedestrian and bicycle travel due to several large curb cuts. The Project will replace these environmentally insensitive conditions with a reconstructed streetscape that increases tree canopy, contains wide planting areas, and eliminates existing curb cuts (§§ 221.2 and 221.4). Finally, the proposed apartment house will include several sustainable design elements and has been designed to achieve 60 points under LEED-2009 for New Construction, which is equivalent to the USGBC LEED-Gold standard.
44. The proposed PUD furthers the objectives and policies of many of the Comprehensive Plan's major elements as set forth in the Applicant's Summary of Compliance with the Comprehensive Plan and the setback report of OP. (Ex. 2G, 11.)

Office of Planning Report

45. By report dated January 29, 2016, OP stated that it supports the Application and that the proposed PUD is not inconsistent with the Comprehensive Plan. Therefore, OP recommended that the Commission schedule a public hearing on the Application. (Ex. 11.)
46. By report dated June 20, 2016, OP recommended final approval of the Application subject to the Applicant providing additional information. (Ex. 28.)

47. In the Applicant's Response to OP's Report, the Applicant provided all of the requested information, including: (i) a materials board; (ii) turning diagrams for trash, delivery, and other vehicles; (iii) additional rendered views of and from the penthouse habitable space; and (iv) an IZ Unit Layout Plan showing the potential distribution of IZ units. (Ex. 34-34D.) In its Post-Hearing Statement, the Applicant also committed to designing the Project to achieve 60 points, which is equivalent to the USGBC LEED-Gold standard under LEED-2009 for New Construction. (Ex. 39-39C.)
48. At the hearing, OP rested on the record.
49. On July 21, 2015, OP submitted its Post-Hearing Report. (Ex. 40.) The report analyzed the Applicant's Post-Hearing Statement and found it addressed the Commission's concerns.

DDOT Report

50. DDOT submitted a memorandum dated June 20, 2016, indicating that DDOT supported the overall development concept and requested that the Applicant provide one car-charging station in its below-grade parking garage. (Ex. 29.)
51. At the public hearing, DDOT requested clarification regarding what improvements in public space are project amenities.
52. In its Post-Hearing Statement, the Applicant clarified that repaving portions of the western alley in excess of DDOT standards and the improvements for the two tree boxes located on E Street, S.E. between the eastern edge of the Applicant's property line and 14th Street, S.E. are project amenities. (Ex. 39.)

Advisory Neighborhood Commission

53. ANC 6B, the ANC within which the Site is located, submitted a letter dated June 21, 2016, indicating that at a duly noticed public meeting on June 14, 2016, at which notice was properly given and a quorum was present, ANC 6B voted unanimously to support the Application and the Project. (Ex. 30.) The letter included a signed Memorandum of Understanding between the Applicant and ANC 6B, as well as a signed Memorandum of Understanding between the Applicant and CHV.
54. Commissioner Nick Burger (6B06) testified at the public hearing on behalf of the ANC and indicated that ANC 6B supported the overall design of the Project, as well as the public benefits and amenities.
55. The Commission afforded the views of ANC 6B the "great weight" to which they are entitled.

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 consolidated 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, loading, yards, or courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. Development of the property included in the Application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The Commission waives the minimum area requirements of § 2401.1 of the Zoning Regulations.
5. The PUD, as approved by the Commission, complies with the applicable height and density standards of the Zoning Regulations. The uses for this Project are appropriate for the Site. The impact of the Project on the surrounding area is not unacceptable. Accordingly, the Project should be approved.
6. The Application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
7. The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the project benefits and amenities are reasonable trade-offs for the requested development flexibility.
8. Approval of this PUD is appropriate because the proposed development is consistent with the present character of the area, and is not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the Site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
9. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give "great weight" to the issues and concerns raised in the written report of

the affected ANC. In this case, ANC 6B voted unanimously to support the project and recommended that the Commission approve the Application. (Ex. 30.) The Commission has given ANC 6B's recommendations great weight in approving this Application.

10. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to the recommendations of OP in all zoning cases. The Commission carefully considered the OP reports and found OP's reasoning persuasive in recommending approval of the application.
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 **ORDERS APPROVAL** of the Application for the consolidated PUD and the PUD-related Zoning Map amendment to rezone the Site from C-M-1 to R-5-B. This approval is subject to the following guidelines, conditions, and standards. Whenever compliance is required prior to, on, or during a certain time, the timing of the obligation is noted in bold and underlined text.

A. PROJECT DEVELOPMENT

1. The PUD shall be developed in accordance with the plans titled "Bowie Redevelopment Site", prepared by SK&I Architectural Design Group, LLC dated April 8, 2016, and marked as Exhibits 16A1-16A9 of the record, and as modified by the plans included with the Applicant's Post-Hearing Submission dated July 14, 2016, and marked as Exhibit 39B of the record (collectively the "PUD Plans").
2. The Applicant shall have flexibility with the design of the PUD in the following areas:
 - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atria and mechanical rooms, provided that the variations do not change the exterior (i.e., street or alley facing) configuration of the building;
 - b. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction;
 - c. To increase the final number of residential units by no more than 10% above the total number approved to respond to market demand, or to

decrease the final number of residential units within the approved gross floor area in order to accommodate demand for larger units;

- d. To vary the location, attributes and general design of the streetscape incorporated in the project to comply with the requirements of and the approval by the DDOT Public Space Division;
- e. To make refinements to the garage configuration, including layout, parking spaces, and other elements, so long as the Project includes at least one space for every two dwelling units and one space for Capitol Hill Village; and
- f. To make refinements to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylight, architectural embellishments and trim, venting, window mullions and spacing, fencing around private outdoor terrace space, or any other changes to comply with the District of Columbia Building Code or that are necessary to obtain a final building permit or any other applicable approvals.

B. PUBLIC BENEFITS

3. **Prior to issuance of a certificate of occupancy for the Project**, the Applicant shall make streetscape improvements in public space, including new paving for the sidewalks, street lighting fixtures, a continuous five-foot-wide planting strip, new and replacement shade trees, and four bike racks, all subject to approval by DDOT, as shown on Sheet L002 of Exhibit 16A8 of the record. The Applicant shall prune the groundcover on two existing tree boxes that are located on E Street, between the eastern edge of the Site and 14th Street, S.E., and the Applicant shall provide a decorative, low metal fence around the two existing tree boxes, subject to approval by DDOT, as shown on slide 24 of Exhibit 35 of the record.
4. **For the life of the Project**, the Applicant shall provide the following housing and affordable housing:
 - a. The Project shall provide up to 123,549 square feet of residential gross floor area of housing, and approximately 7,843 square feet of habitable penthouse space, including amenity space. Up to 119,874 square feet of gross floor area of this total will be market-rate housing, and approximately 11,518 square feet will be affordable housing;

- b. The affordable housing shall be provided in accordance with the following:

Residential Unit Type	GFA & Percentage of Total			Units	Income Type	Affordable Control Period	Affordable Unit Type
Total GFA	123,549 sq. ft.	100%		153			
Market Rate	98,709 sq. ft.	90%		138	N/A		
IZ Total	11,518 sq. ft.	10%		15	Mixed	Duration of Project	Rental
IZ Units (50%)	Base	6,034 sq. ft.	52.4%	9	50% AMI	Duration of Project	
	Provided	6,316 sf. Ft.	54.8%				
IZ Units (80%)	Base	5,484 sq. ft.	47.6%	6	80% AMI	Duration of Project	
	Provided	5,203 sf. ft.	45.2%				

- c. The affordable housing units shall be distributed generally in accordance with the matrix and plans marked as Exhibit 39C, sheets A-501 through A-505 of the record, subject to the flexibility noted on the plans;
 - d. The Project shall include a minimum of two three-bedroom units as affordable housing units. One of the three-bedroom units shall be affordable to a household of one or more individuals with a total annual income adjusted for household size equal to less than 50% of the Metropolitan Statistical Area median, and the other three-bedroom unit shall be affordable to a household of one of more individuals with a total annual income adjusted for household size equal to between 51% and 80% of the Metropolitan Statistical Area median. The Applicant shall set aside the first three units for households of one or more individuals with a total annual income adjusted for household size equal to less than 50% of the Metropolitan Statistical Area median, followed by each additional odd number unit being set aside for households of one or more individuals with a total annual income adjusted for household size equal to less than 50% of the Metropolitan Statistical Area median, in accordance with § 2603.3 of the Zoning Regulations; and
 - e. The monitoring and enforcement documents required by 11 DCMR § 2409.10 shall include a provision requiring compliance with Conditions 4.b, 4.c, and 4.d.
5. **For the life of the Project**, the Applicant shall dedicate approximately 1,200 square feet of space in the Project rent free to facilitate the delivery of programs and services assisting seniors living in the neighborhood in accordance with the Memorandum of Understanding with Capitol Hill Village marked as Exhibit 30 of the record. **Prior to issuance of a final certificate of occupancy for the Project**, the Applicant shall renovate the existing rowhouse located at 1355 E Street, S.E.

with low-impact universal design elements. The Applicant shall deliver the existing rowhouse as “warm-lit shell”, which shall include: (i) basic mechanical, electrical, and plumbing infrastructure; (ii) drywall; (iii) one bathroom; and (iv) sub-flooring. All fit-out and finishes shall be the responsibility of the eventual occupant. The Applicant shall dedicate one parking space in the Project’s below-grade parking garage for the occupant’s staff to use. The parking garage may be accessed via a card access reader and shall be provided at no cost to the occupant.

6. **The Applicant shall submit with its building permit application**, a checklist evidencing that the Project has been designed to achieve 60 points under LEED-2009 for New Construction, which is equivalent to the USGBC LEED-Gold standard.
7. **Prior to the issuance of a final certificate of occupancy for the Project**, the Applicant shall provide on-site rooftop photovoltaic solar panels, which will generate approximately one percent of the energy for the Project.
8. **During the operation of the building**, the Applicant shall provide a Transportation Management Program, as set forth in the Transportation Demand Management (“TDM”) section of the Comprehensive Transportation Review in the record at Exhibit 27A. The Transportation Demand Management Plan shall include the following:
 - a. The Applicant shall offer an annual Capital Bikeshare, or car sharing membership and usage credit, of approximate equivalent value for each residential unit for a period of five years from the opening of the development;
 - b. Fifty-one bike parking spaces shall be provided in a secure space in the below-grade parking garage as well as eight short-term spaces along the E Street frontage of the building. A bicycle repair station with work bench and bicycle cleaning facilities shall be provided within the bicycle storage room;
 - c. The residential building lobby shall display transit and other alternate mode information, using an electronic message board;
 - d. The Applicant shall establish a TDM marketing program;
 - e. Printed materials related to local transportation alternatives shall be distributed to each resident upon move-in that includes information such as:
 - i. Promotion for DDOT’s goDCgo website;

- ii. Brochures on car-sharing, ride-sharing, and bike-sharing programs;
 - iii. Tips on apps and websites to use to navigate public transportation;
 - iv. Maps for nearby bicycle trail routes and bike lanes; and
 - v. Maps for Metro, bus and streetcar routes;
 - f. A cargo bicycle shall be made available for residents to use for errands;
 - g. Two grocery carts with wheels shall be made available for residents to use for grocery shopping purposes;
 - h. The development shall be designed to enable residents to better work from home, which may include conference room facilities, copying/printing capabilities, free Wi-Fi in common area spaces, and common areas for meeting; and
 - i. The Applicant shall provide one electric car-charging station in its below-grade parking garage.
9. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall place \$20,000 in an escrow account to be used by the Applicant for costs and fees associated with the feasibility evaluation and concept design for the future redevelopment of the Peter Bug Site into a public park. All funds paid out by the Applicant in connection with the feasibility evaluation and concept design for the future redevelopment of the Peter Bug Site shall be used as approved by ANC 6B.
10. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall expend \$65,000 towards improvements and programming at the Potomac Avenue Metro Plaza, if approved by WMATA and DDOT. The Applicant shall provide to the Zoning Administrator evidence that the improvements and/or programming approved by WMATA and DDOT have been or are being provided. In the event that DDOT and WMATA do not agree to the proposed improvements to Potomac Avenue Metro Plaza, the Applicant shall work with ANC 6B to identify a public and/or recreation space improvement project, **and prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall place \$65,000 in an escrow account to be used by the Applicant to pay for costs and fees related to such project. The scope of the project and funds paid out shall be as directed by ANC 6B.
11. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall provide a screened trash collection area in the eastern alley that

can accommodate approximately nine District issued trash toters and shall be made available to the owners of Lots 80, 81, 82, 83, 84, 840, 47, 48, and 864 all in Square 1043.

12. **Prior to the issuance of a final certificate of occupancy for the Project,** the Applicant shall repave the five-foot expansion along with the entire alley adjacent to the Project. The paving shall identify pedestrian and vehicular spaces to increase safety within the alley system. The Applicant shall place lighting on its building façade that fronts the alleys abutting the western and southern property lines. The lighting shall be affixed on the building at a level that is not more than the second story in order to minimize possible impacts on surrounding properties. Security cameras may be added to building exteriors to monitor loading dock and garage entrance areas. The Applicant shall affix mirrors to façades of its buildings abutting the intersection of the north-south and east-west alleys in order to help improve safety for vehicles, pedestrians, and bikes moving through the alley network. The Applicant may convert the intersection of the north-south and east-west alleys to a four-way stop, if approved by DDOT.
13. **During the operation of the building,** the Applicant shall ensure that areas of the public alley system abutting the west and south façades of the Project are cleared of snow within 24 hours of a snowfall of more than three inches.
14. **During the construction of the Project,** the Applicant shall abide by a construction management plan including those elements identified in the Memorandum of Understanding between the Applicant and ANC 6B marked as Exhibit 30 of the record.

C. MISCELLANEOUS

15. No building permit shall be issued for this PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owner of the Site and the District of Columbia, that is satisfactory to the Office of the Attorney General and DCRA. Such covenant shall bind the Applicant and all successors in title to construct on and use this property in accordance with this Order or amendment thereof by the Commission.
16. The PUD approved by the Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for a building permit for the first phase or the entire building as specified in 11 DCMR § 2409.1. Construction of the Project approved by the building permit shall begin within three years of the effective date of this Order.
17. The Applicant is required to comply fully with the provisions the D.C. Human Rights Act of 1977, D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 et seq., (“Act”). This Order is conditioned upon full compliance with those

provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 et seq. (Act), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is 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.

On June 30, 2016, upon the motion of Vice Chairman Cohen, as seconded by Commissioner Miller, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the Application at the conclusion of the 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 September 12, 2016, upon the motion of Chairman Hood, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the Application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve; third Mayoral Appointee position vacant, not voting).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on November 18, 2016.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**NOTICE OF SPECIAL PUBLIC MEETING**

The Zoning Commission of the District of Columbia, in accordance with § 3005 of the District of Columbia Municipal Regulations, Title 11, Zoning, hereby gives notice that it has scheduled Special Meeting for **December 19, 2016 at 6:00 P.M.** to consider various items.

For additional information, please contact Sharon Schellin, Secretary to the Zoning Commission at (202) 727-6311.

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