

***District of Columbia***

**REGISTER**

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**HIGHLIGHTS**

- D.C. Council enacts Act 21-549, Improving Access to Identity Documents Amendment Act of 2016
- D.C. Council enacts Act 21-552, Enhanced Penalties for Distracted Driving Amendment Act of 2016
- D.C. Council enacts Act 21-554, Commemorative Flag Amendment Act of 2016
- D.C. Commission on the Arts and Humanities announces funding availability for the Marion S. Barry, Jr. Summer Youth Employment Program (SYEP) Grant
- Department of Employment Services solicits grant applications for creating innovative youth workforce solutions
- Department of Energy and Environment announces funding availability for the K-12 Energy and Environmental Education Program
- Department of Energy and Environment solicits grant applications for providing technical assistance for the RiverCents Automotive Pollution Prevention Program
- Department of Health updates procedures for surveilling communicable diseases

# DISTRICT OF COLUMBIA REGISTER

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MAYOR

VICTOR L. REID, ESQ.  
ADMINISTRATOR

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ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-545**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**NOVEMBER 29, 2016**

To amend An act to prohibit the sale of tobacco to minors under sixteen years of age in the District of Columbia to prohibit tobacco sales to individuals under 21 years of age and to include electronic smoking devices within the definition of tobacco product; to amend the Smoking Regulation Amendment Act of 1990 to prohibit the otherwise permissible distribution of free tobacco products to individuals under 21 years of age and to conform the definition of tobacco product to that used in other acts; and to amend section 47-2404 of the District of Columbia Official Code to prohibit the issuance of vending machine operator's licenses for the sale of tobacco products in an establishment that admits persons under 21 years of age.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Prohibition Against Selling Tobacco Products to Individuals Under 21 Amendment Act of 2016".

Sec. 2. An act to prohibit the sale of tobacco to minors under sixteen years of age in the District of Columbia, approved February 7, 1891 (26 Stat. 736; D.C. Official Code § 7-1721.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 7-1721.01) is amended as follows:

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

"(1) "Tobacco product" means any product that is made from or derived from tobacco and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including through a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, snus, smokeless tobacco, or an electronic smoking device, as that term is defined in section 4915(1) of the Department of Health Functions Clarification Act of 2001, effective April 4, 2006 (D.C. Law 16-90; D.C. Official Code § 7-741.01(1)). The term "tobacco product" also includes any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, or liquids used in electronic smoking devices. The term "tobacco product" does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, approved June 25, 1938 (52 Stat. 1040; 21 U.S.C. § 301 *et seq.*)".

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(2) Paragraph (2) is amended by striking the phrase “cigarettes or other tobacco product” wherever it appears and inserting the phrase “tobacco products” in its place.

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

(B) Strike the phrase “a retail store that is used” and insert the phrase “a retail store that bars entry to individuals under 21 years of age and that is used” in its place.

(C) Strike the phrase “cigarettes, other tobacco product,” and insert the phrase “tobacco products” in its place.

(b) Section 3 (D.C. Official Code § 7-1721.02) is amended as follows:

(1) The section heading is amended by striking the phrase “minors under 18 years of age” and inserting the phrase “persons under 21 years of age” in its place.

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

“(a) No person shall sell, give, or furnish any tobacco product to, or purchase any tobacco product on behalf of, any person under 21 years of age.”.

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

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

(i) Strike the phrase “cigarette or other tobacco product” and insert the phrase “tobacco product” in its place.

(ii) Strike the number “27” and insert the number “30” in its place.

(B) Paragraph (2) is amended by striking the number “18” and inserting the number “21” in its place.

(4) Subsection (d) is amended by striking the phrase “license to sell cigarettes” and inserting the phrase “license to sell tobacco products” in its place.

(5) Subsection (e)(1) is amended to read as follows:

“(1) In any place or business where a person sells any tobacco product, the owner, manager, or person in charge of the place or business shall post a warning sign that includes the following: “No tobacco product will be sold to any person under 21 years of age. Sales clerks will ask for proof of age from any person seeking to purchase any tobacco product who appears to be under 30 years of age.”.

(c) Section 4 (D.C. Official Code § 7-1721.03) is amended as follows:

(1) The section heading is amended by striking the phrase “minors under 18” and inserting the phrase “persons under 21” in its place.

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

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

(i) Strike the number “18” and insert the number “21” in its place.

(ii) Strike the phrase “cigarette or other tobacco product” wherever it appears and insert the phrase “tobacco product” in its place.

(B) Paragraph (2) is amended as follows:

(i) Strike the number “18” and insert the number “21” in its place.

(ii) Strike the phrase “cigarettes or other tobacco product” and insert the phrase “tobacco products” in its place.

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

(A) Strike the number “18” and insert the number “21” in its place.

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(B) Strike the phrase “cigarettes or other tobacco product” and insert the phrase “tobacco products” in its place.

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

(A) Paragraph (1) is amended by striking the phrase “shall be subject to a civil penalty of \$50” and inserting the phrase “may be subject to a civil penalty of \$25” in its place.

(B) Paragraph (2) is amended by striking the word “shall” and inserting the word “may” in its place.

(d) Section 5(a) (D.C. Official Code § 7-1721.04(a)) is amended by striking the phrase “cigarettes or other tobacco product” and inserting the phrase “tobacco products” in its place.

(e) Section 6(d) (D.C. Official Code § 7-1721.05(d)) is amended by striking the phrase “cigarettes or other tobacco product” and inserting the phrase “tobacco products” in its place.

(f) Section 7(a) (D.C. Official Code § 7-1721.06(a)) is amended by striking the phrase “cigarette or other tobacco product” and inserting the phrase “tobacco product” in its place.

Sec. 3. Section 5(a) of the Smoking Regulation Amendment Act of 1990, effective May 2, 1991 (D.C. Law 8-262; D.C. Official Code § 7-1731(a)), is amended as follows:

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

(b) The newly designated paragraph (1) is amended as follows:

(1) Strike the phrase “any free cigarettes or other tobacco product” and insert the phrase “any free tobacco product” in its place.

(2) Strike the phrase “free cigarettes or other tobacco products” and insert the phrase “tobacco products” in its place.

(3) Strike the phrase “catering to adults” and insert the phrase “catering to adults; provided, that no tobacco product shall be distributed to persons under 21 years of age” in its place.

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

“(2) For the purposes of this subsection, the term “tobacco product” shall have the same meaning as provided in section 2(1) of An act to prohibit the sale of tobacco to minors under sixteen years of age in the District of Columbia, approved February 7, 1891 (26 Stat. 736; D.C. Official Code § 7-1721.01(1)).

Sec. 4. Section 47-2404(b)(3)(A) of the District of Columbia Official Code is amended by striking the number “18” and inserting the number “21” in its place.

Sec. 5. Applicability.

(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

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

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

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


Sec. 6. Fiscal impact statement.

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

Sec. 7. Effective date.

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

  
\_\_\_\_\_  
Chairman  
Council of the District of Columbia

  
\_\_\_\_\_  
Mayor  
District of Columbia  
APPROVED  
November 29, 2016

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-546**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**NOVEMBER 29, 2016**

To amend the Department of Motor Vehicles Reform Amendment Act of 2004 to conform certain terms with industry standards; to amend section 412 of Title 18 of the District of Columbia Municipal Regulations to conform certain terms with industry standards; and to amend the District of Columbia Traffic Act, 1925 to conform certain terms with industry standards, and to extend the period of time after which a learner's permit shall expire.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Department of Motor Vehicles Reform Amendment Act of 2016".

Sec. 2. Title I of the Department of Motor Vehicles Reform Amendment Act of 2004, effective April 8, 2005 (D.C. Law 15-307; D.C. Official Code § 50-1331.01 *et seq.*), is amended as follows:

(a) The title heading is amended by striking the word "NON-REPAIRABLE" and inserting the word "JUNK" in its place.

(b) Section 101 (D.C. Official Code § 50-1331.01) is amended as follows:

(1) New paragraphs (3A) and (3B) are added to read as follows:

"(3A) "Junk Vehicle" means a vehicle that:

"(A) The Department has determined is incapable of operation for use on the roads or highways and has no resale value except as a source of parts or scrap; or

"(B) The owner voluntarily designates as a Junk Vehicle pursuant to this title.

"(3B) "Junk Vehicle Certificate" means a certificate issued by the Department designating a vehicle as a Junk Vehicle."

(2) Paragraphs (5) and (6) are repealed.

(c) Section 102 (D.C. Official Code § 50-1331.02) is amended as follows:

(1) The section heading is amended by striking the word "Non-Repairable" and inserting the word "Junk" in its place.

(2) Subsection (b) is amended by striking the word "Non-Repairable" both times it appears and inserting the word "Junk" in its place.



## ENROLLED ORIGINAL

(3) Subsection (c) is amended by striking the word “Non-Repairable” both times it appears and inserting the word “Junk” in its place.

(4) Subsection (d) is amended as follows:

(A) Paragraph (1) is amended by striking the word “Non-Repairable” both times it appears and inserting the word “Junk” in its place.

(B) Paragraph (2) is amended as follows:

(i) The lead-in language is amended by striking the word “Non-Repairable” and inserting the word “Junk” in its place.

(ii) Subparagraph (A) is amended by striking the word “Non-Repairable” and inserting the word “Junk” in its place.

(5) Subsection (e) is amended by striking the word “Non-Repairable” and inserting the word “Junk” in its place.

(6) Subsection (f) is amended by striking the word “Non-Repairable” both times it appears and inserting the word “Junk” in its place.

(d) Section 104 (D.C. Official Code § 50-1331.04) is amended as follows:

(1) The section heading is amended by striking the word “Non-Repairable” and inserting the word “Junk” in its place.

(2) Subsection (a) is amended by striking the word “Non-repairable” both times it appears and inserting the word “Junk” in its place.

(3) Subsection (d) is amended by striking the phrase “salvage or non-repairable vehicle title” and inserting the phrase “Salvage Title or Junk Vehicle Certificate” in its place.

(e) Section 107 (D.C. Official Code § 50-1331.07) is amended as follows:

(1) The section heading is amended by striking the word “Non-Repairable” and inserting the word “Junk” in its place.

(2) Subsection (a) is amended by striking the word “Non-Repairable” and inserting the word “Junk” in its place.

(3) Subsection (b) is amended by striking the word “Non-Repairable” and inserting the word “Junk” in its place.

(4) Subsection (c) is amended by striking the word “Non-Repairable” both times it appears and inserting the word “Junk” in its place.

(f) Section 108(a) (D.C. Official Code § 50-1331.08(a)) is amended as follows:

(1) Paragraph (2)(B) is amended by striking the word “Non-Repairable” and inserting the word “Junk” in its place.

(2) Paragraph (4) is amended by striking the word “Non-Repairable” and inserting the word “Junk” in its place.

Sec. 3. Section 412.1(n) of Title 18 of the District of Columbia Municipal Regulations (18 DCMR § 412.1(n)) is amended by striking the word “Non-Repairable” and inserting the word “Junk” in its place.

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Sec. 4. The District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1121; codified in scattered cites in the D.C. Official Code), is amended as follows:

(a) Section 6(j)(3)(Q) (D.C. Official Code § 50-2201.03(j)(3)(Q)) is amended by striking the word “non-repairable” and inserting the word “junk” in its place.

(b) Section 7(a)(2) (D.C. Official Code § 50-1401.01(a)(2)) is amended as follows:

(1) The lead-in language is amended by striking the phrase “or renewed learner’s permit valid for 1-year” and inserting the phrase “learner’s permit valid for 2 years” in its place.

(2) Subparagraph (B) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(3) Subparagraph (C)(iv) is amended by striking the period and inserting the phrase “; and” in its place.

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

“(D) An individual whose learner’s permit has expired pursuant to this paragraph may apply for a new learner’s permit; provided, that the individual shall again comply with the requirements set forth in this paragraph.”

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

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



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED

November 29, 2016

## ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-547**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**NOVEMBER 29, 2016**

To amend the International Registration Plan Agreement Act of 1997 to allow buses used in transportation of chartered parties to participate in the International Registration Plan program.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “International Registration Plan Amendment Act of 2016”.

Sec. 2. Section 2(3) of the International Registration Plan Agreement Act of 1997, effective September 5, 1997 (D.C. Law 12-14; D.C. Official Code § 50-1507.01(3)), is amended by striking the phrase “vehicles displaying restricted plates, buses used in transportation of chartered parties and government-owned vehicles” and inserting the phrase “vehicles displaying restricted plates, and government-owned vehicles” in its place.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

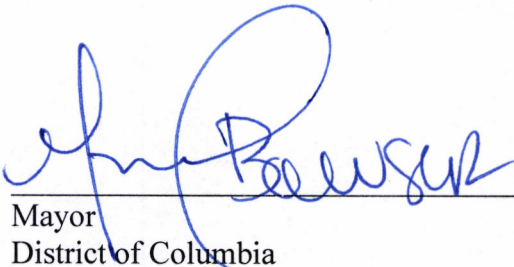
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
November 29, 2016

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-548**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**NOVEMBER 29, 2016**

To amend the District of Columbia Smoking Restriction Act of 1979 to prohibit smoking and the use of tobacco products, such as chewing tobacco and electronic smoking devices, at event sites for organized sporting events.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Sporting Events Tobacco Products Restriction Amendment Act of 2016".

Sec. 2. The District of Columbia Smoking Restriction Act of 1979, effective September 28, 1979 (D.C. Law 3-22; D.C. Official Code § 7-1701 *et seq.*), is amended as follows:

(a) Section 2(b) (D.C. Official Code § 7-1701(b)) is amended by striking the phrase "public." and inserting the phrase "public and to protect children from exposure to the use of tobacco products by prohibiting their use in event sites for organized sporting events." in its place.

(b) Section 3 (D.C. Official Code § 7-1702) is amended as follows:

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

"(1B) "Event site for organized sporting events" means the entire physical area of a site that is designed for hosting organized sporting events, such as a stadium or arena, and includes all open, semi-open, and enclosed spaces and structures within the site, such as playing fields, dugouts, bullpens, training rooms, locker rooms, team bench areas, spectator seating areas, pedestrian walkways, bathrooms, dining areas, vendor areas, offices, recreational areas, press boxes, television and radio broadcasting booths, and stadium parking lots."

(2) Paragraph (3) is amended by striking the phrase "his designated agent" and inserting the phrase "his or her designated agent" in its place.

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

"(3A) "Organized sporting events" means games or athletic competitions related to baseball, softball, football, basketball, ice hockey, field hockey, track and field, wrestling, boxing, lacrosse, or soccer, or any other event involving a game or athletic competition organized by a league or association of persons, including a professional, amateur, youth recreational, or school-sponsored league."

(4) Paragraph (7) is amended to read as follows:

"(7) "Smoking" or "to smoke" means the inhaling, exhaling, burning, or carrying

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of a lighted or heated cigar, cigarette, pipe, electronic smoking device, or any other tobacco or plant product intended for human consumption through inhalation, in any manner or in any form.”.

(5) A new paragraph (8) is added to read as follows:

“(8) “Tobacco product” means any product that is made from or derived from tobacco and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including through a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, snus, smokeless tobacco, or an electronic smoking device, as that term is defined in section 4915(1) of the Department of Health Functions Clarification Act of 2001, effective April 4, 2006 (D.C. Law 16-90; D.C. Official Code § 7-741.01(1)). The term “tobacco product” also includes any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, or liquids used in electronic smoking devices. The term “tobacco product” does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, approved June 25, 1938 (52 Stat. 1040; 21 U.S.C. § 301 *et seq.*)”.

(c) Section 4 (D.C. Official Code § 7-1703) is amended as follows:

(1) The existing text is designated as subsection (a).

(2) The newly designated subsection (a) is amended as follows:

(A) Paragraph (3) is amended by striking the phrase “or to the Robert F. Kennedy Memorial Stadium”.

(B) Paragraph (4) is amended by striking the phrase “except as provided in section 3(1)” and inserting the phrase “except as provided in section 3(1A)” in its place.

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

“(b) The use of tobacco products shall be prohibited at event sites for organized sporting events at all times, regardless of their present use.”.

(d) Section 4d(a) (D.C. Official Code § 7-1703.04(a)) is amended by striking the phrase “stating that smoking is not permitted” and inserting the phrase “stating that smoking or the use of tobacco products is not permitted” in its place.

(e) Section 5 (D.C. Official Code § 7-1704) is amended by adding a new subsection (a-3) to read as follows:

“(a-3) In any event site for organized sporting events, the owner, lessee, manager, operator, or person in charge of the event site for organized sporting events shall post or cause to be posted signs that read, “No Use of Tobacco Products.” Signs posted shall clearly state the maximum fine for a violation of this act. Signs shall be visible to the public at every entrance to the event site for organized sporting events and in all dugouts, bullpens, training rooms, locker rooms, team bench areas, spectator seating areas, bathrooms, vendor areas, press boxes, and television and radio broadcast booths.”.

(f) Section 6 (D.C. Official Code § 7-1705) is amended as follows:

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

(A) The lead-in language is amended by striking the phrase “facility or

## ENROLLED ORIGINAL

vehicle where smoking is prohibited” and inserting the phrase “facility, event site for organized sporting events, or vehicle where smoking or the use of tobacco products is prohibited” in its place.

(B) Paragraph (1) is amended by striking the phrase “appropriate ‘No Smoking’ signs” and inserting the phrase “appropriate ‘No Smoking’ or ‘No Use of Tobacco Products’ signs” in its place.

(C) Paragraph (2) is amended by striking the phrase “persons observed smoking in violation of this act to refrain from smoking” and inserting the phrase “persons observed smoking or using tobacco products in violation of this act to refrain from smoking or using tobacco products” in its place.

(2) Subsection (b) is amended by striking the phrase “facility” each time it appears and inserting the phrase “facility or event site for organized sporting events” in its place.

(3) Subsection (d) is amended by striking the phrase “facility or vehicle where smoking is prohibited” and inserting the phrase “facility, event site for organized sporting events, or vehicle where smoking or the use of tobacco products is prohibited” in its place.

(g) Section 7 (D.C. Official Code § 7-1706) is amended as follows:

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

(A) Strike the phrase “Smoking in a posted ‘No Smoking’ area or defacing or removing a ‘No Smoking’ sign” and insert the phrase “Smoking or using tobacco products in a posted ‘No Smoking’ or ‘No Use of Tobacco Products’ area or defacing or removing a ‘No Smoking’ or ‘No Use of Tobacco Products’ sign” in its place.

(B) Strike the phrase “as set forth in section 5(a)” and insert the phrase “as set forth in sections 5(a) and (a-3)” in its place.

(2) Paragraph (3) is amended by striking the phrase “Failing to post or cause to be posted or to maintain ‘No Smoking’ signs and by failing to warn a smoker observed to be smoking in violation of this act to stop smoking” and inserting the phrase “Failing to post or cause to be posted ‘No Smoking’ or ‘No Use of Tobacco Products’ signs and by failing to warn a smoker or user of tobacco products observed to be smoking or using tobacco products in violation of this act to stop doing so” in its place.

### Sec. 3. Fiscal impact statement.

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

### Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as

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



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
November 29, 2016



ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-549**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**NOVEMBER 29, 2016**

To amend the Vital Records Act of 1981 to waive the fee for an amendment or correction to a vital record, a certified copy of a certificate of record, a search of a file or record if no copy is made, the processing of adoptions, and issuance of new certificates of birth for low-income individuals; and to amend the District of Columbia Traffic Act, 1925 to waive the application fee for an operator's permit, learner's permit, provisional motor vehicle operator permit, federally-accepted driver's license or special identification card, or a limited purpose driver's license, permit, or identification card for low-income applicants.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Improving Access to Identity Documents Amendment Act of 2016".

Sec. 2. Section 22 of the Vital Records Act of 1981, effective October 8, 1981 (D.C. Law 4-34; D.C. Official Code § 7-221), is amended by adding a new subsection (c) to read as follows:

"(c)(1) The fees prescribed pursuant to subsection (a) of this section shall be waived for an individual whose gross annual income is equal to or less than 200% of the federal poverty guideline.

"(2) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement paragraph (1) of this subsection."

Sec. 3. The District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1121; codified in scattered cites of the D.C. Official Code), is amended as follows:

(a) Section 7(a) (D.C. Official Code § 50-1401.01(a)) is amended as follows:

(1) Paragraph (1)(A-i) is amended as follows:

(A) The existing text is designated as sub-subparagraph (i).

(B) The newly designated sub-subparagraph (i) is amended by striking the phrase "2015, an applicant" and inserting the phrase "2015, except as provided in sub-subparagraph (ii) of this subparagraph, an applicant" in its place.

(C) New sub-subparagraphs (ii) and (iii) are added to read as follows:

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“(ii) The fee described in sub-subparagraph (i) of this subparagraph shall be waived for an individual whose gross annual income is equal to or less than 200% of the federal poverty guideline.

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

(2) Paragraph (2)(A) is amended as follows:

(A) The existing text is designated as sub-subparagraph (i).

(B) The newly designated sub-subparagraph (i) is amended by striking the phrase “The applicant shall” and inserting the phrase “Except as provided in sub-subparagraph (ii) of this subparagraph, the applicant shall” in its place.

(C) New sub-subparagraphs (ii) and (iii) are added to read as follows:

“(ii) The fee described in sub-subparagraph (i) of this subparagraph shall be waived for an individual whose gross annual income is equal to or less than 200% of the federal poverty guideline.

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

(3) Paragraph (2A)(A) is amended as follows:

(A) The existing text is designated as sub-subparagraph (i).

(B) The newly designated sub-subparagraph (i) is amended by striking the phrase “The applicant shall” and inserting the phrase “Except as provided in sub-subparagraph (ii) of this subparagraph, the applicant shall” in its place.

(C) New sub-subparagraphs (ii) and (iii) are added to read as follows:

“(ii) The fee described in sub-subparagraph (i) of this subparagraph shall be waived for an individual whose gross annual income is equal to or less than 200% of the federal poverty guideline.

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

(b) Section 8a(a) (D.C. Official Code § 50-1401.03(a)) is amended by adding a new paragraph (1A) to read as follows:

“(1A)(A) The application fee for a driver’s license or a special identification card issued pursuant to this section shall be waived for an applicant whose gross annual income is equal to or less than 200% of the federal poverty guideline.

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

(c) Section 8c (D.C. Official Code § 50-1401.05) is amended as follows:

(1) Subsection (h) is amended by striking the phrase “The Mayor” and inserting the phrase “Except as provided in subsection (i) of this section, the Mayor” in its place.

ENROLLED ORIGINAL

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

“(i)(1) The application fee for a limited purpose driver’s license, permit, or identification card issued pursuant to this section shall be waived for an applicant whose gross annual income is equal to or less than 200% of the federal poverty guideline.

“(2) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement paragraph (1) of this subsection. Rules issued pursuant to this paragraph shall not be subject to Council review under subsection (h) of this section.”.

#### Sec. 4. Applicability.

(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

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

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

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

#### Sec. 5. Fiscal impact statement.

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

#### Sec. 6. Effective date.

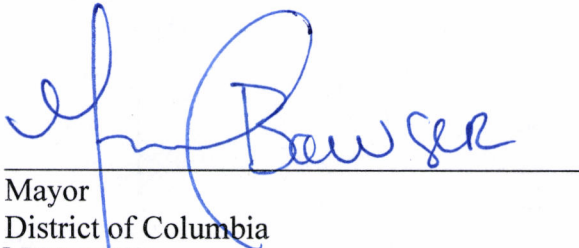
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

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



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
November 29, 2016

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-550**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**NOVEMBER 29, 2016**

To amend, on an emergency basis, the Retail Incentive Act of 2004 to modify the boundaries of the Bladensburg Road, N.E., Retail Priority Area; and to amend the H Street, N.E., Retail Priority Area Incentive Act of 2010 to clarify the location of businesses that are eligible to receive retail development project grants.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “H Street, N.E., Retail Priority Area Clarification Emergency Amendment Act of 2016”.

Sec. 2. Section 4(g) of the Retail Incentive Act of 2004, effective September 8, 2004 (D.C. Law 15-185; D.C. Official Code § 2-1217.73(g)), is amended to read as follows:

“(g) There is established the Bladensburg Road, N.E., Retail Priority Area, which shall consist of the parcels, squares, and lots within the following area: Beginning at the intersection of Holbrook Street, N.E., and Mount Olivet Road, N.E.; thence east on Mount Olivet Road, N.E., to Bladensburg Road, N.E.; thence south on Bladensburg Road, N.E., to 17th Street, N.E.; thence south on 17th Street, N.E., to H Street, N.E.; thence east on H Street, N.E., to 19th Street, N.E.; thence south on 19th Street, N.E., to Benning Road, N.E.; thence east on Benning Road, N.E., to Oklahoma Avenue, N.E.; continuing southwest along Oklahoma Avenue, N.E., to the center line of E Street, N.E.; continuing west on E Street, N.E., to the center line of 21st Street, N.E.; continuing north on 21st Street, N.E., to the center line of Gales Street, N.E.; thence northwest on Gales Street, N.E., to 15th Street, N.E.; thence west on G Street, N.E., to 14th Street, N.E.; thence north on 14th Street, N.E., to Florida Avenue, N.E.; thence west on Florida Avenue, N.E., to Holbrook Street, N.E.; thence north on Holbrook Street, N.E., to the point of beginning.”

Sec. 3. Section 4(c)(2) of the H Street, N.E., Retail Priority Area Incentive Act of 2010, effective April 8, 2011 (D.C. Law 18-354; D.C. Official Code § 1-325.173(c)(2)), is amended to read as follows:

“(2) Frontage on a commercial corridor within the H Street, N.E., Retail Priority Area;”.


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Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

  
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Chairman  
Council of the District of Columbia

  
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Mayor  
District of Columbia  
APPROVED  
November 29, 2016

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-551**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 6, 2016**

To amend, on an emergency basis, the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to clarify that the Council is an independent entity for personnel purposes and to create a new process by which certain Council attorneys shall file a certificate of good standing with the Council.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Council Independent Authority Clarification Emergency Amendment Act of 2016".

Sec. 2. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended as follows:

(a) Section 103(a)(2) (D.C. Official Code § 1-601.02(a)(2)) is amended by striking the phrase "independent agencies" and inserting the phrase "the Council, independent agencies" in its place.

(b) Section 201(c) (D.C. Official Code § 1-602.01(c)) is amended by striking the phrase "all District agencies" and inserting the phrase "the Council and all District agencies" in its place.

(c) Section 301 (D.C. Official Code § 1-603.01) is amended as follows:

(1) Paragraph (1) is amended by striking the phrase "as an agency." and inserting the phrase "as an agency. The term "agency" shall not include the Council."

(2) Paragraph (13) (D.C. Official Code § 1-603.01(13)) is amended by striking the phrase "the Council of the District of Columbia and the Office of the Attorney General for the District of Columbia shall be considered independent agencies" and inserting the phrase "the Office of the Attorney General for the District of Columbia shall be considered an independent agency" in its place.

(d) Section 407 (D.C. Official Code § 1-604.07) is amended by striking the phrase "independent agencies" and inserting the phrase "Council or within the independent agencies" in its place.

(e) Section 701(b) (D.C. Official Code § 1-607.01(b)) is amended by striking the phrase "Each agency" and inserting the phrase "The Council and each agency" in its place.

## ENROLLED ORIGINAL

(f) Section 852 (D.C. Official Code § 1-608.52) is amended by striking the phrase “independent and subordinate agencies” and inserting the phrase “the Council, independent agencies, and subordinate agencies” in its place.

(g) Section 855 (D.C. Official Code § 1-608.55) is amended by adding a new subsection (a-2) to read as follows:

“(a-2) Attorneys employed by the Council:

“(1) If employed in the office of a Councilmember, shall act under the direction, supervision, and control of the Councilmember;

“(2) If employed in the office of a Committee of the Council, shall act under the direction, supervision, and control of the Chair of the Committee; and

“(3) If employed in the office of a Council Officer, shall act under the direction, supervision, and control of the Council Officer.”.

(h) Section 857(a)(1) (D.C. Official Code § 1-608.57(a)(1)) is amended by striking the phrase “independent agencies” and inserting the phrase “an independent agency or the Council” in its place.

(i) Section 881 (D.C. Official Code § 1-608.81) is amended to read as follows:

“Sec. 881. Certificate of Good Standing filing requirement for Executive Branch attorneys.

“(a)(1) Except as provided by the rules for temporary waiver of this requirement, each attorney, hearing officer, or administrative law judge who is required to be a member of the District of Columbia Bar as a prerequisite of employment, and who is employed by the Mayor, a subordinate agency under the Mayor, the Office of the Attorney General, the Office of the Chief Financial Officer, or by any independent agency, shall file with the Department of Human Resources a Certificate of Good Standing from the Committee on Admissions of the District of Columbia Court of Appeals by December 15 of each year.

“(2) The Director of Human Resources may verify the good standing of attorneys, hearing officers, and administrative law judges subject to this requirement by electronic means with the District of Columbia Bar.

“(b) The Director of Human Resources shall publish in the District of Columbia Register, on an annual basis, a list of all attorneys, hearing officers, and administrative law judges who have not met the filing requirements of subsection (a) of this section.

“(c) The Director of Human Resources shall promulgate rules and regulations concerning:

“(1) The timing for filing a Certificate of Good Standing pursuant to subsection (a) of this section and associated procedures;

“(2) The standards governing when a temporary waiver of the filing requirement established by subsection (a) of this section may be granted by the personnel authority for the agency; and

“(3) The procedures by which attorneys, hearing officers, or administrative law judges shall be notified of the filing requirement established by subsection (a) of this section and whether they are in compliance with the requirement.



## ENROLLED ORIGINAL

“(d) The rules and regulations promulgated pursuant to subsection (c) of this section shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules and regulations within the 45-day review period, the rules and regulations shall be deemed approved.

“(e) The failure of an attorney, hearing officer, or administrative law judge subject to subsection (a) of this section to comply with its requirements shall result in the forfeiture of employment.

“(f) This section shall not apply to an attorney employed by the Council.”.

(j) A new section 881a is added to read as follows:

“Sec. 881a. Certificate of Good Standing filing requirement for Council attorneys.

“(a) Except for temporary waiver of this requirement pursuant to procedures established by the Council, each attorney who is required to be a member of the District of Columbia Bar as a prerequisite of employment, and who is employed by the Council, shall file annually with the Secretary to the Council a Certificate of Good Standing from the Committee on Admissions of the District of Columbia Court of Appeals.

“(b) The Secretary to the Council shall publish in the District of Columbia Register, on an annual basis, a list of all attorneys who have not met the filing requirements of subsection (a) of this section.

“(c) The Council may develop policies and procedures to implement this section including:

“(1) Procedures addressing the timing for filing a Certificate of Good Standing pursuant to subsection (a) of this section and associated procedures;

“(2) The standards governing when a temporary waiver of the filing requirement established by subsection (a) of this section may be granted by the personnel authority for the attorney who is employed by the Council; and

“(3) The procedures by which an attorney who is employed by the Council shall be notified of the filing requirement established by subsection (a) of this section and whether he or she is in compliance with the requirement.”.

(k) Section 1119(b) (D.C. Official Code § 1-611.19(b)) is amended by striking the phrase “personnel authority” and inserting the phrase “personnel authority, as defined in section 406(b) of this act,” in its place.

(l) Section 1232 (D.C. Official Code § 1-612.32) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “Each agency or independent agency” and inserting the phrase “The Council, each agency, and each independent agency” in its place.

(2) Subsection (c) is amended by striking the phrase “Office of Personnel” and inserting the phrase “the Office of the Secretary to the Council, if the recipient employee is an employee of the Council, or the Director of Human Resources, if the recipient employee is an employee of an agency or independent agency” in its place.

(3) Subsection (d) is amended to read as follows:

## ENROLLED ORIGINAL

“(d)(1) Notwithstanding any other provision of this section, if the head of an agency, or in the case of the Council, the Secretary to the Council, determines that any organization or program within the Council, agency, or independent agency is being substantially disrupted in carrying out its functions or is incurring additional costs because of its participation in the voluntary leave transfer program, the agency head, or in the case of the Council, the Secretary to the Council, may exclude from the program any employee or group of employees.

“(2) If the head of an agency excludes an employee or group of employees from the voluntary leave transfer program, he or she shall submit a report to the Director of Human Resources specifying how the organization or program would be substantially disrupted in carrying out its functions or would incur additional costs. This information shall be included in the Voluntary Transfer of Leave Program Report required under section 1238. This paragraph shall not apply to the Council.”

(m) Section 1233 (D.C. Official Code § 1-612.33) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “agency head or designee” and inserting the phrase “agency head or designee, or in the case of an employee of the Council to the Secretary to the Council,” in its place.

(2) Subsection (c)(3) is amended by striking the phrase “the agency or independent agency” and inserting the phrase “the Council, agency, or independent agency” in its place.

(3) Subsection (d) is amended by striking the phrase “The agency” and inserting the phrase, “The Council or an agency” in its place.

(n) Section 1234(a) (D.C. Official Code § 1-612.34(a)) is amended by striking the phrase “agency head or designee” and inserting the phrase “agency head or designee, or in the case of an employee of the Council to the Office of the Secretary to the Council,” in its place.

(o) Section 1235 (D.C. Official Code § 1-612.35) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “agency head or designee” and inserting the phrase “agency head or designee, or in the case of an employee of the Council the Secretary to the Council,” in its place.

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

(A) Strike the phrase “agency head or designee” and insert the phrase “agency head or designee, or in the case of an employee of the Council the Secretary to the Council,” in its place.

(B) Strike the phrase “agency or independent agency” and insert the phrase “agency, independent agency, or, in the case of the Council, the relevant Council office” in its place.

(3) Subsection (c) is amended by striking the phrase “agency head or designee” and inserting the phrase “agency head or designee, or in the case of an employee of the Council the Secretary to the Council,” in its place.

(p) Section 1236(a) (D.C. Official Code § 1-612.36(a)) is amended by striking the phrase “Each agency or independent agency” and inserting the phrase “The Council, each agency, and each independent agency” in its place.

ENROLLED ORIGINAL

(q) Section 2801 (D.C. Official Code § 1-628.01) is amended by striking the phrase “The Mayor” and inserting the phrase “The Council, the Mayor” in its place.

Sec. 3. Applicability.

This act shall apply as of November 17, 2016.

Sec. 4. Fiscal impact statement.

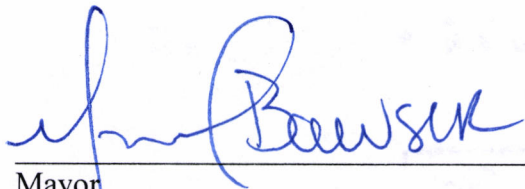
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 5. Effective date.

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



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
December 6, 2016

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-552**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 6, 2016**

To amend the Distracted Driving Safety Act of 2004 to increase the penalties for distracted driving, to remove the fine suspension for first-time violators who provide proof of acquisition of a hands-free accessory, to provide that an individual who violates the prohibition on distracted driving 3 times within an 18-month period shall have his or her license suspended, and to provide criminal penalties for a person who violates the prohibition on distracted driving by texting or using an application on a mobile telephone or other electronic device, other than a global positioning or navigation application, and thereby causes substantial bodily harm or death to a person, or property damage greater than or equal to \$10,000.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Enhanced Penalties for Distracted Driving Amendment Act of 2016".

Sec. 2. Section 6 of the Distracted Driving Safety Act of 2004, effective March 30, 2004 (D.C. Law 15-124; D.C. Official Code § 50-1731.06), is amended as follows:

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

"(a) Except as provided in subsections (a-1) and (a-2) of this section, the penalty for a violation of section 3, 4, or 5 shall be a fine of \$100."

(b) New subsections (a-1), (a-2), (a-3), and (a-4) are added to read as follows:

"(a-1) For a violation of section 3, 4, or 5 when a person has had a prior violation of section 3, 4, or 5 within an 18-month period, the penalty shall be a fine of \$150.

"(a-2) For a violation of section 3, 4, or 5 when a person has had 2 prior violations of section 3, 4, or 5 within an 18-month period, the penalty shall be a fine of \$200, and the person's driver's license or privilege to operate a motor vehicle in the District shall be suspended by the Mayor for at least 30 days, but not more than 90 days.

"(a-3)(1) The Mayor shall review each notice of infraction issued for a violation of section 3, 4, or 5 within 21 days of its issuance and determine whether the criteria have been met for application of an enhanced penalty pursuant to subsection (a-1) or (a-2) of this section.

"(2) If an enhanced penalty applies pursuant to subsection (a-1) or (a-2) of this section, the Mayor shall so notify the person subject to the enhanced penalty by mail at his or her address of record; provided, that the Mayor may develop and implement a computerized data

## ENROLLED ORIGINAL

system capable of informing officers in the field whether an enhanced penalty applies, in which case notification of the enhanced penalty may be provided along with notice of the infraction.

“(3) Only violations that occur on or after the effective date of the Enhanced Penalties for Distracted Driving Amendment Act of 2016, passed on 2nd reading on November 1, 2016 (Enrolled version of Bill 21-21), shall be considered in determining the number of violations committed by a person within an 18-month period for purposes of subsections (a-1) and (a-2) of this section.

“(a-4)(1) A person who violates section 3, 4, or 5 by texting or using an application on a mobile telephone or other electronic device, other than a global positioning or navigation application, and thereby causes substantial bodily harm or death to a person, or property damage greater than or equal to \$10,000, shall upon conviction be fined \$1,000, or incarcerated for not more than 180 days, or both.

“(2) Prosecution for a violation of this subsection shall be in the Superior Court of the District of Columbia upon information or indictment filed by the Attorney General of the District of Columbia.”.

### Sec. 3. Applicability.

(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

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

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

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

### Sec. 4. Fiscal impact statement.

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

### Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as

ENROLLED ORIGINAL

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



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
December 6, 2016

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-553**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 6, 2016**

To amend the Rental Housing Act of 1985 to limit the amount of a hardship petition conditional rent increase to 5% of the rent charged for housing providers with negative net income, and to require that any rent adjustment owed to a tenant be repaid by a housing provider within 21 days of a conditional increase being amended.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Rent Control Hardship Petition Limitation Amendment Act of 2016".

Sec. 2. The Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.01 *et seq.*), is amended as follows:

(a) Section 206(c) (D.C. Official Code § 42-3502.06(c)) is amended to read as follows:

"(c) At the housing provider's election, instead of any adjustment authorized by subsection (b) of this section, the rent charged for an accommodation may be adjusted through a hardship petition under section 212."

(b) Section 212(c) (D.C. Official Code § 42-3502.12(c)) is amended to read as follows:

"(c)(1) At the housing provider's election, instead of any adjustment authorized by section 206(b), the rent charged for an accommodation may be adjusted through a hardship petition under this section. The petition shall be clearly identified as an election instead of the general adjustments authorized by section 206(b). The Rent Administrator shall accord an expedited review process for these petitions and shall issue and publish a final decision within 90 days after the petition has been filed.

"(2)(A) In the case of any petition filed under this subsection as to which a final decision has not been rendered by the Rent Administrator at the end of 90 days from the date of filing of the petition and as to which the housing provider is not in default in complying with any information request made under section 216, the housing provider may conditionally implement an adjustment of the rent charged, at the end of the 90-day period, in accordance with this paragraph.

"(B)(i) The conditional adjustment of the rent charged that shall be available to the housing provider for an affected unit shall be based upon the Rent Administrator's

## ENROLLED ORIGINAL

hardship petition form completed by the housing provider and returned to the Rent Administrator.

“(ii) If the hardship petition form indicates that the net income of the housing provider for the affected units is negative, the conditional adjustment of the rent charged for the affected units shall not exceed 5% of the current rent charged.

“(iii) If the hardship petition form indicates that the net income of the housing provider for the affected units is positive, the housing provider may not implement a conditional adjustment of the rent charged.

“(3) A conditional adjustment of the rent charged shall be subject to subsequent modification by the final decision of the Rent Administrator on the petition. If a hearing has been held on the petition, the Rent Administrator shall, by order served upon the parties at least 10 days before the expiration of the 90-day period commenced pursuant to paragraph (2) of this subsection, make a provisional finding as to the rent increase justified by the order, if any. Except to the extent modified pursuant to section 206 or this section, the adjustment procedures of section 216 shall apply to any adjustment.

“(4) If the Rent Administrator denies the requested rent increase or approves a rent increase that is less than the amount of the conditional adjustment of the rent charged by the housing provider, the housing provider shall refund to the tenant within 21 days of the Rent Administrator’s order any rent paid in excess of the amount approved by the Rent Administrator, except that the tenant may elect within 14 days of the Rent Administrator’s order to apply any amount of the refund not yet refunded by the housing provider to the tenant, as a credit against future rental payments.”.

### Sec. 3. Fiscal impact statement.

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


### Sec. 4. Effective date.

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



ENROLLED ORIGINAL

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



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Chairman  
Council of the District of Columbia



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Mayor  
District of Columbia  
APPROVED  
December 6, 2016

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-554**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 6, 2016**

To amend the District of Columbia Flag Adoption and Design Act of 2002 to provide for the purchase of a flag that has been flown at the John A. Wilson Building, to require the Council to issue an accompanying authentication certificate, to require the Secretary to the Council to develop a process and collect a fee to implement the program, and to establish the Council Reimbursement Fund into which the collected fees shall be deposited and used to cover the operating expenses of the program; and to amend the District of Columbia Statehood Constitutional Convention Initiative of 1979 to provide that donations for the New Columbia Statehood Fund collected pursuant to the program be deposited into that fund.

BE IT ENACTED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Commemorative Flag Amendment Act of 2016”.

Sec. 2. The District of Columbia Flag Adoption and Design Act of 2002, effective March 25, 2003 (D.C. Law 14-237; D.C. Official Code § 1-151 *et seq.*), is amended by adding new sections 5a and 5b to read as follows:

“Sec. 5a. Commemorative flags.

“(a)(1) An individual or organization may request from the Council, through an individual Councilmember, a District of Columbia flag that has been flown at the John A. Wilson Building, including on a specific date; provided, that a request for a flag flown on a specific date shall be made at least 10 business days before that date.

“(2) Nothing in this section shall bind the Council to fulfill a request for a flag flown on a specific date.

“(b)(1) A flag provided pursuant to subsection (a) of this section shall be accompanied by a personalized certificate that identifies the requestor to whom it is issued and authenticates that the flag was flown at the John A. Wilson Building on a specific date.

“(2) The certificate issued pursuant to this subsection shall be signed by the Secretary to the Council.

“(c) The Secretary to the Council may maintain an inventory of flags that have been flown at the John A. Wilson building so as to be able to fulfill requests for flags that do not specify a particular date; provided, that the date that each such flag was flown be cataloged for inclusion in the certificate to be issued pursuant to subsection (b) of this section.

## ENROLLED ORIGINAL

“(d) The Secretary to the Council shall:

“(1) Develop a process and form for commemorative flag requests that shall provide an option for the requestor to donate to the New Columbia Statehood Fund established by section 32 of the District of Columbia Statehood Constitutional Convention Initiative of 1979, effective May 2, 2015 (D.C. Law 20-271; D.C. Official Code § 1-129.32);

“(2) Establish size, material, design, and vendor-source guidelines for flags to be flown and provided pursuant to this section; and

“(3) Establish and collect a fee that covers:

“(A) The cost of the flag and the certificate; and

“(B) The cost of shipping or delivering the flag and certificate to the requestor.

“(e) Funds collected pursuant to this section shall be credited as follows:

“(1) The fee covering the cost of the flag and the certificate shall be deposited in the Council Reimbursement Fund established by section 5b.

“(2) Any donation to the New Columbia Statehood Fund shall be deposited in the New Columbia Statehood Fund established by section 32 of the District of Columbia Statehood Constitutional Convention Initiative of 1979, effective May 2, 2015 (D.C. Law 20-271; D.C. Official Code § 1-129.32).

“Sec. 5b. Council Reimbursement Fund.

“(a) There is established as a special fund the Council Reimbursement Fund (“Fund”), which shall be administered by the Secretary to the Council in accordance with subsections (b) and (c) of this section.

“(b) Revenue from the following sources shall be deposited in the Fund:

“(1) Fees covering the cost of a flag and certificate collected by the Council pursuant to section 5a; and

“(2) Any interest earned from the monies deposited into the Fund.

“(c) Money in the Fund shall be used for operating expenses related to administering the program established under section 5a.

“(d)(1) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

“(2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.”.

Sec. 3. Section 32(b)(1) of the District of Columbia Statehood Constitutional Convention Initiative of 1979, effective May 2, 2015 (D.C. Law 20-71; D.C. Official Code § 1-129.32(b)(1)), is amended as follows:

(a) Subparagraph (C) is amended by striking the period at the end and inserting the phrase “; and” in its place.

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

ENROLLED ORIGINAL


“(D) Donations accepted pursuant to section 5a(d)(1) of the District of Columbia Flag Adoption and Design Act of 2002, passed on 2nd reading on November 15, 2016 (Enrolled version of Bill 21-231).”.

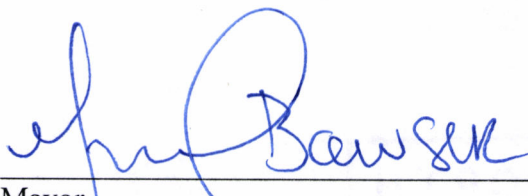
Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

  
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Chairman  
Council of the District of Columbia

  
\_\_\_\_\_  
Mayor  
District of Columbia  
APPROVED  
December 6, 2016

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-555**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 6, 2016**

To amend the Adult Protective Services Act of 1984 to allow a court-appointed representative of an adult in need of protective services or an adult in need of protective services or his or her legal representative to gain access to the reports and investigative information contained in the adult in need of protective services' record to the extent permitted by District or federal law or regulation, and to provide for the protection of the identity of the reporters and witnesses contained in the reports or investigative information.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Adult Protective Services Amendment Act of 2016".

Sec. 2. The Adult Protective Services Act of 1984, effective March 14, 1985 (D.C. Law 5-156; D.C. Official Code § 7-1901 *et seq.*), is amended as follows:

(a) Section 4(d)(1) (D.C. Official Code § 7-1903(d)(1)), is amended as follows:

(1) Subparagraph (A) is amended by striking the phrase “, or to the court-appointed representative of an adult in need of protective services”.

(2) Subparagraph (C) is amended by striking the phrase “; or” and inserting a semicolon in its place.

(3) Subparagraph (D) is amended by striking the period and inserting the phrase “; or” in its place.

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

“(E) To a court-appointed representative of an adult in need of protective services or an adult in need of protective services or his or her legal representative, upon receipt of a verbal or written request for access to reports and investigative information, including health information; provided, that:

“(i) The Department shall release reports and investigative information under this subparagraph only to the extent permitted by District or federal law or regulation; and

“(ii) The Department shall not release under this subparagraph:

“(I) The identity and other personal information of reporters, witnesses, and interviewees, other than interviewees who are District government employees;

“(II) Other information which could reasonably be used to identify a reporter, witness, or interviewee, other than an interviewee who is a District government employee;

ENROLLED ORIGINAL

“(III) Psychotherapy and personal notes; and

“(IV) Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding.”

(b) Section 10 (D.C. Official Code § 7-1909) is amended by adding a new subsection (c) to read as follows:

“(c) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of the Adult Protective Services Amendment Act of 2016, passed on 2nd reading on November 15, 2016 (Enrolled version of Bill 21-582).”

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

Chairman  
Council of the District of Columbia

Mayor  
District of Columbia

APPROVED  
December 6, 2016

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-556**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 6, 2016**

To amend An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes to reduce the maximum duration of vacant property tax exemptions, and to increase maximum fines for noncompliance.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Vacant Property Enforcement Amendment Act of 2016".

Sec. 2. An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes, approved April 14, 1906 (34 Stat. 114; D.C. Official Code § 42-3131.01 *et seq.*), is amended as follows:

(a) Section 6 (D.C. Official Code § 42-3131.06) is amended as follows:

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

"(a-1)(1) After the initial designation of a property as vacant or blighted, the Mayor shall not be required to perform additional inspections or surveys to sustain that classification.

"(2) After the Mayor has made a final determination that a building is a vacant building or blighted vacant building, that final designation shall remain in effect until the property owner submits information to the Mayor sufficient to warrant a change to that classification."

(2) Subsection (b)(3) is amended to read as follows:

"(3) Under active construction or undergoing active rehabilitation, renovation, or repair, and there is a building permit to make the building fit for occupancy that was issued, renewed, or extended within 12 months of the required registration date; provided, that the time period for this exemption beginning from the date the initial building permit was issued shall not exceed:

"(A) One year for a residential building; provided, that a residential building is eligible to continue to be exempt for an additional 6 months, for a total period not to exceed 18 months, if the Mayor determines that the residential building continues to be under active construction or undergoing active rehabilitation, renovation, or repair and substantial progress has been made toward making the building fit for occupancy; or

"(B) Two years for a commercial project;"

## ENROLLED ORIGINAL

(3) Subsection (d) is amended by striking the word “fees” and inserting the phrase “fees and any unpaid taxes assessed against the property” in its place.

(b) Section 10(a) (D.C. Official Code § 42-3131.10(a)) is amended by striking the phrase “fine not to exceed \$1,000” and inserting the phrase “fine not to exceed \$5,000” in its place.

(c) Section 16 (D.C. Official Code § 42-3131.16) is amended by adding a new subsection (c) to read as follows:

“(c) Buildings shall remain on the list required by this section until a change in classification is approved pursuant to D.C. Official Code § 47-813(d-1)(5)(A-i)(ii).”.

(d) Section 17 (D.C. Official Code § 42-3131.17) is amended by adding a new subsection (c) to read as follows:

“(c) Buildings shall remain on the list required by this section until a change in classification is approved pursuant to D.C. Official Code § 47-813(d-1)(5)(A-i)(ii).”.

(e) A new section 18 is added to read as follows:

“Sec. 18. Publication of list by the Department of Consumer and Regulatory Affairs.

“The Department of Consumer and Regulatory Affairs shall maintain and publish at least semiannually a list of buildings that are registered as, or have been determined to be, vacant buildings or blighted vacant buildings, or which would have been but for an exemption provided pursuant to section 6(b), that specifies for each building, as applicable:

“(1) Beginning on or after the effective date of this section, the date that the building was determined to be a vacant building or blighted vacant building or registered as a vacant building pursuant to section 6; and

“(2) The exemptions, if any, applied to a building pursuant to section 6(b) or (c), and the dates during which each exemption applied.”.

### Sec. 3. Fiscal impact statement.

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

### Sec. 4. Effective date.

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

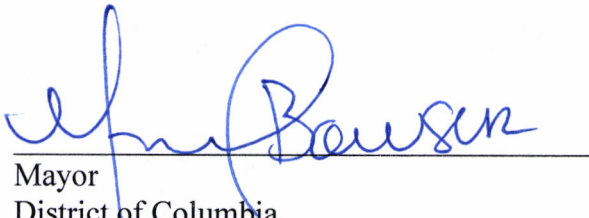


ENROLLED ORIGINAL

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



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
December 6, 2016

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-557**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 6, 2016**

To amend section 47-2005 of the District of Columbia Official Code to exempt feminine hygiene products and diapers from sales tax.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Feminine Hygiene and Diaper Sales Tax Exemption Amendment Act of 2016".

Sec. 2. Section 47-2005 of the District of Columbia Official Code is amended as follows:

(a) Paragraph (36) is amended by striking the word "and".

(b) New paragraphs (38) and (39) are added to read as follows:

"(38)(A) Sales of feminine hygiene products;

"(B) For the purposes of this paragraph, the term "feminine hygiene product" means a sanitary napkin, sanitary towel, tampon, menstrual cup, or sanitary pad.

"(39)(A) Sales of diapers;

"(B) For the purposes of this paragraph, the term "diaper" means an absorbent incontinence product that is washable or disposable and worn by a person, regardless of age or sex, who cannot control bladder or bowel movements.".

Sec. 3. Applicability.

(a) This act shall take effect subject to the inclusion of its fiscal effect in an approved budget and financial plan.

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

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

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


Sec. 4. Fiscal impact statement.

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

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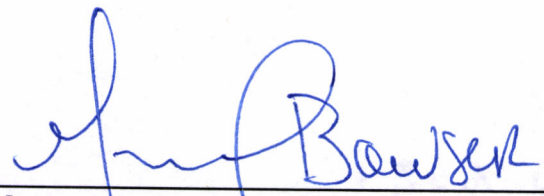
Sec. 5. Effective date.

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



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Chairman  
Council of the District of Columbia



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Mayor  
District of Columbia  
APPROVED  
December 6, 2016

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-558**

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 6, 2016**

To amend the District of Columbia Charitable Solicitation Act to authorize the Mayor to prescribe the terms and conditions under which a charitable solicitation may be exempted from the certificate of registration requirement, and to increase the maximum exemption amount; and to amend section 1000.6 of Title 16 of the District of Columbia Municipal Regulations to exempt from the secondhand dealer licensure requirement businesses that sell secondhand puzzles or non-electronic games or game pieces, including game cards.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Charitable Solicitations Relief Amendment Act of 2016".

Sec. 2. Section 4(d) of the District of Columbia Charitable Solicitation Act, approved July 10, 1957 (71 Stat. 279; D.C. Official Code § 44-1703(d)), is amended as follows:

(a) Strike the phrase "The Commissioners may" and insert the phrase "The Mayor may" in its place.

(b) Strike the phrase "\$1,500 in money or property" and insert the phrase "\$25,000 in money or property, adjusted once a year on October 1, in accordance with the consumer price index for the Washington-Baltimore Metropolitan Statistical Area, or any successor index, as published by the United States Department of Labor, Bureau of Labor Statistics, or any successor agency" in its place.

Sec. 3. Section 1000.6 of Title 16 of the District of Columbia Municipal Regulations (16 DCMR § 1000.6) is amended as follows:

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

(b) Paragraph (i) is amended by striking the period and inserting the phrase "; or" in its place.

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

"(j) Puzzles or non-electronic games or game pieces, including game cards."

ENROLLED ORIGINAL

Sec. 4. Applicability.

(a) Section 2 shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

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

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

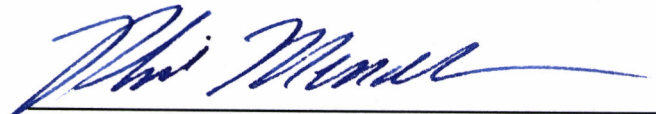
(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

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



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
December 6, 2016

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-559**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 6, 2016**

To amend the Department of Motor Vehicles Establishment Act of 1998 to allow the Director of the Department of Motor Vehicles to extend deadlines for matters under the jurisdiction of the department.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Department of Motor Vehicles Extension of Deadlines Amendment Act of 2016".

Sec. 2. Section 1822 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code § 50-901), is amended by adding a new subsection (c) to read as follows:

"(c) Notwithstanding any other law, the Director of the DMV may extend the time period for a person, without penalty, to adjudicate or pay a notice of infraction, renew the registration of a vehicle, pass a vehicle inspection, and renew a noncommercial or commercial driver license, provisional permit, or commercial learner permit to account for the closure of the District government or the DMV due to an emergency, an administrative closure, or any other similar closure."

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

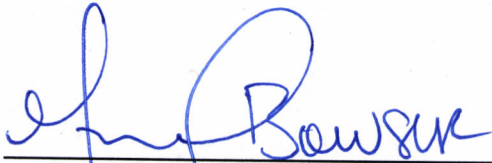
ENROLLED ORIGINAL

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



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Chairman  
Council of the District of Columbia



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Mayor  
District of Columbia  
APPROVED  
December 6, 2016

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-560**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 6, 2016**

To amend the Food, Environmental, and Economic Development in the District of Columbia Act of 2010 to expand the definition of eligible area to include census tracts 16 and 94, and to provide a limited tax incentive to any existing qualified supermarket in census tract 94; and to amend section 47-3801 of the District of Columbia Official Code to make a conforming amendment.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Food, Environmental, and Economic Development in the District of Columbia Amendment Act of 2016".

Sec. 2. The Food, Environmental, and Economic Development in the District of Columbia Act of 2010, effective April 8, 2011 (D.C. Law 18-353; D. C. Official Code § 2-1212.01 *et seq.*), is amended as follows:

(a) Section 101(2)(B) (D.C. Official Code § 2-1212.01(2)(B)) is amended by striking the numbers "18.01, 33.01, 95.05," and inserting the numbers "16, 103, 33.01, 94, 95.05" in their place.

(b) A new section 201a is added to read as follows:

"Sec 201a. Limited tax incentive for existing establishment.

"Notwithstanding the scope of exemptions provided by D.C. Official Code § 47-3802(a), a grocery store that is located in census tract 94 on the effective date of the Food, Environmental, and Economic Development in the District of Columbia Amendment Act of 2016, passed on 2nd reading on November 15, 2016 (Enrolled version of Bill 21-836), shall be eligible for the tax exemption provided pursuant to D.C. Official Code § 47-3802(a)(1) beginning with the tax year beginning October 1, 2016; provided, that the 10-year real property exemption period shall be deemed to have begun on January 1, 2015."

Sec. 3. Section 47-3801(1D)(B) of the District of Columbia Official Code is amended by striking the numbers "18.01, 33.01, 95.05," and inserting the numbers "16, 103, 33.01, 94, 95.05" in their place.



ENROLLED ORIGINAL

Sec. 4. Applicability.

(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

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

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


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

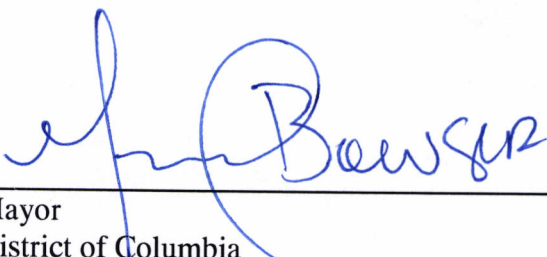
Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

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

  
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Chairman  
Council of the District of Columbia

  
\_\_\_\_\_  
Mayor  
District of Columbia  
APPROVED  
December 6, 2016

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-561**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 6, 2016**

To amend, on a temporary basis, An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes to extend the time in which the Mayor may dispose of certain District-owned real property, commonly referred to as the Stevens School, located at 1050 21st Street, N.W., and designated for tax and assessment purposes as Lot 876 in Square 73.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Extension of Time to Dispose of the Stevens School Temporary Amendment Act of 2016”.

Sec. 2. Section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801), is amended by adding a new subsection (d-9) to read as follows:

“(d-9) Notwithstanding subsection (d) of this section, the time period within which the Mayor may dispose of District-owned real property located at 1050 21st Street, N.W., designated for tax and assessment purposes as Lot 876 in Square 73, in accordance with the Stevens School Disposition Emergency Approval Act of 2014, effective December 10, 2014 (D.C. Act. 20-513; 61 DCR 12729), is extended to June 10, 2017.”.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

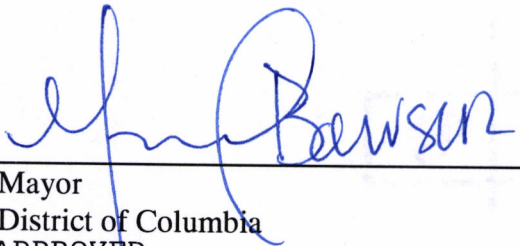
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(b) This act shall expire after 225 days of its having taken effect.



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Chairman  
Council of the District of Columbia



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Mayor  
District of Columbia  
APPROVED  
December 6, 2016

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-562**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 6, 2016**

To amend, on a temporary basis, the Minimum Wage Act Revision Act of 1992 to exempt an employer from keeping precise time records for bona fide executive, administrative, and professional, as well as certain other, employees, to require an employer or a temporary staffing firm to provide notice regarding payment to an employee in a second language if the Mayor has made available a translation of the sample notice template in that second language and the employer or temporary staffing firm knows that second language to be the employee's primary language or the employee requests notice in that second language, and to require the Mayor to make available, in any language required for a vital document under the Language Access Act of 2004, a translation of the sample template to be used by an employer or a temporary staffing firm when providing notice to an employee regarding payment; and to amend An Act To provide for the payment and collection of wages in the District of Columbia to continue to exempt an employer from paying wages to bona fide executive, administrative, and professional employees at least twice during each calendar month; provided, that the employer pays wages to such employees at least once per month.

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

Sec. 2. The Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1001 *et seq.*), is amended as follows:

(a) Section 9 (D.C. Official Code § 32-1008) is amended as follows:

(1) Subsection (a)(1)(D) is amended to read as follows:

“(D) The precise time worked each day and each workweek by each employee, except for employees who are exempt from the minimum wage and overtime requirements under section 5(a); and”.

(2) Subsection (c) is amended by striking the phrase “shall furnish to each employee at the time of hiring a written notice, both in English and in the employee's primary language, containing the following information:” and inserting the phrase “shall furnish to each employee at the time of hiring a written notice in English in the form made available by the Mayor pursuant to subsection (e) of this section. If, pursuant to subsection (e) of this section, the Mayor has made available a translation of the sample template in a second language that is known by the employer to be the employee's primary language or that the employee requests, the

## ENROLLED ORIGINAL

employer also shall furnish written notice to the employee in that second language. The notice shall contain the following information:" in its place.

(3) Subsection (e) is amended to read as follows:

"(e) The Mayor shall make available for employers a sample template of the notice required by subsection (c) of this section within 60 days of the effective date of the Wage Theft Prevention Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-157; 62 DCR 3603). The Mayor also shall make available for employers a translation of the sample template in any language required for vital documents pursuant to the Language Access Act of 2004, effective June 19, 2004 (D.C. Law 15-167; D.C. Official Code § 2-1933)."

(b) Section 9a is amended as follows:

(1) Subsection (a)(1) is amended by striking the phrase "containing the information required by section 9(c)" and inserting the phrase "containing the information required by section 9(c) and in the form of the sample template made available by the Mayor pursuant to section 9(e). The notice shall be provided in English and if, pursuant to section 9(e), the Mayor has made available a translation of the sample template in a second language that is known by the temporary staffing firm to be the employee's primary language or that the employee requests, the temporary staffing firm also shall furnish written notice to that employee in that second language." in its place.

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

"(b)(1) When a temporary staffing firm assigns an employee to perform work at, or provide services for, another organization, the temporary staffing firm shall furnish the employee a written notice in English, in the form of the sample template made available by the Mayor pursuant to subsection (c) of this section, of:

"(A) The specific designated payday for the particular assignment;

"(B) The actual rate of pay for the assignment and the benefits, if any to be provided;

"(C) The overtime rate of pay the employee will receive or, if applicable, inform the employee that the position is exempt from additional overtime compensation and the basis for the overtime exemption;

"(D) The location and name of the client employer and the temporary staffing firm;

"(E) The anticipated length of the assignment;

"(F) Whether training or safety equipment is required and who is obligated to provide and pay for the equipment;

"(G) The legal entity responsible for workers' compensation should the employee be injured on the job; and

"(H) Information about how to contact the designated enforcement agency for concerns about safety, wage and hour, or discrimination.

"(2) If, pursuant to subsection (c) of this section, the Mayor has made available a translation of the sample template in a second language that is known by the temporary staffing firm to be the employee's primary language or that the employee requests, the temporary staffing firm also shall furnish written notice to that employee in the second language."

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

ENROLLED ORIGINAL

“(c) The Mayor shall make available for temporary staffing firms a sample template of the notice required by subsection (b) of this section within 60 days of the effective date of the Wage Theft Prevention Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-157; 62 DCR 3603). The Mayor also shall make available for temporary staffing firms a translation of the sample template in any language required for vital documents pursuant to section 4 of the Language Access Act of 2004, effective June 19, 2004 (D.C. Law 15-167; D.C. Official Code § 2-1933).”.

Sec. 3. Section 2 of An Act To provide for the payment and collection of wages in the District of Columbia, approved August 3, 1956 (70 Stat 976; D.C. Official Code § 32-1302), is amended by striking the phrase “Every employer shall pay all wages earned to his employees at least twice during each calendar month, on regular paydays designated in advance by the employer;” and inserting the phrase “Every employer shall pay all wages earned to his employees on regular paydays designated in advance by the employer and at least twice during each calendar month, except that all bona fide administrative, executive, and professional employees (those employees employed in a bona fide administrative, executive, or professional capacity, as defined in 7 DCMR § 999.1) shall be paid at least once per month;” in its place.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-602.02(c)(1)), and publication in the District of Columbia Register.

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

Chairman  
Council of the District of Columbia

Mayor  
District of Columbia  
APPROVED

December 6, 2016

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-563**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 6, 2016**

To amend, on a temporary basis, the District of Columbia Public School Nurse Assignment Act of 1987 to require that any public school receiving school nurse services above 20 hours per week as of October 25, 2016 continue at that existing level of service, or the level recommended by the Department of Health's risk-based assessment, whichever is greater, for the remainder of school year 2016-2017.

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

Sec. 2. Section 2 of the District of Columbia Public School Nurse Assignment Act of 1987, effective December 10, 1987 (D.C. Law 7-45; D.C. Official Code § 38-621), is amended as follows:

(a) Subsection (c) is repealed.

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

"(c-1) Any school that, on October 25, 2016, received school nurse services pursuant to this section that exceeded the minimum hours per week prescribed by subsection (b) of this section shall continue the level of service existing on that date, or the level recommended by the Department of Health's risk-based assessment, whichever is greater, for the remainder of school year 2016-2017."

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

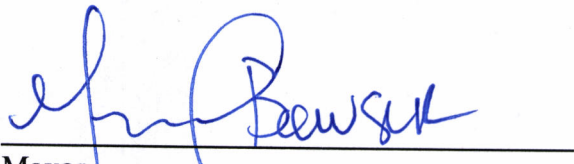
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24, 1973 (87 Stat. 813, D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
December 6, 2016



ENROLLED ORIGINAL

## A RESOLUTION

21-651

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 15, 2016

To approve proposed rules to make technical amendments to Title 23 of the District of Columbia Municipal Regulations to conform to changes contained in the Omnibus Alcoholic Beverage Regulation Amendment Act of 2014 and the Omnibus Alcoholic Beverage Regulation Amendment Act of 2015, and other administrative changes, and to disapprove one proposed section.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Technical Amendment Regulations Approval Resolution of 2016”.

Sec. 2. Pursuant to D.C. Official Code § 25-211(b), the Mayor transmitted to the Council on September 16, 2016, proposed rules of the Alcoholic Beverage Control Board that would make technical amendments to Title 23 of the District of Columbia Municipal Regulations that conform to changes contained in the Omnibus Alcoholic Beverage Regulation Amendment Act of 2014, effective May 2, 2015 (D.C. Law 20-270; 62 DCR 1866), and the Omnibus Alcoholic Beverage Regulation Amendment Act of 2015, effective March 9, 2016 (D.C. Law 21-84; 63 DCR 781), and other administrative changes. The Council approves, in part, and disapproves, in part, the proposed rules, published at 62 DCR 11906, to amend Title 23 of the District of Columbia Municipal Regulations as follows:

- (1) The amendments to section 807 are disapproved.
- (2) All other sections of the proposed rules are approved as submitted.

Sec. 3. Transmittal.

The Council shall transmit a copy of this resolution, upon its adoption, to the Mayor and to the Chairperson of the Alcoholic Beverage Control Board.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

21-652

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 15, 2016

To approve proposed rules to amend section 712 of Chapter 7 of Title 23 of the District of Columbia Municipal Regulations regarding pub crawls.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Second Pub Crawl Regulations Approval Resolution of 2016”.

Sec. 2. Pursuant to D.C. Official Code § 25-211(b), the Mayor transmitted to the Council on September 16, 2016, proposed rules of the Alcoholic Beverage Control Board that make amendments to the pub crawls regulations. The Council approves the proposed rules, published at 63 DCR 9426, to amend section 712 of Chapter 7 of Title 23 of the District of Columbia Municipal Regulations.

Sec. 3. Transmittal.

The Council shall transmit a copy of this resolution, upon its adoption, to the Mayor and to the Chairperson of the Alcoholic Beverage Control Board.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-653

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 15, 2016

To confirm the reappointment of Ms. Violet Carter to the Apprenticeship Council.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Apprenticeship Council Violet Carter Confirmation Resolution of 2016”.

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

Ms. Violet Carter  
1832 Bay Street, S.E.  
Washington, D.C. 20003  
(Ward 6)

as a member, representing an employee organization, of the Apprenticeship Council, established by section 2 of An Act To provide voluntary apprenticeship in the District of Columbia, approved May 21, 1946 (60 Stat. 204; D.C. Official Code § 32-1402), for a term to end November 19, 2018.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-654

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 15, 2016

To confirm the appointment of Mr. Stephen J. Lanning to the Apprenticeship Council.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Apprenticeship Council Stephen Lanning Confirmation Resolution of 2016”.

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

Mr. Stephen J. Lanning  
1736 Columbia Road, N.W.  
Washington, D.C. 20009  
(Ward 1)

as a member, representing an employee organization, of the Apprenticeship Council, established by section 2 of An Act To provide voluntary apprenticeship in the District of Columbia, approved May 21, 1946 (60 Stat. 204; D.C. Official Code § 32-1402), replacing Thomas Blanton, for a term to end November 19, 2017.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

21-655

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 15, 2016

To confirm the reappointment of Mr. Frederick Howell to the Apprenticeship Council.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Apprenticeship Council Frederick Howell Confirmation Resolution of 2016”.

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

Mr. Frederick Howell  
3010 W Street, S.E.  
Washington, D.C. 20020  
(Ward 7)

as a member, representing the public, of the Apprenticeship Council, established by section 2 of An Act To provide voluntary apprenticeship in the District of Columbia, approved May 21, 1946 (60 Stat. 204; D.C. Official Code § 32-1402), for a term to end November 19, 2018.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-656

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 15, 2016

To confirm the appointment of Mr. Frank Chiaramonte to the Apprenticeship Council.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Apprenticeship Council Frank Chiaramonte Confirmation Resolution of 2016”.

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

Mr. Frank Chiaramonte  
2260 Minnesota Avenue, N.E.  
Washington, D.C. 20020  
(Ward 8)

as a member, representing an employer organization, of the Apprenticeship Council, established by section 2 of An Act To provide voluntary apprenticeship in the District of Columbia, approved May 21, 1946 (60 Stat. 204; D.C. Official Code § 32-1402), replacing William Dean, for a term to end November 19, 2018.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-657

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 15, 2016

To confirm the reappointment of Mr. Leroy Watson to the Apprenticeship Council.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Apprenticeship Council Leroy Watson Confirmation Resolution of 2016”.

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

Mr. Leroy Watson  
7426 8<sup>th</sup> Street, N.W.  
Washington, D.C. 20012  
(Ward 4)

as a member, representing an employee organization, of the Apprenticeship Council, established by section 2 of An Act To provide voluntary apprenticeship in the District of Columbia, approved May 21, 1946 (60 Stat. 204; D.C. Official Code § 32-1402), for a term to end November 19, 2019.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-659

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 15, 2016

To confirm the appointment of Mr. Andrew Reese as the Director of the Department on Disability Services.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Director of the Department on Disability Services Andrew Reese Confirmation Resolution of 2016”.

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

Mr. Andrew Reese  
6217 31<sup>st</sup> Street, N.W.  
Washington, D.C. 20015  
(Ward 4)

as the Director of the Department on Disability Services, established by section 103 of the Department on Disability Services Establishment Act of 2006, effective March 14, 2007 (D.C. Law 16-264; D.C. Official Code § 7-761.03), in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01), to serve at the pleasure of the Mayor.

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

Sec. 4. This resolution shall take effect immediately.



ENROLLED ORIGINAL

## A RESOLUTION

21-660

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 15, 2016

To confirm the appointment of Mr. Charles Thornton to the Corrections Information Council Governing Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Corrections Information Council Governing Board Charles Thornton Confirmation Resolution of 2016”.

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

Mr. Charles Thornton  
1400 Carrollsburg Place, S.W.  
Washington, D.C. 20004  
(Ward 6)

as a member of the Corrections Information Council Governing Board, established by section 11201a of the National Capital Revitalization and Self-Government Improvement Act of 1997, effective October 2, 2010 (D.C. Law 18-233; D.C. Official Code § 24-101.01), for a term to end June 7, 2017.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

21-661

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 15, 2016

To confirm the appointment of Ms. Claudia Booker to the Child Fatality Review Committee.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Child Fatality Review Committee Claudia Booker Confirmation Resolution of 2016”.

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

Ms. Claudia Booker  
6010 2nd Street, N.W.  
Washington, D.C. 20011  
(Ward 4)

as a community representative member of the Child Fatality Review Committee, established by section 4603 of the Child Fatality Review Committee Establishment Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 4-1371.03), for a term to end July 14, 2019.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-662

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 15, 2016

To confirm the appointment of Ms. Marie Cohen to the Child Fatality Review Committee.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Child Fatality Review Committee Marie Cohen Confirmation Resolution of 2016”.

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

Ms. Marie Cohen  
330 9th Street, S.E.  
Washington, D.C. 20003  
(Ward 6)

as a community representative member of the Child Fatality Review Committee, established by section 4603 of the Child Fatality Review Committee Establishment Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 4-1371.03), for a term to end July 12, 2019.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

21-663

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 15, 2016

To confirm the appointment of Ms. Laila Leigh to the Domestic Violence Fatality Review Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Domestic Violence Fatality Review Board Laila Leigh Confirmation Resolution of 2016".

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

Ms. Laila Leigh  
1954 Columbia Road, N.W., Apt. 201  
Washington, D.C. 20009  
(Ward 1)

as a community representative member of the Domestic Violence Fatality Review Board, established by D.C. Official Code § 16-1052, for a 3-year term to end July 20, 2019.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

21-664

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 15, 2016

To confirm the appointment of Ms. Heather Powers to the Domestic Violence Fatality Review Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Domestic Violence Fatality Review Board Heather Powers Confirmation Resolution of 2016".

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

Ms. Heather Powers  
704 Auburn Avenue  
Takoma Park, MD 20912

as a community representative member of the Domestic Violence Fatality Review Board, established by D.C. Official Code § 16-1052, for a 3-year term to end July 20, 2019.

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

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

21-665

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 15, 2016

To declare the existence of an emergency with respect to the need to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to clarify that the Council is an independent entity for personnel purposes and to create a new process by which certain Council attorneys shall file a certificate of good standing with the Council.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Council Independent Authority Clarification Emergency Declaration Resolution of 2016”.

Sec. 2. (a) On December 17, 2014, the Council passed the District Government Certificate of Good Standing Filing Requirement Amendment Act of 2014, effective March 13, 2015 (D.C. Law 20-241; 62 DCR 1335) (the “Act”), which clarified that hearing officers and administrative law judges are required to file certificates of good standing if their employment requires that they be members of the District of Columbia Bar. Previously, the law required only attorneys to file such certificates, but it was discovered in 2014 that certain administrative law judges and hearing officers were allegedly presiding over their cases without being in good standing with the District of Columbia Bar. In order to close this loophole, the Council passed the Act.

(b) Additionally, the Act transferred responsibility for collecting certificates of good standing from the District’s Department of Human Resources (DCHR) to the Board of Ethics and Government Accountability (BEGA). However, enforcement and regulatory authority remained with the DCHR. Thus, the Act creates a bifurcated regime in which one agency, BEGA, acts solely as a repository for the certificates of good standing, but another agency, DCHR, has both responsibility for ensuring that attorneys, hearing officers, and administrative law judges comply with the law and rulemaking authority. In order to streamline this process and to prevent duplication of effort, it is necessary to transfer collection authority back to DCHR.

(c) Further, section 881 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective July 25, 2002 (D.C. Law 14-182; D.C. Official Code § 1-608.81) (the “Comprehensive Merit Personnel Act”), requires an attorney employed by an independent agency to file a certificate of good standing with DCHR if he or she meets the applicable requirements. Section 301(13) of the Comprehensive Merit Personnel Act (D.C. Official Code § 1-603.01(13), confusingly and incorrectly, defines the Council of the District of

## ENROLLED ORIGINAL

Columbia as an “independent agency.” This emergency legislation clarifies throughout the Comprehensive Merit Personnel Act that the Council is not an agency or an independent agency of District government.

(d) Current law requires an attorney employed by the Council to file his or her certificate of good standing and to report to DCHR, which is a part of the executive branch of the government. This arrangement violates the spirit of separation of powers as it requires legislative branch employees to report to an agency overseen by the executive branch. Thus, this emergency legislation clarifies that an attorney employed by the Council of the District of Columbia who is required to file a certificate of good standing shall file his or her certificate with the Council and not DCHR.

(e) In order to further aid DCHR and the Council in streamlining the process of ensuring that certain attorneys are in good standing and to reduce the burden on the District of Columbia Court of Appeals, DCHR, and the Council, this emergency legislation allows DCHR and the Council to verify the good standing of attorneys, hearing officers, and administrative law judges through electronic means.

(f) The permanent version of this emergency legislation passed the Council on first reading on November 15, 2016 and is scheduled for a final reading on December 6, 2016.

(g) Given that section 881 of the Comprehensive Merit Personnel Act (D.C. Official Code § 1-608.81) mandates that all individuals who are required to file a certificate of good standing must do so by December 15th of each year, emergency circumstances exist with respect to the need to clarify the process so that an individual can file his or her certificate of good standing with the appropriate District government entity. Moreover, this emergency legislation is necessary so that attorneys employed by the Council of the District of Columbia can file their certificates of good standing with the Council without being in tension with section 881 of the Comprehensive Merit Personnel Act (D.C. Official Code § 1-608.81).

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-667

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 15, 2016

To declare the existence of an emergency with respect to the need to approve Modification Nos. 2, 3, and 4 and proposed Modification No. 5 to Human Care Agreement No. DCJM-2015-H-0006-01 to provide residential habilitation, supported living, host home, and related residential expenses to District persons with intellectual and developmental disabilities and to authorize payment for the services received and to be received under the contract modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modifications to Human Care Agreement No. DCJM-2015-H-0006-01 Approval and Payment Authorization Emergency Declaration Resolution of 2016”.

Sec. 2. (a) There exists a need to approve Modification Nos. 2, 3, 4 and proposed Modification No. 5 to Human Care Agreement No. DCJM-2015-H-0006-01 with Ward and Ward Mental Health Services, Inc., to provide residential habilitation, supported living, host home, and related residential expenses to District persons with intellectual and developmental disabilities and to authorize payment for the services received and to be received under Modification Nos. 2, 3, 4 and proposed Modification No. 5.

(b) On May 25, 2016, by Modification No. 2, the Office of Contracting and Procurement (“OCP”), on behalf of the Department on Disability Services, exercised a partial option of option year one of Human Care Agreement No. DCJM-2015-H-0006-01 to provide residential habilitation, supported living, host home, and related residential expenses to District persons with intellectual and developmental disabilities for the period from June 1, 2016, to September 30, 2016, in the amount of \$652,249.01.

(c) On September 30, 2016, by Modification No. 3, the OCP exercised another partial option of option year one for the period from October 1, 2016, to November 30, 2016, in the amount of \$218,012.00.

(d) On October 28, 2016, by Modification No. 4, the OCP designated a contracting officer and incorporated for option year one the Specific List of Prices.

(e) Modification No. 5 is now necessary to exercise the remaining option and increase the total not-to-exceed amount for option year one to \$1,304,498.01.

(f) Council approval is necessary since these modifications increase the contract by more than \$1 million during a 12-month period.



**ENROLLED ORIGINAL**

(g) Approval is necessary to allow the continuation of these vital services. Without this approval, Ward and Ward Mental Health Services, Inc. cannot be paid for services provided in excess of \$1 million for the contract period from June 1, 2016, through May 31, 2017.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Human Care Agreement No. DCJM-2015-H-0006-01 Approval and Payment Authorization Emergency Act of 2016 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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

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

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

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

PR21-1048 Eagle Academy Public Charter School Revenue Bonds Project Approval Resolution of 2016

Intro. 11-29-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue

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PR21-1052 Board of Barber and Cosmetology Mr. Eric Doyle Confirmation Resolution of 2016

Intro. 11-30-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole, Subcommittee on Boards and Commissions

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PR21-1053 Board of Barber and Cosmetology Mr. Jared Scott Confirmation Resolution of 2016

Intro. 11-30-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole, Subcommittee on Boards and Commissions

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PR21-1054 Board of Barber and Cosmetology Mr. Anwar Saleem Confirmation Resolution of 2016

Intro. 11-30-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole, Subcommittee on Boards and Commissions

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PR21-1055 Board of Barber and Cosmetology Mr. Mark Wills Confirmation Resolution of 2016

Intro. 11-30-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole, Subcommittee on Boards and Commissions

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PR21-1056 Board of Barber and Cosmetology Ms. Sharon Young Confirmation Resolution of 2016

Intro. 11-30-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole, Subcommittee on Boards and Commissions

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PR21-1057 Board of Zoning Adjustment Ms. Lesylleé White Confirmation Resolution of 2016

Intro. 11-30-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

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**Council of the District of Columbia  
Committee on Finance and Revenue  
Notice of Public Roundtable**

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

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

**ANNOUNCES A PUBLIC ROUNDTABLE ON:**

**PR21-1025, the “District of Columbia International School Revenue Bonds Project Approval Resolution of 2016”**

**PR21-1031, the “District of Columbia International School Qualified Zone Academy Revenue Bonds Project Approval Resolution of 2016”**

**PR21-1046, the “Qualified Zone Academy Bond Designation Approval Resolution of 2016”**

**PR21-1048, the “Eagle Academy Public Charter School Revenue Bonds Project Approval Resolution of 2016”**

**Monday, December 12, 2016**

**10:00 a.m.**

**Room 120 - John A. Wilson Building**

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

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, announces a public roundtable to be held on Monday, December 12, 2016 at 10:00 a.m. in Room 120, of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

PR21-1025, the “District of Columbia International School Revenue Bonds Project Approval Resolution of 2016” would authorize and provide for the issuance, sale and delivery in an aggregate principal amount not to exceed \$65 million of district of Columbia revenue bonds in one or more series to assist District of Columbia International School in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act. The project is located on the former site of the Walter Reed Army Medical Center, located between 16<sup>th</sup> Street, NW and Georgia Avenue, NW.

PR21-1031, the “District of Columbia International School Qualified Zone Academy Revenue Bonds Project Approval Resolution of 2016” would authorize and provide for the issuance, sale and delivery in an aggregate principal amount not to exceed \$2.741 million of District of Columbia qualified zone academy revenue bonds in one or more series to assist District of Columbia International School in the financing, refinancing or reimbursing of costs associated with an authorized project to section 490 of the District of Columbia Home Rule Act. The project is located on the former site of the Walter Reed Army Medical Center, located at between 16<sup>th</sup> Street, NW and Georgia Avenue, NW.

PR21-1046, the “Qualified Zone Academy Bond Designation Approval Resolution of 2016” would approve, within the meaning of the Qualified Zone Academy Revenue Bond Project Forward Commitment Approval Act of 2005, the designations of Powell Elementary School as a qualifying school and its rehabilitation project as an eligible project. Powell Elementary School is located at 1350 Upshur Street, NW, Washington, DC 20011 in Ward 4.

PR21-1048, the “Eagle Academy Public Charter School Revenue Bonds Project Approval Resolution of 2016” would authorize and provide for the issuance, sale, and delivery in an aggregate principal amount not to exceed \$20.5 million of District of Columbia revenue bonds in one or more series to assist Eagle Academy Public Charter School in the financing, refinancing or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act. The project is located at 2403 Naylor Road, SE and 3400 Wheeler Road, SE, (Square 5934, Lots 803, 804 and 805) in Ward 8.

The Committee invites the public to testify at the roundtable. Those who wish to testify should contact Sarina Loy, Committee Aide at (202) 724-8058 or [sloy@dccouncil.us](mailto:sloy@dccouncil.us), and provide your name, organizational affiliation (if any), and title with the organization by 10:00a.m. on Friday, December 9, 2016. Witnesses should bring 15 copies of their written testimony to the hearing. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to [sloy@dccouncil.us](mailto:sloy@dccouncil.us) or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 114, Washington D.C. 20004.

**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**CONSIDERATION OF TEMPORARY LEGISLATION**

**B21-953**, Medical Marijuana Dispensary Temporary Amendment Act of 2016, **B21-964**, Campaign Finance Reform and Transparency Temporary Amendment Act of 2016, and **B21-967**, At-Risk Tenant Protection Clarifying Temporary Amendment Act of 2016 were adopted on first reading on December 6, 2016. These temporary measures were considered in accordance with Council Rule 413. A final reading on these measures will occur on December 20, 2016.

<b>COUNCIL OF THE DISTRICT OF COLUMBIA</b> <b>EXCEPTED SERVICE APPOINTMENTS AS OF NOVEMBER 30, 2016</b>
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**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.

<b>COUNCIL OF THE DISTRICT OF COLUMBIA</b>			
<b>NAME</b>	<b>POSITION TITLE</b>	<b>GRADE</b>	<b>TYPE OF APPOINTMENT</b>
Crawford Riddick, Marita	Administrative Aide	2	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

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**Reprog. 21-261:** Request to reprogram \$2,062,459 of Fiscal Year 2017 Local funds budget authority within the Department of Forensic Science was filed in the Office of the Secretary on December 1, 2016. This reprogramming is needed to better align the budget for forensic salaries, fringe benefits, equipment, supplies, and contracts necessary to perform critical public safety duties.

RECEIVED: 14 day review begins December 2, 2016

**Reprog. 21-262:** Request to reprogram \$619,026 of Fiscal Year 2017 Local funds budget authority within the Office of the State Superintendent of Education (OSSE) was filed in the Office of the Secretary on December 1, 2016. This reprogramming ensures that OSSE will be able to support the Literacy Pro Information Technology project and pay conference and membership dues.

RECEIVED: 14 day review begins December 2, 2016



**Reprog. 21-263:** Request to reprogram \$214,434 of Pay-As-You-Go (Paygo) Capital Funds budget authority and allotment from the Department of General Services (DGS) to the Local funds budget of DGS was filed in the Office of the Secretary on December 1, 2016. This reprogramming is needed for the funding of fitness center equipment at DPR's Deanwood, Hillcrest, Emery, Takoma, and Lamond fitness centers.

RECEIVED: 14 day review begins December 2, 2016

**Reprog. 21-264:** Request to reprogram \$800,000 of Fiscal Year 2017 Local funds budget authority within the Office of the State Superintendent of Education (OSSE) was filed in the Office of the Secretary on December 1, 2016. This reprogramming ensures that OSSE will be able to provide grant awards to community-based organizations for out-of-school programs.

RECEIVED: 14 day review begins December 5, 2016

**Reprog. 21-265:** Request to reprogram \$980,000 of Fiscal Year 2017 Special Purpose Revenue funds budget authority within the Office of Lottery and Charitable Games (OLCG) was filed in the Office of the Secretary on December 1, 2016. This reprogramming ensures that the agency aligns the budget with the correct division.

RECEIVED: 14 day review begins November 15, 2016

**Reprog. 21-266:** Request to reprogram \$2,442,000 of Fiscal Year 2017 Local funds budget authority within the Department of Health (DOH) was filed in the Office of the Secretary on December 1, 2016. This reprogramming ensures that DOH will be able to make a programmatic decision to correctly align the budget with agency initiatives.

RECEIVED: 14 day review begins December 2, 2016

**Reprog. 21-267:** Request to reprogram \$774,872 of Fiscal Year 2017 Local funds budget authority from the Metropolitan Police Department (MPD) to the Fire and Emergency Medical Services Department (FEMS) was filed in the Office of the Secretary on December 1, 2016. This reprogramming is needed to support cancer treatment costs related to the Fire and Emergency Medical Services Presumptive Disability Amendment Act of 2012.

RECEIVED: 14 day review begins December 5, 2016

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 9, 2016
Protest Petition Deadline: January 23, 2017
Roll Call Hearing Date: February 6, 2017
Protest Hearing Date: April 5, 2017

License No.: ABRA-104710
Licensee: Kiss, LLC
Trade Name: Kiss Tavern
License Class: Retailer's Class "C" Tavern
Address: 637 T Street, N.W.
Contact: Jeff Jackson: (202) 251-1566

WARD 1 ANC 1B SMD 1B01

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 Roll Call Hearing date on February 6, 2017 at 10 a.m., 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 April 5, 2017 at 1:30 p.m.

NATURE OF OPERATION

A tavern with a Total Occupancy Load of 99 seats. The Sidewalk Café will have a total of 24 seats.

HOURS OF OPERATION INSIDE PREMISES

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

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION INSIDE PREMISES

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

HOURS OF LIVE ENTERTAINMENT INSIDE PREMISES

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

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

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 9, 2016
Protest Petition Deadline: January 23, 2017
Roll Call Hearing Date: February 6, 2017
Protest Hearing Date: April 5, 2017

License No.: ABRA-104754
Licensee: Letena Ethiopian Restaurant, LLC
Trade Name: Letena
License Class: Retailer's Class "D" Restaurant
Address: 3100 14th Street, N.W., Unit 121
Contact: Bona Tilahun: (202) 733- 4830

WARD 1

ANC 1A

SMD 1A05

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 Roll Call Hearing date on February 6, 2017 at 10 a.m., 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 April 5, 2017 at 4:30 p.m.

NATURE OF OPERATION

New class "D" restaurant serving Ethiopian food with 60 seats a Total Occupancy Load of 60.

HOURS OF OPERATION

Sunday through Saturday 7 am - 9 pm

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Saturday 10 am - 9 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
12/9/2016

Notice is hereby given that:

License Number: ABRA-091418

License Class/Type: C Tavern

Applicant: Mockingbird Hill, LLC

Trade Name: Mockingbird Hill

ANC: 1B01

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

**1843 7TH ST NW, WASHINGTON, DC 20001**

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

**1/23/2017**

A HEARING WILL BE HELD ON:

**2/6/2017**

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:	8 am - 2 am	10 am - 2 am	-
Monday:	8 am - 2 am	10 am - 2 am	-
Tuesday:	8 am - 2 am	10 am - 2 am	-
Wednesday:	8 am - 2 am	10 am - 2 am	-
Thursday:	8 am - 2 am	10 am - 2 am	-
Friday:	8 am - 3 am	10 am - 3 am	-
Saturday:	8 am - 3 am	10 am - 3 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/21/2016

**\*\*RESCIND**

Notice is hereby given that:

License Number: ABRA-001200

License Class/Type: C Tavern

Applicant: Allen J. Carroll

Trade Name: Phase I

ANC: 6B03

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

**525 8TH ST SE, Washington, DC 20003**

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

**12/05/2016**

A HEARING WILL BE HELD ON:

**12/19/2016**

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

ENDORSEMENT(S): Cover Charge Dancing Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	7 pm - 2 am	7 pm - 2 am	7 pm - 2 am
Monday:	7 pm - 2 am	7 pm - 2 am	7 pm - 2 am
Tuesday:	7 pm - 2 am	7 pm - 2 am	7 pm - 2 am
Wednesday:	7 pm - 2 am	7 pm - 2 am	7 pm - 2 am
Thursday:	7 pm - 2 am	7 pm - 2 am	7 pm - 2 am
Friday:	7 pm - 3 am	7 pm - 3 am	7 pm - 3 am
Saturday:	7 pm - 3 am	7 pm - 3 am	7 pm - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 9, 2016
Protest Petition Deadline: January 23, 2017
Roll Call Hearing Date: February 6, 2017

License No.: ABRA-098173
Licensee: Proust Partners Limited Company
Trade Name: Wunder Garten
License Class: Retailer's Class "D" Tavern
Address: 131 M Street, N.E.
Contact: Christopher Lynch: (917) 620-9330

WARD 6 ANC 6C SMD 6C06

Notice is hereby given that this licensee has requested a Substantial Change to their 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 Roll Call Hearing date on February 6, 2017 at 10 a.m., 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 requests a Class Change from a Retailer "D" Tavern to a Retailer "C" Tavern.

HOURS OF OPERATION, ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION AND LIVE ENTERTAINMENT

Sunday 12:00 pm - 10:00 pm, Monday through Thursday 4:00 pm - 10:00 pm, Friday and Saturday 12:00 pm - 12:00 am

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF FOR-HIRE VEHICLES**

**NOTICE OF PUBLIC HEARING**

**Proposed Amendments to  
Title 31 (Taxicabs and Public Vehicles for Hire)  
of the District of Columbia Municipal Regulations -  
Title 31 Revision**

**Wednesday, December 14, 2016  
10:00 AM**

The Department of For-Hire Vehicles (“DFHV”) has scheduled a Public Hearing at 10:00 am on Wednesday, December 14, 2016 at 2235 Shannon Place, SE, Washington, DC 20020, inside the Hearing Room, Suite 2032 regarding the proposed rulemaking to amend Title 31 of the District of Columbia Municipal Regulations – Title 31 Revision.

Those interested in speaking at the hearing should register by calling 202-645-6002 not later than Tuesday, December 13, 2016 at 4:00 pm. Testimony will be limited to the specific subject matter of this public hearing. Each participant will be allotted up to five (5) minutes to present. Participants must submit ten (10) copies of his or her written testimony to the Secretary of the Department, Department of For-Hire Vehicles, 2235 Shannon Place SE, Suite 3001, Washington, D.C. 20020, in advance of the hearing. All speakers should be prepared to answer questions that may be posed by the Department during the hearing.

The proposed rulemaking is available on the DFHV website at [www.dfhv.dc.gov](http://www.dfhv.dc.gov) or by contacting the Secretary to the Department, Juanda Mixon, at 202-645-6002. This public hearing is for the purpose of gaining advance public and industry feedback on the proposed rules, and is not for seeking comments under the Administrative Procedures Act (D.C. Code § 2-501 *et seq.*).

The public hearing will take place at the following time and location:

**WEDNESDAY, DECEMBER 14, 2016 AT 10:00 AM**

**2235 SHANNON PLACE, S.E.  
WASHINGTON, DC 20020  
HEARING ROOM, SUITE 2032**



**BOARD OF ZONING ADJUSTMENT  
PUBLIC HEARING NOTICE  
WEDNESDAY, FEBRUARY 1, 2017  
441 4<sup>TH</sup> 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 EIGHT**

19413  
ANC-8A      **Application of Chughtai Family Properties LLC**, pursuant to 11 DCMR Subtitle X, Chapter 10, for variances from the lot area and width requirements of Subtitle D § 302.1, and the side yard requirements of Subtitle D § 307.2, to permit the subdivision of two lots and construct four new one-family dwellings in the R-3 Zone at premises on Maple View Place S.E. (Square 5803, Lots 976 and 977).

**WARD FOUR**

19416  
ANC-4C      **Application of Robert Edwards**, pursuant to 11 DCMR Subtitle X, Chapters 9 and 10, for a special exception under the RF-use requirements of Subtitle U § 320.2, and a variance from the lot dimension requirements of Subtitle E § 201.4, to convert an existing one-family dwelling into a three-unit apartment house in the RF-1 Zone at premises 1412 Shepherd Street N.W. (Square 2693, Lot 23).

**WARD ONE**

19417  
ANC-1A      **Application of A3 Development, LLC**, pursuant to 11 DCMR Subtitle X, Chapters 9 and 10, for a special exception under the RF-use requirements of Subtitle U § 320.2, and a variance from the height and number of stories requirements of Subtitle E § 303.1, to convert an existing flat into a three-unit apartment house in the RF-1 Zone at premises 1219 Park Road N.W. (Square 2839, Lot 122).

**WARD FOUR**

19418  
ANC-4C      **Application of 319 Varnum LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the RF-use requirements of Subtitle U § 320.2, to convert an existing one-family dwelling into a three-unit apartment house in the RF-1 Zone at premises located at 319 Varnum Street N.W. (Square 3310, Lot 47).

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**WARD TWO**

19422            **Application of IMA PIZZA STORE 17, LLC**, pursuant to 11 DCMR  
ANC-2E           Subtitle X, Chapter 9, for a special exception under the penthouse requirements  
of Subtitle C § 1504.1, to allow the installation and full screening of rooftop  
mechanical equipment in the MU-4 Zone at premises located at 1335 Wisconsin  
Avenue N.W. (Square 1232, Lot 69).

**WARD ONE**

19424            **Application of Young Soo Kim**, pursuant to 11 DCMR Subtitle X, Chapter 9,  
ANC-1A           for a special exception under Subtitle E § 5201, from 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 third-story addition to an existing one-family dwelling in the RF-1  
Zone at premises 1500 Ogden Street N.W. (Square 2686, Lot 810).

**PLEASE NOTE:**

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

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

Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. **Persons seeking party status shall file with the Board, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application Form.**\* This form may be obtained from the Office of Zoning at the address stated below or downloaded from the Office of Zoning's website at: [www.dcoz.dc.gov](http://www.dcoz.dc.gov). All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4<sup>th</sup> 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.*

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**Do you need assistance to participate?**

Amharic

ለመከተል ዕርዳታ ያስፈልግዎታል?

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

ካስፈለገዎት እባክዎን ከስብሰባ ወላጆች ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-

0312 ወይም በኢሜል [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) ይገናኙ። እነዚህ 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](mailto: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](mailto: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](mailto: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](mailto:Zelalem.Hill@dc.gov) cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.

Vietnamese

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

Nếu quý vị cần thu xếp đặc biệt 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](mailto:Zelalem.Hill@dc.gov) trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

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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**

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

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

**FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:**

**CASE NO. 10-21A (V Street SW, LLC – Modification of Significance of Capital Gateway Approval @ Square 667S, Lots 4-6 and 804)**

**THIS CASE IS OF INTEREST TO ANC 6D**

On November 8, 2016, the Office of Zoning received an application from V Street SW, LLC (“Applicant”). The Applicant is requesting review and approval of a Modification of Significance pursuant to 11-Z DCMR § 704 to the plans’ mixed-use (residential and retail) project approved in Z.C. Case No. 10-21. The original application was decided at the time when the property that is the subject of this application (“Subject Property”) was zoned in the Capitol Gateway Overlay District and was approved pursuant to former §§ 1603 and 1610 of Title 11 DCMR. Pursuant to Z.C. Order No. 08-06A, the Subject Property was rezoned to the Capital Gateway CG-5 Zone, a district in which medium-density mixed-use developments, generally in the vicinity of the waterfront, are permitted as a matter-of-right but are subject to design review approval by the Zoning Commission pursuant to the Capitol Gateway Zone provisions set forth in Subtitle K, Chapter 5.

The Subject Property consists of approximately 19,287 square feet of land area and is located at 2100 1<sup>st</sup> Street, S.W. (Square 667S, Lots 4-6 and 804). The property is bounded to the east by Half Street, S.W., to the south by the Anacostia River, to the west by 1<sup>st</sup> Street, S.W., and to the north by V Street, S.W.

This public hearing will be conducted in accordance with the contested case provisions of the Zoning Regulations, 11 DCMR Subtitle Z, Chapter 4.

**How to participate as a witness.**

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

**How to participate as a party.**

Any person who desires to participate as a party in this case must so request and must comply with the provisions of Subtitle Z § 404.1.

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

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

Subtitle Z § 406.2 provides that the written report of an affected ANC shall be given great weight if received at any time prior to the date of a Commission meeting to consider final action, including any continuation thereof on the application, and sets forth the information that the report must contain. Pursuant to Subtitle Z § 406.3, if an ANC wishes to participate in the hearing, it must file a written report at least seven days in advance of the public hearing and provide the name of the person who is authorized by the ANC to represent it at the hearing.

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

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

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

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

Written statements, in lieu of oral testimony, may be submitted for inclusion in the record. The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at <https://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4<sup>th</sup> Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to [zcsubmissions@dc.gov](mailto:zcsubmissions@dc.gov); or by fax to (202) 727-6072. Please include the case number on your submission.

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

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

**Do you need assistance to participate?** If you need special accommodations or need language assistance services (translation or interpretation), please contact Zee Hill at (202) 727-0312 or [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) five days in advance of the meeting. These services will be provided free of charge.

**¿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](mailto:Zelalem.Hill@dc.gov) cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.

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**참여하시는데 도움이 필요하세요?** 특별한 편의를 제공해 드려야 하거나, 언어 지원 서비스(번역 또는 통역)가 필요하시면, 회의 5일 전에 Zee Hill 씨께 (202) 727-0312 로 전화 하시거나 [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) 로 이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

**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](mailto:Zelalem.Hill@dc.gov) 这些是免费提供的服务。

**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](mailto:Zelalem.Hill@dc.gov) trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

**ለመከተል ዕርዳታ ያስፈልግዎታል?** የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጓሚ) ካስፈለገዎት እባክዎን ከስተርጓሚ አገልግሎት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) ይገናኙ። እነዚህ አገልግሎቶች የሚሰጡ በነጻ ነው።

**DEPARTMENT OF ENERGY AND ENVIRONMENT****NOTICE OF FINAL RULEMAKING****Motor Vehicle and Mobile Equipment  
Non-Assembly Line Coating Operations Regulations**

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.* (2012 Repl.)); Sections 5 and 6 of the District of Columbia Air Pollution Control Act of 1984, effective March 15, 1985 (D.C. Law 5-165; D.C. Official Code §§ 8-101.05 and 8-101.06 (2013 Repl. & 2016 Supp.)); and Mayor's Order 2006-61, dated June 14, 2006, hereby gives notice of the adoption of the following amendments to Chapter 7 (Air Quality – Volatile Organic Compounds and Hazardous Air Pollutants) of Title 20 (Environment) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking establishes higher emission standards for automobile paint spray booth operations. Specifically, the rulemaking sets automotive coating and cleaning solvent volatile organic compound (VOC) limits, mandates the use of certain automotive coating application methods, prescribes work practices and other requirements to reduce emissions, includes stack requirements for new and existing automobile paint spray booths, requires manufacturers and repackagers to include certain information on product data sheets and containers of automotive coating and cleaning solvents, prescribes recordkeeping requirements for those who use particular automotive coating and cleaning solvents and related emission control systems, and details the test methods to determine compliance with various limits and standards. This rulemaking also amends and adds applicable definitions and revises cross references to this section.

The Department published a Notice of Emergency and Proposed Rulemaking in the *D.C. Register* on March 11, 2016, at 63 DCR 3792. The comment period ended on April 11, 2016, and one comment was received. The comment and the Department's response is available at <http://doee.dc.gov>. In response to comments and in order to reduce the administrative burden of these final rules, the Department extended the period to comply with provisions related to VOC content requirements for automotive coatings and cleaning solvents in Subsection 718.5.

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

These rules were adopted as final on December 1, 2016, and will become effective upon publication of this notice in the *D.C. Register*.



**Chapter 7, AIR QUALITY – VOLATILE ORGANIC COMPOUNDS AND HAZARDOUS AIR POLLUTANTS, of Title 20 DCMR, ENVIRONMENT, is amended as follows:**

**Section 714, CONTROL TECHNIQUE GUIDELINES (CTGs), is amended as follows:**

**By amending the text in subparagraph § 714.3(a)(1) to read as follows:**

- (1) VOC emissions addressed by § 718 (Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations), to the extent the coatings are used to repair and refinish mobile equipment components; and

**Section 718, MOBILE EQUIPMENT REPAIR AND REFINISHING, is repealed in its entirety and amended to read as follows:**

**718            MOTOR VEHICLE AND MOBILE EQUIPMENT NON-ASSEMBLY LINE COATING OPERATIONS**

718.1            This section applies to any person or automotive refinishing facility that sells, supplies, offers for sale, distributes, manufactures, blends, or repackages for sale an automotive coating or associated cleaning solvent for use within the District of Columbia, as well as any person or automotive refinishing facility that uses, applies, or solicits the use or application of an automotive coating or associated cleaning solvent within the District, except as provided in § 718.2.

718.2            This section does not apply to:

- (a) An automotive coating or associated cleaning solvent that is offered for sale, supplied, sold, distributed, blended, repackaged for sale, or manufactured for use outside of the District, except for § 718.26 (relating to recordkeeping);
- (b) An automotive coating or associated cleaning solvent that is shipped to other manufacturers for reformulation or repackaging;
- (c) A nonrefillable aerosol coating product;
- (d) An automotive coating that is sold, supplied, or offered for sale in one half (0.5) fluid ounce or smaller containers intended to be used by the general public for automotive touch-up or repair for small surface imperfections;
- (e) A coating applied to motor vehicles or mobile equipment or their associated parts and components during original equipment manufacture on an assembly line;

- (f) An automotive coating applied to motor vehicles or mobile equipment or their associated parts and components in a non-commercial automotive refinishing facility by a person who does not receive compensation for the application of the coating; or
- (g) A locally prepared mix of solvent and some amount of film forming solids solely used to blend in spot repairs made to a discrete body panel, except that the application of cleaning solvent to a spot repair is not exempted.

718.3 Unless the automotive coating has a VOC regulatory content calculated in accordance with § 718.6(a) that meets or is below the VOC content limits of Table I, a person may not supply, sell, offer for sale, distribute, manufacture, blend, or repackage for sale an automotive coating for use in the District, nor may a person use or apply an automotive coating to a motor vehicle, mobile equipment, or associated parts and components.

**Table I. Allowable VOC Content in Automotive Coatings for Motor Vehicle and Mobile Equipment Non-Assembly Line Refinishing and Recoating**

Coating Category	VOC Regulatory Limit As Applied*	
	(Pounds per gallon)	(Grams per liter)
Adhesion promoter	4.5	540
Automotive pretreatment coating	5.5	660
Automotive primer	2.1	250
Clear coating	2.1	250
Color coating, including metallic/iridescent color coating	3.5	420
Multicolor coating	5.7	680
Other automotive coating type	2.1	250
Single-stage coating, including single-stage metallic/iridescent coating	2.8	340
Temporary protective coating	0.50	60
Truck bed liner coating	1.7	200
Underbody coating	3.6	430
Uniform finish coating	4.5	540

\*VOC regulatory limit as applied = Weight of VOC per Volume of Coating (prepared to manufacturer’s recommended maximum VOC content, minus water and non-VOC solvents)

718.4 Each cleaning solvent present at an automotive refinishing facility or non-assembly line automotive coating operation shall not exceed a VOC content of twenty-five (25) grams per liter (twenty-one one-hundredths (0.21) pound per gallon), calculated in accordance with the requirements of § 718.6(c), except for:

- (a) Cleaning solvent used as bug and tar remover if the VOC content of the cleaning solvent does not exceed three hundred fifty (350) grams per liter

(two and nine-tenths (2.9) pounds per gallon), where usage of cleaning solvent used as bug and tar remover is limited as follows:

- (1) Twenty (20) gallons in any consecutive twelve-month (12) period for an automotive refinishing facility and operations with four hundred (400) gallons or more of coating usage during the preceding twelve (12) calendar months;
  - (2) Fifteen (15) gallons in any consecutive twelve-month (12) period for an automotive refinishing facility and operations with one hundred fifty (150) gallons or more of coating usage during the preceding twelve (12) calendar months; or
  - (3) Ten (10) gallons in any consecutive twelve-month (12) period for an automotive refinishing facility and operations with less than one hundred fifty (150) gallons of coating usage during the preceding twelve (12) calendar months;
- (b) Cleaning solvents used to clean plastic parts just prior to coating or VOC-containing materials for the removal of wax and grease provided that non-aerosol, hand-held spray bottles are used with a maximum cleaning solvent VOC content of seven hundred eighty (780) grams per liter and the total volume of the cleaning solvent does not exceed twenty (20) gallons per consecutive twelve-month (12) period per automotive refinishing facility;
  - (c) Aerosol cleaning solvents if one hundred sixty (160) ounces or less are used per day per automotive refinishing facility; or
  - (d) Cleaning solvent with a VOC content no greater than three hundred fifty (350) grams per liter may be used at a volume equal to two-and-one-half percent (2.5%) of the preceding calendar year's annual coating usage up to a maximum of fifteen (15) gallons per calendar year of cleaning solvent.

718.5 An automotive refinishing facility in operation as of February 9, 2016, may, for three (3) calendar months after December 1, 2016:

- (a) As an alternative to § 718.3, use an automotive coating with a VOC regulatory content calculated in accordance with § 718.6(a) that contains VOCs at or below the limits specified in Table II; and

**Table II. Alternative Allowable Content of VOCs in Automotive Coatings for Motor Vehicle and Mobile Equipment Non-Assembly Line Refinishing and Recoating**

Coating Category	VOC Regulatory Limit As Applied*	
	(Pounds per gallon)	(Grams per liter)

Automotive pretreatment primer	6.5	780
Automotive primer-surfacer	4.8	575
Automotive primer-sealer	4.6	550
Single stage-topcoat	5.0	600
2 stage basecoat/clearcoat	5.0	600
3 or 4-stage basecoat/clearcoat	5.2	625
Automotive multicolored topcoat	5.7	680
Automotive specialty coating	7.0	840

\*VOC regulatory limit as applied = Weight of VOC per Volume of Coating (prepared to manufacturer’s recommended maximum VOC content, minus water and non-VOC solvents)

- (b) As an alternative to § 718.4, use the cleaning solvents already purchased and in use at the automotive refinishing facility as of February 9, 2016.

718.6

The VOC content of an automotive coating, automotive coating component, or cleaning solvent subject to this section shall be calculated in accordance with the following, where:

VOC = VOC content in grams per liter

Wv = Weight of total volatiles, in grams;

Ww = Weight of water, in grams;

Wec = Weight of exempt compounds, in grams;

Vm = Volume of material (coating or cleaning solvent, as applicable, including water, exempt compounds, and added solvent), in liters;

Vw = Volume of water, in liters; and

Vec = Volume of exempt compounds, in liters; and

To convert from grams per liter to pounds per gallon multiply the result (VOC regulatory content) by  $8.345 \times 10^{-3}$  (pounds per gallon/grams per liter).

- (a) For VOC regulatory content for coatings, the weight of VOC per volume of coating, less water and exempt compounds, shall be calculated by the following equation:

$$\text{VOC regulatory content} = \frac{(Wv - Ww - Wec)}{(Vm - Vw - Vec)}$$

- (b) For VOC actual content for coatings, the weight of VOC per volume of material, including the volume of water, exempt compounds and VOC solvent, shall be calculated by the following equation:

$$\begin{array}{l} \text{VOC} \\ \text{actual} \\ \text{content} \end{array} = \frac{(W_v - W_w - W_{ec})}{V_m}$$

- (c) For VOC content for cleaning solvents, the weight of VOC per volume of material shall be calculated by the following equation:

$$\begin{array}{l} \text{VOC} \\ \text{content} \end{array} = \frac{(W_v - W_w - W_{ec})}{V_m}$$

718.7 To determine the physical properties of a coating to perform the calculations in § 718.6, the coating shall be analyzed in accordance with the methods specified in § 718.28 (relating to coating analysis).

718.8 If on the container of an automotive coating, or a label or sticker affixed to the container, or in sales, advertising, technical, or product literature, a representation is made that indicates that the coating meets the definition of or is recommended for use for more than one (1) of the coating categories listed in § 718.3 (relating to coating VOC content limits), then the lowest applicable VOC content limit shall apply.

718.9 A person may not possess either of the following at a non-assembly line motor vehicle or mobile equipment coating operation:

- (a) An automotive coating that is not in compliance with § 718.3 (relating to coating VOC content limits); and
- (b) A cleaning solvent that does not meet the requirements of § 718.4 (relating to cleaning solvent VOC content limits).

718.10 A person may not solicit or require the use of, or specify the application or use of, a coating, solvent, or cleaning solvent on a motor vehicle or motor equipment, or associated parts and components, if the use or application results in a violation of this section.

718.11 A person may not apply an automotive coating to a motor vehicle, mobile equipment, or associated parts and components, unless one (1) or more of the following application methods is used:

- (a) Flow/curtain coating;
- (b) Dip coating;

- (c) Roller coating;
- (d) Brush coating;
- (e) Cotton-tipped swab application;
- (f) Spray-applied coatings limited to:
  - (1) High-volume low-pressure (HVLP) spraying;
  - (2) Electrostatic application;
  - (3) Airless spray; and
  - (4) Air-assisted airless spray;
- (g) An alternative spray equipment coating application method, which the person has demonstrated to the Department, achieving a transfer efficiency equivalent to, or higher than, HVLP or electrostatic spray application methods, using the spray equipment transfer methods under § 718.32 and 718.33. A demonstration shall include:
  - (1) The manufacturer's published technical material on the design of the spray equipment;
  - (2) The operation of the spray equipment using an air pressure tip gauge from the manufacturer of the spray equipment;
  - (3) The report of the demonstration shall be submitted to the Department in writing; and
  - (4) The Department shall approve the use of the alternative spray equipment technology in writing; or
- (h) An alternative coating application method that has been approved by the California Air Resources Board (CARB) or a California Air District for use in applying non-assembly line automotive coatings for motor vehicle and mobile equipment operations, which shall also meet the standards in § 718.14 (relating to alternative application technology or method demonstrations).

718.12 The application requirements of § 718.11 (relating to coating application methods) do not apply to the following:

- (a) Graphic arts operations;

- (b) A coating use of less than one (1) fluid ounce (twenty-nine and six tenths (29.6) milliliters);
- (c) The application of underbody coatings; and
- (d) The application of truck bed liner coatings.

718.13 If a spray equipment coating application technology is used, the end user shall demonstrate that the equipment meets one of the following:

- (a) The definition of HVLP in § 799 in design and use, where a satisfactory demonstration shall comply with (b) or be based on:
  - (1) The manufacturer's published technical material on the design of the equipment; and
  - (2) A demonstration of the operation of the equipment using an air pressure cap test gauge from the manufacturer of the equipment; or
- (b) The alternative spray coating application method transfer efficiency requirement of § 718.11(g), where a satisfactory demonstration shall include the following:
  - (1) Written determination of the transfer efficiency in accordance with the test methods in § 718.32 and § 718.33 (relating to spray equipment transfer efficiency and spray equipment HVLP equivalency); and
  - (2) Written documentation that the alternative spray coating application method has been approved by the Department for use in the District.

718.14 If an alternative spray or non-spray coating application technology or method is used, pursuant to § 718.11(h), the end user shall demonstrate the following:

- (a) The approval is currently in effect in the issuing California Air District; and
- (b) The manufacturer of the alternative coating application technology or method has submitted to the Department all of the following:
  - (1) A statement that it intends to comply with this section under an alternative coating application technology or method approval;

- (2) A copy of the documents submitted to the California Air Resources Board (CARB) or California Air District for approval of the alternative coating application technology or method;
- (3) A copy of the approval documentation issued by CARB or California Air District;
- (4) A copy of the conditions of approval issued by CARB or California Air District; and
- (5) A copy of documents that subsequently modify or terminate its conditions of approval issued by CARB or California Air District.

718.15 Spray guns used to apply automotive coating components or automotive coatings shall be cleaned by one (1) or a combination of the following:

- (a) A fully enclosed spray gun cleaning system that is kept closed when not in use, where the active and passive solvent losses from the use of the system shall be determined in accordance with the requirements of § 718.34 (related to active and passive solvent loss determinations for spray gun cleaning systems);
- (b) An unatomized discharge of cleaning solvent into a paint waste container that is kept closed when not in use; or
- (c) Disassembly of the spray gun and cleaning in a vat that is kept closed when not in use.

718.16 The owner and operator of an automotive refinishing facility or non-assembly line coating operation shall ensure that:

- (a) Fresh and used automotive coating components, automotive coatings, solvents, and cleaning solvents are stored in vapor-tight, nonabsorbent, nonleaking containers that are kept closed at all times except when filling or emptying;
- (b) Cloth and paper, or other absorbent applicators, moistened with automotive coating components, automotive coatings, solvents, or cleaning solvents are stored in vapor-tight, nonabsorbent, nonleaking containers that are kept closed at all times except when filling or emptying;
- (c) Handling and transfer procedures minimize spills during the transfer of automotive coating components, automotive coatings, solvents, and cleaning solvents;



- (d) A person who uses or applies automotive coating components, automotive coatings, solvents, or cleaning solvents is trained in the proper use and handling of the automotive coating components, automotive coatings, solvents, cleaning solvents, and waste products in order to minimize the emission of air contaminants and to comply with this section; and
- (e) Ensure that all training is in compliance with the requirements of 40 C.F.R. §§ 63.11173(e)-(g), which is adopted in § 1409.

718.17 The owner and operator of an automotive refinishing facility shall:

- (a) Close all paint spray booth openings while a coating is applied, during the time period required for drying of the coating, and while any other operation may release emissions;
- (b) Comply with the paint spray booth and particulate filter design requirements of 40 C.F.R. § 63.11173(e)(2), which is adopted in § 1409;
- (c) Maintain a negative pressure sufficient to ensure that no emissions are exiting the booth anywhere except the exhaust stack; and
- (d) Maintain in good working order and operate according to manufacturer specifications the monitoring, exhaust, and control systems within the paint spray booth.

718.18 If an automotive refinishing facility is found to be in violation of a provision of 20 DCMR Ch. 1-15, the Department may require the installation of additional emission controls or curtailment of operations until compliance is demonstrated.

718.19 The owner and operator of an automotive refinishing facility that installs or constructs an automotive paint spray booth after February 9, 2016, shall ensure that all emissions from the application of automotive coatings for motor vehicle and mobile equipment be exhausted through a stack that meets all of the following requirements:

- (a) Discharges at least fifteen (15) feet above grade;
- (b) Discharges at least five (5) feet above the roof peak;
- (c) Discharges vertically upward above the roof peak;
- (d) Discharges at a height and exhaust velocity sufficient to avoid the exhaust being circulated adjacent to the building due to building downwash effects or drawn into nearby building intakes so as to ensure compliance with §§ 201 and 903; and

- (e) Not equipped with anything that would impede the upward discharge of the exhaust air, such as rain caps. Other techniques may be installed to prevent snow and ice from entering the exhaust system, such as butterfly caps or stack sleeves.

718.20 The owner and operator of an automotive refinishing facility in operation as of February 9, 2016, shall have six (6) months from that date to meet the requirements of § 718.19 (relating to exhaust stacks).

718.21 Manufacturers and repackagers of automotive coatings or associated cleaning solvents shall include the following information on a product data sheet or other data sheet:

- (a) For each automotive coating or automotive coating component:
  - (1) The VOC actual content and VOC regulatory content, as supplied, for the coating product or coating component product, expressed in grams per liter, calculated in accordance with the requirements of § 718.6(a) and (b) (relating to calculation of VOC content);
  - (2) The weight percent of volatiles, water, and exempt compounds;
  - (3) The volume percent of water and exempt compounds; and
  - (4) The density of the material (in grams per liter).
- (b) For each ready-to-spray or ready-to-apply mixture (based on the manufacturer's and repackager's stated mix ratio):
  - (1) The VOC actual content and the VOC regulatory content, as applied, for the coating product or coating component product, expressed in grams per liter;
  - (2) The weight percent of volatiles, water, and exempt compounds;
  - (3) The volume percent of water and exempt compounds; and
  - (4) The density of the material (in grams per liter).
- (c) For cleaning solvents subject to this section, the VOC content of the cleaning solvents as supplied, calculated in accordance with the requirements of § 718.6(c) (relating to cleaning solvent VOC contentment calculation), expressed in grams per liter.

718.22 Manufacturers and repackagers shall include, on all containers or on a label affixed to the container of:

- (a) Automotive coatings or automotive coating components:
  - (1) The applicable use category or categories;
  - (2) The VOC actual content of the coating or coating component, as supplied, calculated in accordance with the requirements of § 718.6(b) (relating to coating VOC actual content calculations) and expressed in grams per liter; and
  - (3) The VOC regulatory content of the coating or coating component as supplied, calculated in accordance with the requirements § 718.6(a) (related to coating VOC regulatory content calculations) and expressed in grams per liter;
- (b) Cleaning solvents subject to this section: the VOC content as supplied, calculated in accordance with the requirements of § 718.6(c) (relating to cleaning solvent VOC content calculation) and expressed in grams per liter.

718.23 Any records required to be maintained by this section shall be:

- (a) Retained for a minimum of five (5) years; and
- (b) Made available for inspection by the Department upon request.

718.24 A person who uses automotive coatings, automotive coating components, ready-to-spray coatings (based on the manufacturer's stated mix ratio), or cleaning solvents subject to this section shall maintain and have available at all times at the automotive refinishing facility:

- (a) A list of all coatings, coating components, and cleaning solvents used at the automotive refinishing facility, including:
  - (1) Whether the material is a coating, coating component, or cleaning solvent;
  - (2) Coating, coating component, or cleaning solvent name and manufacturer;
  - (3) Application method;
  - (4) Coating type as listed in § 718.3 (relating to coating VOC content limits);

- (5) The mix ratio specific to the coating or coating component; and
  - (6) The VOC actual content and VOC regulatory content, as applied, for each ready to spray or ready to apply coating or cleaning solvent and copies of data sheets documenting how as applied values were determined.
- (b) The VOC actual and VOC regulatory content as supplied and copies of product data sheets, material safety data sheets, or other data sheets documenting the as supplied value; and
  - (c) Purchase records identifying the following:
    - (1) The coating type (as listed in Table I);
    - (2) The name of the coating, coating component, or cleaning solvent; and
    - (3) The volume purchased of the coating, coating component, or cleaning solvent.

718.25 A person who installs an emission control system pursuant to § 718.18 shall maintain records including:

- (a) Records of system operating parameters, such as temperatures, pressure drops, and air flow rates, which demonstrate compliance with § 718.18 and continuous operation and compliance of the emission control system during periods of VOC emission producing activities;
- (b) Records of any maintenance and repair activities performed;
- (c) Records of malfunctions and shutdown periods for the control systems, including the time period of shutdown, reason for shutdown, and corrective actions taken; and
- (d) Any additional records required by a permit issued pursuant to this title.

718.26 A person claiming the exception specified in § 718.2(a) shall keep a detailed log of each automotive coating and automotive coating component manufactured, blended, repackaged for sale, supplied, sold, offered for sale, or distributed. The detailed log shall include the following information:

- (a) The quantity manufactured, blended, repackaged for sale, supplied, sold, offered for sale, or distributed, including size and number of containers;

- (b) The VOC actual content and the VOC regulatory content for the coating or coating component; and
- (c) To whom they were supplied, sold, or distributed, or for whom they were manufactured, blended, or repackaged for sale including the name, address, and phone number.

718.27 To determine compliance with this section, the test methods in subsections § 718.28 through 718.36 shall be used.

718.28 To determine compliance with this section, the test method for coating analysis shall be as follows:

- (a) To perform the calculations specified in § 718.6 (related to calculation of VOC content), the physical properties of automotive coatings, automotive coating components, and cleaning solvents subject to this section shall be determined using the most recent version of one of the following:
  - (1) EPA Reference Method 24, *Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings*, 40 CFR Part 60, Appendix A;
  - (2) SCAQMD Method 304-91, *Determination of Volatile Organic Compounds (VOC) in Various Materials*; or
  - (3) An alternative method, formulation data, or other reasonable means for predicting that the coating has been formulated as intended, if approved in writing by the Department.
- (b) If there are inconsistencies between the results of an EPA Reference Method 24 test and another means for determining the physical properties of the coating and subsequent VOC content, the EPA Reference Method 24 test results shall govern, except when an alternative method is approved as specified in § 718.28(a)(3).

718.29 The identity and concentration of exempt organic compounds shall be determined using the most recent version of one (1) or more of the following:

- (a) ASTM D6133, *Standard Test Method for Acetone, p-Chlorobenzotrifluoride, Methyl Acetate or t-Butyl Acetate Content of Solventborne and Waterborne Paints, Coatings, Resins, and Raw Materials by Direct Injection Into a Gas Chromatograph*;
- (b) ASTM D4457, *Standard Test Method for Determination of Dichloromethane and 1,1,1-Trichloroethane in Paints and Coatings by Direct Injection into a Gas Chromatograph*;

- (c) CARB Method 432, *Determination of Dichloromethane and 1,1,1-Trichloroethane in Paints and Coatings*;
- (d) CARB Method 422, *Determination of Volatile Organic Compounds in Emissions from Stationary Sources*; or
- (e) SCAQMD Method 303, *Determination of Exempt Compounds*.

718.30 Measurement of acid content in automotive pretreatment coating, as specified in § 799 (defining automotive pretreatment coatings), shall be determined by using the most recent version of ASTM D1613, *Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer, and Related Products*.

718.31 The metallic content of a metallic or iridescent color coating, as specified in § 799 (defining metallic/iridescent color coating), shall be determined by the most recent version of SCAQMD Method 318, *Determination of Weight Percent Elemental Metal in Coatings by X-ray*.

718.32 Spray equipment transfer efficiency, as specified in § 799 and § 718.11(g) (defining and relating to coating application methods, respectively), shall be determined by using the most recent version of the SCAQMD Test Procedure, *Spray Equipment Transfer Efficiency Test Procedure for Equipment User*.

718.33 Spray equipment HVLP equivalency, as specified in § 718.13 (relating to the use of a spray gun), shall be determined by using the most recent version of one of the following:

- (a) SCAQMD Guidelines, *Guidelines for Demonstrating Equivalency with District Approved Transfer Efficient Spray Guns*; or
- (b) The Environmental Technology Verification ETV Protocol, *HVLP Coating Equipment, Generic Testing and Quality Assurance Protocol*, prepared by the National Defense Center for Environmental Excellence, operated by Concurrent Technologies Corporation.

718.34 The active and passive solvent losses from the use of an enclosed spray gun cleaning system or equivalent cleaning system, as specified in § 718.15(a) (relating to spray gun cleaning systems), shall be determined using the most recent version of SCAQMD Method, *General Test Method for Determining Solvent Losses from Spray Gun Cleaning Systems*.

- (a) The test solvent for this determination shall be a lacquer thinner with a minimum vapor pressure of one hundred five millimeters (105 mm) of mercury at twenty degrees Celsius (20°C); and

- (b) The minimum test temperature shall be fifteen degrees Celsius (15°C).

718.35 If an emission control system is required by § 718.18, the owner or operator shall make the following determinations, if required by the Department:

- (a) The measurement of capture efficiency shall be conducted and reported in accordance with one or both of the following, as applicable:
- (1) EPA Technical Document, *Guidelines for Determining Capture Efficiency*; or
  - (2) 40 C.F.R. Part 51, Appendix M, Methods 204 –204f; and
- (b) The control efficiency shall be determined in accordance with the most recent version of one or more of the following:
- (1) EPA Reference Method 25, *Determination of Total Gaseous Nonmethane Organic Emissions as Carbon*, 40 C.F.R. Part 60, Appendix A;
  - (2) EPA Reference Method 25A, *Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer*, 40 C.F.R. Part 60, Appendix A; or
  - (3) EPA Reference Method 25B, *Determination of Total Gaseous Organic Concentration Using a Nondispersive Infrared Analyzer*, 40 C.F.R. Part 60, Appendix A.

718.36 The use of other test methods that are determined to be equivalent or better and approved, in writing, by the Department or the Administrator may be used in place of the test methods specified in this section.

**Section 799, DEFINITIONS, is amended as follows:**

**Subsection 799.1 is amended as follows:**

**The following definitions are amended to read as follows:**

**Aerosol coating product** – a pressurized coating product containing pigments or resins that dispenses product ingredients by means of a propellant and is packaged in a disposable can for hand-held application or for use in specialized equipment for ground traffic/marketing applications.

**Airless spray** - a coating technology that relies solely on the fluid pressure of the coating to create an atomized coating spray pattern and does not apply atomizing compressed air to the coating before it leaves the nozzle.

**Automotive multicolored topcoat** – a topcoat that exhibits more than one (1) color, is packaged in a single container, and camouflages surface defects on areas of heavy use, such as cargo beds and other surfaces of trucks and other utility vehicles.

**Automotive specialty coating** – coatings including but not limited to automotive elastomeric coatings, adhesion promoters, automotive low-gloss coatings, bright metal trim repair coatings, automotive jambing clearcoats, automotive impact-resistant coatings, rubberized asphaltic underbody coatings, uniform finish blenders, weld-through primers applied to automotive surfaces, and automotive lacquer topcoats applied to a classic motor vehicle or to an antique motor vehicle.

**Coating** – a material applied to a substrate for protective, decorative, or functional purposes, but does not include:

- (a) Decorative, protective, or functional materials that consist only of protective oils for metal, acids, bases, or a combination of these substances;
- (b) Paper film or plastic film that may be pre-coated with an adhesive by the film manufacturer;
- (c) Adhesives, sealants, maskants, or caulking materials;
- (d) Lubricants or surface preparation materials; or
- (e) In-mold coatings that are spray applied in the manufacture of reinforced plastic composite parts.

**Exempt compound** – a compound identified as exempt under the definition of volatile organic compound (VOC). Except as provided in §778.2, the exempt compounds content of a coating shall be determined by U.S. EPA Method 24 or South Coast Air Quality Management District (SCAQMD) Method 303-91, as revised.

**Flow coating** –

- (a) For the purposes of §§ 718 and 743 through 750, a non-atomized technique of applying coating to a substrate using a fluid nozzle in a fan pattern with no air supplied to the nozzle, where the application completely covers the surface; or



- (b) For the purposes of §§ 773 through 778, a coating labeled and formulated exclusively for use by electric power companies or their subcontractors to maintain the protective coating systems present on utility transformer units.

**High-volume low-pressure (HVLP) spray** – spray equipment permanently labeled HVLP that is designed and operated between one tenth of a pound (0.1 lb.) and ten pounds (10.0 lb.) per square inch gauge (psig) air atomizing pressure, measured dynamically at the center of the air cap and at the air horns.

**Mobile equipment** – equipment that may be drawn or driven or is capable of being drawn or driven on a roadway or rails, including but not limited to: automobiles, trucks, truck cabs, truck bodies, truck trailers, buses, motorcycles, utility bodies, camper shells, mobile cranes, bulldozers, street cleaners, golf carts, ground support vehicles used in support of aircraft activities at airports, implements of animal husbandry or agriculture and farm equipment, and trains and railcars.

**Multicolor coating** – a coating that exhibits more than one color in the dried film after a single application, is packaged in a single container, hides surface defects on areas of heavy use, and is applied over a primer or adhesion promoter.

**Solvent** –

- (a) For purposes of § 718, a fluid containing organic compounds added to a coating, including reducers and thinners.
- (b) For all other purposes in this chapter, organic compounds that are used as diluents, thinners, solvents, viscosity reducers, cleaning agents or other related uses.

**The following definitions are added, each to be inserted in alphabetical order within the existing list of definitions:**

**Adhesion promoter** - an automotive coating labeled and formulated to be applied to uncoated plastic surfaces to facilitate bonding of subsequent coatings and on which a subsequent coating is applied.

**Air-assisted airless spray** - coating spray technology that uses compressed air to shape and distribute the fan of atomized coating but still uses fluid pressure to create the atomized coating.

**As applied** - the VOC and solids content of a coating that is actually used to coat the substrate. The term includes the contribution of materials used for in-house dilution of the coating.

**As supplied** - the VOC and solids content of a coating as sold and delivered to the end user.

**Assembly line** - an arrangement of industrial equipment and workers in which the product passes from one specialized operation to another until complete, by either automatic or manual means.

**Associated parts and components** - a structure, device, piece, module, section, assembly, subassembly, or element of a motor vehicle or mobile equipment that is designed to be a part of the motor vehicle or mobile equipment but which is not attached to the motor vehicle or mobile equipment at the time of coating the structure, device, piece, module, section, assembly, subassembly, or element. The term does not include circuit boards.

**Automotive coating** - a coating or coating component used or recommended for use in motor vehicle or mobile equipment refinishing, service, maintenance, repair, restoration, or modification, except metal plating activities. A reference to automotive refinishing or automotive coating on the container, on a label affixed to the container or in sales, advertising, technical or product literature constitutes a recommendation for use in motor vehicle or mobile equipment refinishing, coating, or recoating.

**Automotive coating component** - a portion of a coating, including a reducer or thinner, toner, hardener, and additive, which is recommended by a person to distributors or end-users for use in an automotive coating, or which is supplied for or used in an automotive coating. The raw materials used to produce the components are not considered automotive coating components.

**Automotive pretreatment coating** – a coating that:

- (a) Contains a minimum of one half percent (0.5%) acid by weight and not more than sixteen percent (16%) solids by weight necessary to provide surface etching; and
- (b) Is labeled and formulated for application directly to bare metal surfaces to provide corrosion resistance and adhesion.

**Automotive primer** - a coating, including pigmented automotive primers, labeled and formulated for application to a substrate to provide one (1) or more of the following:

- (a) A bond between the substrate and subsequent coats;
- (b) Corrosion resistance;
- (c) A smooth substrate surface; or
- (d) Resistance to penetration of subsequent coats, and on which a subsequent coating is applied.

**Automotive refinishing facility** - a shop, business, location, or parcel of land where motor vehicles or mobile equipment or their associated parts and components are coated, including autobody collision repair shops. The term does not include the original equipment manufacturing plant where the new motor vehicle or new mobile equipment is completely assembled.

**Cleanup solvent** – a VOC-containing material used to remove a loosely held uncured (such as, not dry to the touch) adhesive or sealant from a substrate, or clean equipment used in applying a material.

**Clear coating** - a coating that contains no pigments and is labeled and formulated for application over a color coating or clear coating. A clear coating may contain talc or silica, which are not pigments.

**Coating solids** – the nonvolatile portion of the coating that makes up the dry film.

**Color coating** - a pigmented coating, excluding adhesion promoters, primers, and multicolor coatings, which requires a subsequent clear coating and is applied over a primer, adhesion promoter, or color coating. The term includes metallic/iridescent color coatings.

**Electrostatic spray application** - a coating application method where an electrostatic attraction is created between the part to be coated and the atomized coating particles.

**Graphic arts operation** - the application of logos, letters, numbers, or graphics to a painted surface by brush, roller, or airbrush.

**Metallic/iridescent color coating** - a coating that contains more than five (5) grams per liter (forty-two one thousandths, or 0.042, pounds per gallon) of metal or iridescent particles as applied, where the particles are visible in the dried film.

**Motor vehicle** – any motor vehicle, as defined in § 1(a) of title IV of the District of Columbia Revenue Act of 1937, approved August 17, 1937 (50 Stat. 679; D.C. Official Code § 50-1501.01).

**Other automotive coating type** - an automotive coating that does not meet the definitions for the specified automotive coating categories in Table I of § 718.

**Single-stage coating** - a pigmented coating, excluding primers and multicolor coatings, labeled and formulated for application without a subsequent clear coat.

**Spot repair** - repair of an area of less than one (1) panel in size on a motor vehicle, piece of mobile equipment, or associated parts or components. There are several coating operations unique to spot repair that utilize a solvent only and in some cases a blend of solvent with appropriate film forming solids. As the blend required and the appropriate VOC content may vary depending upon the nature and extent of the spot repair, no VOC limits are specified for this operation which is limited to spot repair.

**Temporary protective coating** - a coating labeled and formulated for the purpose of temporarily protecting areas from overspray or mechanical damage.

**Transfer efficiency** - the amount of coating solids adhering to the object being coated divided by the total amount of coating solids sprayed, expressed as a percentage.

**Truck bed liner coating** - a coating, excluding clear, color, multicolor, and single-stage coatings, labeled and formulated for application to a truck bed to protect it from surface abrasion.

**Underbody coating** - a coating labeled and formulated for application to wheel wells, the inside of door panels or fenders, the underside of a trunk or hood, or the underside of the motor vehicle.

**Uniform finish coating** - a coating labeled and formulated for application to the area around a spot repair for the purpose of blending a repaired area's color or clear coat to match the appearance of an adjacent area's existing coating.

**U.S. EPA or EPA** – the United States Environmental Protection Agency.

**DEPARTMENT OF HEALTH****NOTICE OF FINAL RULEMAKING**

The Director of the Department of Health, pursuant to the authority set forth in Section 1 of An Act to authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases ("Act"), approved August 11, 1939 (53 Stat. 1408, ch. 601, § 1; D.C. Official Code § 7-131 (2012 Repl.)), and § 2 of Mayor's Order 98-141, dated August 20, 1998, hereby gives notice of the adoption of the following amendments to Chapter 2 (Communicable and Reportable Diseases) of Subtitle B (Public Health and Medicine), Title 22 (Health), of the District of Columbia Municipal Regulations (DCMR).

The rulemaking adds a new Section 208 entitled Health Care Associated Infections; amends Section 200, the General Provisions section, by repealing the requirement to report tuberculosis cases in a sealed envelope; amends Section 201 to update the list of reportable diseases; amends Section 202 to update the procedures for reporting occurrences of communicable diseases; amends Section 203 to update the procedures for conducting quarantines of animals suspected of carrying rabies; repeals Section 204 that concerned reports and treatment of ringworm of the scalp; and amends Section 299 to update definitions to conform with other amendments.

These amendments were published as Notice of Proposed Rulemaking in the *D.C. Register* on September 9, 2016 at 63 DCR 011421. No comments were received and no changes have been made to the rule. The Director adopted the rules as final on November 7, 2016, and they will take effect immediately upon publication of this notice in the *D.C. Register*.

**Chapter 2, COMMUNICABLE AND REPORTABLE DISEASES, of Title 22-B DCMR, PUBLIC HEALTH AND MEDICINE, is amended as follows:**

**Section 200, GENERAL PROVISIONS, is amended as follows:**

**Subsection 200.5 is repealed in its entirety.**

**Amend Section 201, COMMUNICABLE DISEASES, to read as follows:**

**201 COMMUNICABLE DISEASE SURVEILLANCE**

201.1 The following diseases shall be considered communicable diseases for the purpose of communicable disease surveillance and shall be reported by telephone to the Director immediately upon provisional diagnosis or the appearance of suspicious symptoms, and confirmed in writing within twenty-four (24) hours:

- (a) Animal bites;
- (b) Anthrax (*Bacillus anthracis*);
- (c) Botulism;

- (d) Cholera (Toxigenic *Vibrio cholerae* 01 or 0139);
- (e) Diphtheria;
- (f) Encephalitis, acute arboviral (e.g. Eastern Equine Encephalitis, St. Louis Encephalitis, Western Equine Encephalitis)
- (g) Hantavirus pulmonary syndrome (HPS);
- (h) Hemolytic uremic syndrome;
- (i) Hepatitis A;
- (j) Influenza-associated mortality (patients less than eighteen (18) years of age);
- (k) Influenza A, novel;
- (l) Listeriosis;
- (m) Measles (Rubeola);
- (n) Meningitis (*Neisseria meningitidis*);
- (o) Meningococcal disease, invasive;
- (p) Middle East Respiratory Syndrome (MERS);
- (q) Mumps;
- (r) Pertussis (Whooping cough);
- (s) Plague (*Yersinia pestis*);
- (t) Poliovirus infection;
- (u) Rabies (animal or human);
- (v) Rubella (German measles), including congenital rubella syndrome;
- (w) Severe Acute Respiratory Syndrome (SARS);
- (x) Shiga toxin-producing *Escherichia coli* (STEC);
- (y) Smallpox;

- (z) Staphylococcal infections in newborns (nosocomial);
- (aa) Tularemia;
- (bb) Typhoid fever (*Salmonella typhi*);
- (cc) Vibriosis (non-cholera *Vibrio* species infections);
- (dd) Viral hemorrhagic fevers (Ebola or other);
- (ee) Yellow fever;
- (ff) An outbreak that may be of public health concern (including health care associated and foodborne, as defined in § 299.1); and
- (gg) An emerging infectious disease or an unusual occurrence of any disease.

201.2 The following diseases shall be considered communicable diseases for the purpose of communicable disease surveillance and shall be reported to the Director in writing within twenty-four (24) hours after provisional diagnosis or the appearance of suspicious symptoms:

- (a) Brucellosis;
- (b) Campylobacteriosis;
- (c) Chikungunya;
- (d) Dengue;
- (e) Haemophilus influenza, invasive disease;
- (f) Hansen's disease (Leprosy);
- (g) Lymphogranuloma venereum (LGV, including atypical LGV);
- (h) Meningitis, (aseptic or viral, fungal, and bacterial (other than *N. meningitidis*));
- (i) Psittacosis (Ornithosis);
- (j) Q Fever;
- (k) School or childcare facility-associated diseases: the following are reportable when there are three (3) or more cases that occur within a seven (7) day period in the school or childcare facility:

- (1) Conjunctivitis (Pink Eye);
  - (2) Gastrointestinal illness;
  - (3) Hand, foot, and mouth disease;
  - (4) Head lice;
  - (5) Impetigo;
  - (6) Pinworm (Enterobiasis);
  - (7) Ringworm (Tinea);
  - (8) Scabies; or
  - (9) Streptococcal non-invasive, Group A (Scarlet fever and strep throat);
- (l) Streptococcal infection, invasive (Pneumococcal disease);
  - (m) Tetanus; and
  - (n) Zika virus disease (including congenital Zika virus infection).

201.3

The following diseases shall be considered communicable diseases for the purpose of communicable disease surveillance and shall be reported to the Director in writing within forty-eight (48) hours after diagnosis or the appearance of suspicious symptoms:

- (a) Babesiosis;
- (b) Chancroid;
- (c) Chickenpox (morbidity, pediatric mortality);
- (d) Chlamydia tracomatis infection (including PID, perinatal, and trachoma);
- (e) Coccidioidomycosis;
- (f) Cryptosporidiosis;
- (g) Cyclosporiasis;
- (h) Ehrlichiosis;



- (i) Giardiasis;
- (j) Gonococcal infection;
- (k) Granuloma inguinale;
- (l) Hepatitis (acute B, C);
- (m) Human immunodeficiency virus (HIV) infection, and pregnancies in HIV-infected women);
- (n) Kawasaki disease;
- (o) Legionellosis;
- (p) Leptospirosis;
- (q) Lyme Disease (*Borrelia Burgdorferi*);
- (r) Malaria;
- (s) Melioidosis;
- (t) Powassan virus;
- (u) Rickettsiosis, spotted fever (e.g. Rocky Mountain Spotted Fever);
- (v) Salmonellosis;
- (w) Shigellosis;
- (x) Syphilis (all stages congenital);
- (y) Toxic shock syndrome (Staphylococcal, Streptococcal, and other);
- (z) Trichinosis (*Trichinellosis*);
- (aa) Tuberculosis;
- (bb) Urethritis, atypical;
- (cc) Vaccine adverse events; and
- (dd) West Nile virus.

**Section 202, REPORTING OCCURRENCES, is amended as follows:****Amend Subsection 202.1 to read as follows:**

202.1 The physician, veterinarian, or other person in charge of a communicable disease case shall report the case to the Director within the period of time required and in the manner prescribed in § 201.

**Amend Subsection 202.2 to read as follows:**

202.2 In the report required in § 202.1, the physician, veterinarian, or other person in charge of the case shall include a statement of the person's instructions concerning isolation, restriction of movement, and quarantine in detail. The statement may be limited to stating that the instructions were in accordance with the provisions of this chapter and with the latest edition of "Control of Communicable Diseases Manual", published by the American Public Health Association.

**Amend Subsection 202.8 to read as follows:**

202.8 Meeting the requirements of this section and observance of the provisions of the latest edition of "Control of Communicable Diseases Manual", published by the American Public Health Association, shall be *prima facie* evidence that the control and management of any carrier, contact, or infected person or animal has been in accordance with good medical and public health practice.

**Amend Subsection 202.9 to read as follows:**

202.9 When reporting to the Department, the report shall be filed on a form approved by the Director, and the following information shall be furnished as completely as possible:

- (a) Information regarding the person submitting the report, including first and last name, phone number, facility name, facility address, name of the provider who saw the patient, and the date the report was sent;
- (b) Patient information, including first and last name, date of birth, gender, home address, race or ethnicity, telephone number, and school or place of occupation;
- (c) Disease, condition, or symptom information, including the name of the suspected or confirmed disease, date of symptom onset, date of diagnosis, and supporting laboratory documentation; and
- (d) Other epidemiologic information the Director may request.

**Subsection 202.11 is repealed in its entirety.**

**Amend Subsection 202.12 to read as follows:**

202.12 Any change in the location of a case shall be reported to the Director by phone or in writing within twenty-four (24) hours of the change.

**Section 203, RABIES AND ANIMAL BITES, is amended to read as follows:****203 RABIES AND ANIMAL BITES**

203.1 A veterinarian or other person who has reason to suspect any of the following shall report that fact immediately by telephone to the Director, and shall immediately follow the telephone report with a written report to the Director:

- (a) A dog or other animal is suffering with rabies;
- (b) A dog or other animal has been bitten by or exposed to a dog or other animal suffering with rabies; or
- (c) A person with a potential rabies exposure as a result of having been bitten or exposed to a dog or other animal.

203.2 A report of an event described in § 203.1 made to a member of the Metropolitan Police Department, the D.C. Department of Health Animal Services Animal Care and Control Field Services Division, or a privately owned veterinary hospital or clinic, shall be communicated immediately by telephone to the Director and shall immediately be followed with a written report to the Director.

203.3 The report required by § 203.1 shall contain the following information in addition to any information required by § 202.9:

- (a) The name, contact information, and the place of residence of the person owning or harboring the dog or other animal;
- (b) The place where the dog or other animal can be found; and
- (c) The dog license number and rabies license number, if any.

203.4 When the Director has reason to believe that a dog or other animal is rabid, or has been bitten by a suspected rabid animal, or has bitten a person or exposed a person to rabies, the Director shall notify the owner or possessor of the exposed dog or other animal.

203.5 After receiving notification from the Director as required by § 203.4, the owner or possessor of the animal that was bitten by another animal shall quarantine it on his or her premises, or, if the Director deems necessary, at a place the Director

designates at the expense of the owner or possessor. The length of quarantine for the animal that was bitten (“bitten animal”) shall be determined based on information available about the animal that initiated the bite (“biting animal”), according to the following criteria:

- (a) The location of the biting animal is known and the biting animal is not displaying signs of rabies:
  - (1) If the biting animal is proven to be up-to-date in its rabies vaccination, then neither the biting animal nor the bitten animal need to be quarantined; or
  - (2) If the biting animal is not proven to be up-to-date in its rabies vaccination, it shall be quarantined for ten (10) days. The quarantine period for the bitten animal shall be forty-five (45) days when the bitten animal is proven to have received at least one (1) rabies vaccination, or shall be at least four (4) months when the bitten animal has no proof of rabies vaccination but is vaccinated within ninety-six (96) hours of the potential exposure. The quarantine period for the bitten animal may be discontinued at the discretion of the Director if the biting animal does not display signs of rabies virus disease after completing the ten (10) day quarantine period;
- (b) The location of the biting animal is known and the biting animal is displaying signs of rabies:
  - (1) The quarantine period for the bitten animal shall be forty-five (45) days when the bitten animal is proven to be up-to-date in its rabies vaccination, provided it is also vaccinated within ninety-six (96) hours after the exposure. The quarantine period for the bitten animal may be discontinued if the biting animal is proven to not have rabies through a diagnostic laboratory test; or
  - (2) The quarantine period for the bitten animal shall be four (4) months when the bitten animal has no proof of rabies vaccination, provided the animal is vaccinated within 96 hours of the exposure. If the bitten animal is vaccinated more than 96 hours after exposure, the quarantine shall be extended to six (6) months. The quarantine period for the bitten animal may be discontinued if the biting animal is proven to not have rabies virus disease through a diagnostic laboratory test;
- (c) The location of the biting animal is unknown:

- (1) The quarantine period for the bitten animal shall be forty-five (45) days when the bitten animal is proven to have received at least one (1) rabies vaccination, provided that the animal is vaccinated for rabies on the first day of the quarantine period; or
- (2) The quarantine period for the bitten animal shall be at least four (4) and no more than six (6) months (depending on the nature of the potential exposure as determined by the referring veterinarian and the Department of Health) when the bitten animal has no proof of rabies vaccination, provided that the animal is vaccinated for rabies during the final month of the quarantine period.

203.6 A person who has been bitten by a dog or other domestic animal shall initiate rabies post-exposure prophylaxis based on the vaccination history and disease state of the biting animal and the recommendation of the Director. After receiving notification from the Director under § 203.4, the owner or possessor of the biting animal shall quarantine the animal for ten (10) days, regardless of the rabies vaccination status, on his or her premises, or, if the Director deems necessary, at a place the Director designates at the owner or possessor's expense. During this period, the biting animal shall not be vaccinated for rabies.

203.7 A health care provider with a patient who presents for a bite or exposure to a potentially rabid animal shall immediately initiate rabies post-exposure prophylaxis. The provider may discontinue treatment only when a rabies test on the biting animal is negative, or the animal is proven adequately vaccinated.

203.8 A person who captures wildlife that has bitten a person or animal, or caused a potential rabies exposure to a person or animal, shall bring the captured animal to the Animal Care and Control Agency for immediate euthanasia. The Animal Care and Control Agency shall submit tissue samples of the animal to the Department of Forensic Sciences for rabies testing.

203.9 A person holding an animal for quarantine under this section shall make the animal available for observation and examination by a licensed veterinarian or an official appointed by the Director, to determine the presence of symptoms of rabies on the first and last days of a quarantine period, at the person's expense. An animal under quarantine that exhibits clinical signs of rabies during the quarantine period shall be transported to the Animal Care and Control Agency for humane euthanasia. The Animal Care and Control Agency shall submit tissue samples of the animal to the Department of Forensic Sciences for rabies testing.

203.10 A person holding a quarantined animal shall not release, remove from the District, or otherwise dispose of the animal during the quarantine period. If the animal dies during the quarantine period, the person holding the animal shall notify and make the entire animal available to the Animal Care and Control Agency for examination, testing, and ultimate disposal.

**Section 204, RINGWORM OF THE SCALP, is repealed in its entirety.**

**The current Section 208, MRSA INFECTION, is repealed in its entirety, and replaced with the following language:**

**208 HEALTH CARE ASSOCIATED INFECTIONS**

208.1 Acute care, ambulatory, long-term acute care, skilled nursing, and outpatient renal dialysis facilities shall permit the Director access through the National Healthcare Safety Network (NHSN) to data on health care-associated infections (HAIs). Each of these facilities shall report the following HAIs according to the definitions provided in the most current edition of the NHSN manual (<http://www.cdc.gov/nhsn/>).

- (a) Central line-associated bloodstream infections (CLABSIs);
- (b) Catheter-associated urinary tract infections (CAUTIs);
- (c) Surgical site infections (SSI):
  - (1) SSI: Abdominal hysterectomy; and
  - (2) SSI: Colon surgery;
- (d) Methicillin-resistant *Staphylococcus aureus* (MRSA);
- (e) *Clostridium difficile* (C.difficile);
- (f) Carbapenem-resistant enterobacteriaceae (CRE); and
- (g) An infection considered of public health concern by the Director.

208.2 All health care facilities shall report a confirmed or suspected HAI outbreak (as defined in § 299.1) to the Director by telephone or in writing within twenty-four (24) hours.

**Section 299, DEFINITIONS, is amended as follows:**

**Subsection 299.1 is amended as follows:**

**The following terms and definitions are amended or added in alphabetical order to read as follows:**

**CDC**—the Centers for Disease Control and Prevention, a federal agency responsible for protecting America from threats to health, safety, and security, whether foreign or domestic.

**Foodborne disease outbreak**—an incident in which two or more persons experience a similar illness resulting from ingestion of a common food.

**Health care associated infection (HAI)**—an infection that develops in a patient or resident in a healthcare facility that was not present or incubating at the time of admission.

**Health care associated infection outbreak (HAI outbreak)**—the occurrence of more cases of infections than expected in a given healthcare facility area among a specific group of people over a particular period of time, or when the number of infections in a healthcare facility is higher than the baseline rate for that facility.

**Infectious agent**—a disease-causing organism (e.g. prion, virus, bacterium, fungus, or parasite).

**Invasive**—isolated from blood, bone, cerebrospinal fluid, joint, pericardial, peritoneal, or pleural fluid.

**National Healthcare Safety Network (NHSN)**—a secure internet-based surveillance system that houses national healthcare-associated infection data and is managed by the Center for Disease Control and Prevention’s Division of Healthcare Quality Promotion.

**The term “Methicillin-resistant staphylococcus aureus (MRSA)” and its definition are repealed.**

Comments on the proposed rules should be sent in writing to the Department of Health, Office of the General Counsel, 5<sup>th</sup> Floor, 899 North Capitol Street, N.E., Washington, D.C. 20002, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules may be obtained Monday through Friday, except holidays, between the hours of 8:15 A.M. and 4:45 P.M. at the same address. Questions concerning the rulemaking should be directed to Angli Black, Administrative Assistant, at [Angli.Black@dc.gov](mailto:Angli.Black@dc.gov) or (202) 442-5977.

## DEPARTMENT OF HEALTH

**NOTICE OF PROPOSED RULEMAKING**

The Director of the Department of Health (“Department”), pursuant to the authority set forth in § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“the Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2012 Repl.)), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of the intent to take adopt the following amendments to Chapter 78 (Audiology) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of this rulemaking is to (1) revise the audiology regulation to conform to the addition of audiology assistant as a new profession under Chapter 101 (Audiology Assistants) of this title; (2) update the continuing education requirements broadly; and (3) include the new continuing education requirement pertaining to cultural competency or specialized clinical training focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) pursuant to Section 510 of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Supp.)).

**Chapter 78, AUDIOLOGY, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:****Section 7800, GENERAL PROVISIONS, is amended as follows:****Subsection 7800.2 is amended to read as follows:**

7800.2 Chapters 40 (Health Occupations: General Rules), 41 (Health Occupations: Administrative Procedures), and 101 (Audiology Assistants) of this title shall supplement this chapter.

**Section 7808, CONTINUING EDUCATION REQUIREMENTS, is amended to read as follows:****7808 CONTINUING EDUCATION REQUIREMENTS**

7808.1 This section shall apply to applicants for a renewal, reinstatement, or reactivation of a license and shall not apply to applicants for an initial license or applicants seeking the renewal of a license for the first time after the initial grant of the license.

7808.2 To qualify for the renewal of a license, an applicant shall have completed twenty (20) hours of approved continuing education during the two (2)-year period preceding the date the license expires, which shall include one (1) hour of ethics. It shall also include two (2) hours of LGBTQ continuing education. This LGBTQ continuing education requirement shall become effective and enforceable six (6)



months after the effective date of this section.

- 7808.3 Notwithstanding the requirement of §§ 7808.2 and 7906.2 of this title, an applicant for dual licensure renewal shall have completed thirty (30) hours of approved continuing education during the two year-period preceding the date the licenses expire, including one (1) hour of ethics, two (2) hours of LGBTQ continuing education, and five (5) hours of each of the audiology and speech-language pathology disciplines.
- 7808.4 To qualify for the reinstatement of a license, an applicant shall have completed twenty (20) hours of continuing education described in § 7808.2 during the two (2) years preceding the submission of the reinstatement application.
- 7808.5 To be eligible for the reactivation of a license in accordance with D.C. Official Code § 3-1205.11(c), the following applicants shall be deemed to meet the requirement of D.C. Official Code § 3-1205.11(c)(2):
- (a) An applicant who has been actively and lawfully practicing audiology in another jurisdiction or territory of the United States;
  - (b) An applicant who has not been actively and lawfully practicing audiology in another jurisdiction or territory of the United States, seeks the reactivation of the license five (5) years or less after the last expiration of the license, and has completed twenty (20) hours of continuing education described in § 7808.2 during the two (2) years preceding the submission of the reactivation application; or
  - (c) An applicant who has not been actively and lawfully practicing audiology in another jurisdiction or territory of the United States and seeks the reactivation of the license more than five (5) years after the last expiration of the license who can demonstrate his or her current competency to the Board's satisfaction.
- 7808.6 The Board may periodically conduct a random audit of at least ten percent (10%) of its active licensees to determine continuing education compliance. Any licensee selected for the audit shall provide proof of his or her continuing education compliance to the Board within thirty (30) days of receiving notification of the audit.

**Section 7809, CONTINUING EDUCATION PROGRAMS AND ACTIVITIES, is amended to read as follows:**

**7809 CONTINUING EDUCATION PROGRAMS AND ACTIVITIES**

- 7809.1 A continuing education hour shall be valid and granted credit only if it is part of a program or activity approved by the Board as a program or activity that

contributes to the growth of professional competence in the practice of audiology or speech-language pathology, is current in its subject matter, and is developed and taught or conducted by qualified individual(s).

7809.2 Subject to § 7809.1, the Board may grant continuing education credit for programs or activities offered or sponsored by the following organizations:

- (a) The Speech-Language Hearing Association of the District of Columbia or similar speech-language hearing association of another state;
- (b) The American Academy of Audiology;
- (c) The American Speech-Language Hearing Association (ASHA) and its approved continuing education providers;
- (d) An accredited provider of The Accreditation Council on Continuing Medical Education of the American Medical Association offering Category I continuing medical education;
- (e) The International Association of Continuing Education and Training (IACET) and its authorized providers;
- (f) A health care organization accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or
- (g) The International Hearing Society.

7809.3 Subject to § 7809.1, the Board may grant continuing education credit for the following activities:

- (a) Attendance and completion of:
  - (1) A course given at an accredited college or university;
  - (2) A seminar or workshop;
  - (3) An educational program given at a conference; or
  - (4) An in-service training;
- (b) Serving as a presenter or speaker at a conference, seminar, workshop, or in-service training; or
- (c) Publishing an article related to audiology or speech-language pathology in a professional journal or authoring or co-authoring a book, a chapter in a book or a book review related to audiology or speech-language pathology.

- 7809.4 The Board shall not grant credit for work done in the course of a requestor’s normal occupation or incident to the performance of his or her regular duties, such as teaching courses, research, or course preparation in the case of a teacher or professor.
- 7809.5 A requestor shall have the burden of verifying whether a program or activity is approved by the Board.
- 7809.6 Satisfactory proof of completion of a seminar, a workshop, or an educational program given at a conference or an in-service training shall include:
  - (a) The name and address of the provider of the program;
  - (b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;
  - (c) The dates on which the applicant attended the program;
  - (d) The hours of credit claimed; and
  - (e) Verification by the course provider or accreditor of completion, which for a course provider shall be by signature or stamp, and for an accreditor shall be by an official transcript.

**Section 7810, CONTINUING EDUCATION CREDITS, is amended to read as follows:**

**7810 CONTINUING EDUCATION CREDITS**

- 7810.1 For the purposes of this chapter, one (1) continuing education hour shall mean sixty (60) minutes of learning time.
- 7810.2 The Board may grant ten (10) continuing education hours for completion of each credit hour of an academic course offered at an accredited college or university provided that the continuing education credit may only be granted for courses completed during the licensure cycle for which credit is claimed.
- 7810.3 The Board may grant two (2) continuing education hours for the audit of a three (3)-credit-hour academic course offered at an accredited college or university.
- 7810.4 A requestor may receive a maximum of six (6) continuing education hours for attendance and completion of in-service training programs.
- 7810.5 The Board may grant credit for serving as a presenter or speaker at a conference, seminar, workshop, or in- service training, subject to the following restrictions:

- (a) Hours granted pursuant to this section shall not exceed six (6) hours per licensure cycle;
- (b) If a requestor has previously received credit in connection with a particular presentation, the Board shall not grant credit for a subsequent presentation unless it involves either a different subject or substantial additional research concerning the same subject;
- (c) The presentation was completed during the licensure cycle for which credit is claimed; and
- (d) The maximum amount of credit which may be granted for preparation time is twice the amount of the associated presentation time or twice the amount of contact hours awarded to the participants.

7810.6 The Board may grant credit for publication of an article related to audiology or speech-language pathology in a professional journal or publication of a book, a chapter in a book, or a book review related to audiology or speech-language pathology, subject to the following restrictions as relevant:

- (a) The Board may grant up to eight (8) continuing education hours per licensure cycle to the author or sole editor of a published book if the book was published or accepted for publication during the period for which credit is claimed;
- (b) The Board may grant four (4) continuing education hours per licensure cycle to the sole author or a co-author of a peer-reviewed, published original paper; or
- (c) The Board may grant one (1) continuing education hour per licensure cycle to the sole author of a published book review.

**Section 7811, SUPERVISION OF AUDIOLOGY ASSISTANTS, is added to read as follows:**

**7811 SUPERVISION OF AUDIOLOGY ASSISTANTS**

7811.1 An audiologist licensed under this chapter may qualify to supervise an audiology assistant only if he or she meets the requirements of § 10105.2.

7811.2 A supervising audiologist shall supervise audiology assistants in accordance with §§ 10105 and 10106.

7811.3 A supervising audiologist shall retain full professional and ethical responsibility for the professional conduct and performance of the audiology assistant and shall delegate duties only as commensurate with the training, experience, and ability of the audiology assistant and within the scope of lawful practice pursuant to chapter

101 of this title.

7811.4 A supervising audiologist shall ensure that an audiology assistant under his or her supervision is duly registered and authorized to practice.

**Section 7899, DEFINITIONS, is amended to read as follows:**

**7899 DEFINITIONS**

7899.1 As used in this chapter, the following terms shall have the meanings ascribed:

**Approved continuing education** – A continuing education program or activity that meets the requirements of § 7809.

**Au.D.** – Doctor of Audiology.

**Board** – the Board of Audiology and Speech-Language Pathology, established by Section 841 of the Audiology and Speech-Language Pathology Amendment Act of 2006, effective March 6, 2007 (D.C. Law 16-219; D.C. Official Code § 3-1208.41 (2012 Repl.)).

**Direct supervision** – supervision in which the supervisor is immediately available on the premises to the supervisee and within vocal communication of the supervisee either directly or by a communication device.

**Director** - the Director of the Department of Health, or the Director’s designee.

**Dual licensure renewal** – renewal of both an audiology and a speech-language pathology license in the District of Columbia, within the same renewal period.

**General supervision** – supervision in which the supervisor is available to the person supervised, either in person or by a communication device.

**Good cause** – serious illness of the applicant, the death or serious illness of a member of the applicant’s immediate family, or other cause sufficient to the Board.

**LGBTQ continuing education** – continuing education on cultural competency or specialized clinical training focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) meeting the requirements of D.C. Official Code § 3-1205.10 (b)(5).

**Licensure cycle** – a two-year period between the January 1 of each odd-

numbered year and December 31 of each even-numbered year during which a license issued pursuant to this chapter is valid in accordance with § 7801.1.

**Ph.D.** – Doctor of Philosophy in Audiology.

**Practice of audiology** – means the planning, directing, supervising, and conducting of habilitative or rehabilitative counseling programs for individuals or groups of individuals who have, or are suspected of having, disorders of hearing; any service in audiology, including prevention, identification, evaluation, consultation, habilitation or rehabilitation, instruction, or research; participating in hearing conservation or hearing aid and assistive listening device evaluation, selection, preparation, dispensing, and orientation; fabricating ear molds; providing auditory training and speech reading; or administering tests of vestibular function and tests for tinnitus. The practice of audiology includes speech and language screening limited to a pass-or-fail determination for the purpose of identification of individuals with disorders of communication. The practice of audiology does not include the practice of medicine or osteopathic medicine, or the performance of a task in the normal practice of medicine or osteopathic medicine by a person to whom the task is delegated by a licensed physician.

**Reinstatement** – The reinstatement of a license in accordance with D.C. Official Code § 3-1205.12.

**Requestor** – a person seeking continuing education credits.

**Supervised experience** – the clinical fellowship year required for applicants for licensure with a Master’s degree or Ph.D. degree, or the period of supervised practice during an Au.D. program.

**Supervisor** – an audiologist who is qualified under § 7803.7 and who is providing general supervision to an individual completing the supervised experience requirements in § 7803, or an audiologist qualified under § 7812.9 who is providing direct supervision to a graduate student under § 7812.

**Supervisee** – an individual who is completing the supervised experience requirements.

**Valid continuing education** – continuing education approved and granted continuing education credit by the Board in accordance with §§ 7909 and 7910.

7899.2

The definitions in § 4099 of chapter 40 of this title are incorporated by reference into and are applicable to this chapter.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 5<sup>th</sup> Floor, Washington, D.C. 20002, or by email to [Angli.Black@dc.gov](mailto:Angli.Black@dc.gov). Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays.

## DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health (“Department”), pursuant to the authority set forth in § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“the Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2012 Repl.)), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of the intent to adopt the following amendments to Chapter 79 (Speech-Language Pathology) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of this rulemaking is to revise the speech-language pathology regulation to conform to the addition of speech-language pathology clinical fellows and speech-language pathology assistants as new professions under Chapters 84 (Speech-Language Pathology Clinical Fellows) and 102 (Speech-Language Pathology Assistants) of this title, and to update the continuing education requirements broadly, as well as to include the new continuing education requirement pertaining to cultural competency or specialized clinical training focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) pursuant to Section 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Supp.)).

**Chapter 79, SPEECH-LANGUAGE PATHOLOGY, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:**

**Section 7900, GENERAL PROVISIONS, is amended as follows:**

**Section 7900.2 is amended to read as follows:**

7900.2 Chapters 40 (Health Occupations: General Rules), 41 (Health Occupations: Administrative Procedures), 84 (Speech-Language Pathology Clinical Fellows), and 102 (Speech-Language Pathology Assistants) of this title shall supplement this chapter.

**Section 7902, EDUCATIONAL REQUIREMENTS, is amended as follows:**

**Subsection 7902.1 is amended to read as follows:**

7902.1 To qualify for a license under this chapter, an applicant shall have graduated with a Master’s or Doctoral Degree in speech-language pathology from a recognized educational institution whose speech-language pathology program is accredited by the Council on Academic Accreditation in Audiology and Speech-Language Pathology or an equivalent accrediting body as determined by the Board.

**Section 7903, CLINICAL FELLOWSHIP REQUIREMENTS, is amended to read as follows:**

**7903 CLINICAL FELLOWSHIP REQUIREMENTS**



- 7903.1 To qualify for a license under this chapter, an applicant shall have completed a clinical fellowship meeting the requirements of Chapter 84 (Speech-Language Pathology Clinical Fellows) of this title.
- 7903.2 The Board may accept completion of the clinical fellowship required for the American Speech-Language-Hearing Association (ASHA) Certificate of Clinical Competence as meeting the requirements for clinical fellowship in this chapter under § 7903.1.

**Section 7906, CONTINUING EDUCATION REQUIREMENTS, is amended to read as follows:**

**7906 CONTINUING EDUCATION REQUIREMENTS**

- 7906.1 This section shall apply to applicants for a renewal, reinstatement, or reactivation of a license and shall not apply to applicants for an initial license or applicants seeking the renewal of a license for the first time after the initial grant of the license.
- 7906.2 To qualify for the renewal of a license, an applicant shall have completed twenty (20) hours of continuing education valid in accordance with § 7907 during the two (2)-year period preceding the date the license expires, which shall include one (1) hour of ethics. It shall also include two (2) hours of LGBTQ continuing education. This LGBTQ continuing education requirement shall become effective and enforceable six (6) months after the effective date of this section.
- 7906.3 Notwithstanding the requirements of §§ 7906.2 and 7808.2 of Chapter 78 (Audiology) of this title, an applicant for dual licensure renewal shall have completed thirty (30) hours of approved continuing education during the two year-period preceding the date the license expires, including one (1) hour of ethics, two (2) hours of LGBTQ continuing education, five (5) hours of each of the audiology and speech-language pathology disciplines.
- 7906.4 To qualify for the reinstatement of a license, an applicant shall have completed twenty (20) hours of continuing education described in § 7906.2 during the two (2) years preceding the submission of the reinstatement application.
- 7906.5 To qualify for the reactivation of a license in accordance with D.C. Official Code § 3-1205.11(c), the following applicants shall be deemed to meet the requirement of D.C. Official Code § 3-1205.11(c)(2):
- (a) An applicant who has been actively and lawfully practicing speech-language pathology in another jurisdiction or territory of the United States;
  - (b) An applicant who has not been actively and lawfully practicing speech-language pathology in another jurisdiction or territory of the United States, seeks the reactivation of the license five (5) years or less after the last

expiration of the license, and has completed twenty (20) hours of continuing education described in § 7906.2 during the two (2) years preceding the submission of the reactivation application; or

- (c) An applicant who has not been actively and lawfully practicing speech-language pathology in another jurisdiction or territory of the United States and seeks the reactivation of the license more than five (5) years after the last expiration of the license who can demonstrate his or her current competency to the Board's satisfaction.

7906.6 The Board may conduct a random audit of at least ten percent (10%) of its active licensees to determine continuing education compliance. Any licensee selected for the audit shall provide proof of continuing education compliance to the Board within thirty (30) days of receiving notification of the audit.

**Section 7907, CONTINUING EDUCATION PROGRAMS AND ACTIVITIES, is amended to read as follows:**

**7907 CONTINUING EDUCATION PROGRAMS AND ACTIVITIES**

7907.1 A continuing education hour shall be valid and granted credit only if it is part of a program or activity approved by the Board as a program or activity that contributes to the growth of professional competence in the practice of audiology or speech-language pathology, is up to date in its subject matter, and is developed and taught or conducted by qualified individual(s).

7907.2 Subject to § 7907.1, the Board may grant continuing education credit for programs or activities offered or sponsored by the following organizations:

- (a) The Speech-Language Hearing Association of the District of Columbia or similar speech-language hearing association of another state;
- (b) The American Academy of Audiology;
- (c) The American Speech-Language Hearing Association (ASHA) and its approved continuing education providers;
- (d) An accredited provider of The Accreditation Council on Continuing Medical Education of the American Medical Association offering Category I continuing medical education;
- (e) The International Association of Continuing Education and Training (IACET) and its authorized providers;
- (f) A health care organization accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or
- (g) The International Hearing Society.

- 7907.3 Subject to § 7907.1, the Board may grant continuing education credit for the following activities:
- (a) Attendance and completion of:
    - (1) A course given at an accredited college or university;
    - (2) A seminar or workshop;
    - (3) An educational program given at a conference; or
    - (4) An in-service training;
  - (b) Serving as a presenter or speaker at a conference, seminar, workshop, or in- service training; or
  - (c) Publishing an article related to audiology or speech-language pathology in a professional journal or authoring or co-authoring a book, a chapter in a book or a book review related to audiology or speech-language pathology.
- 7907.4 The Board shall not grant credit for work done in the course of a requestor's normal occupation or incident to the performance of his or her regular duties, such as teaching courses, research, or course preparation in the case of a teacher or professor.
- 7907.5 A person seeking continuing education credits shall have the burden of verifying whether a program is approved by the Board.
- 7907.6 Satisfactory proof of completion of a seminar, a workshop, or an educational program given at a conference or an in-service training shall include:
- (a) The name and address of the provider of the program;
  - (b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;
  - (c) The dates on which the applicant attended the program;
  - (d) The hours of credit claimed; and
  - (e) Verification by the course provider or accreditor of completion, by signature, stamp, or official transcript in the case of accreditors.

**Section 7908, CONTINUING EDUCATION CREDITS, is amended to read as follows:**

**7908 CONTINUING EDUCATION CREDITS**

- 7908.1 For the purposes of this chapter, one (1) continuing education hour shall mean sixty (60) minutes of learning time.
- 7908.2 The Board may grant ten (10) continuing education hours for completion of each credit hour of an academic course offered at an accredited college or university provided that the continuing education credit may only be granted for courses completed during the licensure cycle for which credit is claimed.
- 7908.3 The Board may grant two (2) continuing education hours for the audit of a three (3)-credit-hour academic course offered at an accredited college or university provided that the continuing education credit may only be granted for courses audited during the licensure cycle for which credit is claimed.
- 7908.4 A requestor may receive a maximum of six (6) continuing education hours for attendance and completion of in-service training programs.
- 7908.5 The Board may grant credit for serving as a presenter or speaker at a conference, seminar, workshop, or in- service training, subject to the following restrictions:
- (a) Hours granted pursuant to this section shall not exceed six (6) hours per licensure cycle;
  - (b) If a requestor has previously received credit in connection with a particular presentation, the Board shall not grant credit for a subsequent presentation unless it involves either a different subject or substantial additional research concerning the same subject;
  - (c) The presentation was completed during the licensure cycle for which credit is claimed; and
  - (d) The maximum amount of credit which may be granted for preparation time is twice the amount of the associated presentation time or twice the amount of contact hours awarded to the participants.
- 7908.6 The Board may grant credit for publication of an article related to audiology or speech-language pathology in a professional journal or publication of a book, a chapter in a book or a book review related to audiology or speech-language pathology, subject to the following restrictions as relevant:
- (a) The Board may grant up to eight (8) continuing education hours per licensure cycle to the author or sole editor of a published book if the book was published or accepted for publication during the period for which credit is claimed;
  - (b) The Board may grant four (4) continuing education hours per licensure cycle to the sole author or a co-author of a peer-reviewed, published original paper; or

- (c) The Board may grant one (1) continuing education hour per licensure cycle to the sole author of a published book review.

**Section 7914, SUPERVISION OF SPEECH-LANGUAGE PATHOLOGY CLINICAL FELLOWS, is added to read as follows:**

**7914 SUPERVISION OF SPEECH-LANGUAGE PATHOLOGY CLINICAL FELLOWS**

- 7914.1 A speech-language pathologist may qualify to supervise a speech-language pathology clinical fellow if he or she meets the requirement of § 8404.2 of this title.
- 7914.2 A speech-language pathologist supervising a clinical fellow shall comply with the requirements set forth in chapter 84 of this title.

**Section 7915, SUPERVISION OF SPEECH-LANGUAGE PATHOLOGY ASSISTANTS, is added to read as follows:**

**7915 SUPERVISION OF SPEECH-LANGUAGE PATHOLOGY ASSISTANTS**

- 7915.1 A speech-language pathologist supervising a speech-language pathology assistant shall retain full professional and ethical responsibility for the professional conduct and performance of the speech-language pathology assistant and shall delegate duties only as consistent with the training, experience, and ability of the speech-language pathology assistant.
- 7915.2 A speech-language pathologist supervising a speech-language pathology assistant shall comply with the requirements set forth in Chapter 102 (Speech-Language Pathology Assistants) of this title.

**Section 7999, DEFINITIONS, is amended to read as follows:**

**7999 DEFINITIONS**

- 7999.1 As used in this chapter, the following terms shall have the meanings ascribed:

**Approved continuing education** – A continuing education program or activity that meets the requirements of § 7907.

**Board** – the Board of Audiology and Speech-Language Pathology, established by Section 841 of the Audiology and Speech-Language Pathology Amendment Act of 2006, effective March 6, 2007 (D.C. Law 16-219; D.C. Official Code § 3-1208.41 (2012 Repl.)).

**Clinical fellow** – a person who is completing the clinical fellowship requirements set forth under § 7903 and Chapter 84 (Speech-Language Pathology Clinical Fellows) of this title.

**Clinical fellowship**- the experience required by Section 7903 and regulated under Chapter 84 of this title.

**Direct supervision** – supervision in which the supervisor is immediately available on the premises to the supervisee and within vocal communication of the supervisee either directly or by a communication device.

**Director** - the Director of the Department of Health, or the Director’s designee.

**Dual licensure renewal** – renewal of both an audiology and a speech-language pathology license in the District of Columbia, within the same renewal period.

**General supervision** – supervision in which the supervisor is available to the person supervised, either in person or by a communication device.

**Good cause** – serious illness of the applicant, the death or serious illness of a member of the applicant’s immediate family, or other cause sufficient to the Board.

**Graduate student** – a person enrolled in a Master’s or Doctoral degree program in speech-language pathology.

**LGBTQ continuing education** – continuing education on cultural competency or specialized clinical training focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) meeting the requirements of Section 510(b)(5) of the Act (D.C. Official Code § 3-1205.10 (b)(5)(2016 Supp.)).

**Licensure cycle** – a two-year period between the January 1 of each odd-numbered year and December 31 of each even-numbered year during which a license issued pursuant to this chapter is valid in accordance with § 7901.1.

**Practice of speech-language pathology** – means the application of principles, methods, or procedures related to the development and disorders of human communication, including any condition, whether of organic or non-organic origin, that impedes the normal process of human communication including disorders and related disorders of speech, articulation, fluency, voice, oral, or written language; auditory comprehension and processing; oral, pharyngeal or laryngeal sensorimotor competencies; swallowing; auditory or visual processing; auditory or visual memory or cognition; communication; and assisted augmentative communication treatment and devices. The term “practice of speech language pathology” also includes the planning, directing,

supervising, and conducting of a habilitative and rehabilitative counseling program for individuals or groups of individuals who have, or are suspected of having, disorders of communication, and any service in speech-language pathology including prevention, identification, evaluation, consultation, habilitation or rehabilitation, instruction or research. The practice of speech-language pathology may include pure-tone air conduction hearing screening, screening of tympanometry, and acoustic reflex screening, limited to a pass-or-fail determination for the identification of individuals with other disorders of communication and may also include aural habilitation or rehabilitation, which means the provision of services and procedures for facilitating adequate auditory, speech, and language skills in individuals with hearing impairment. The practice of speech-language pathology does not include the practice of medicine or osteopathic medicine, or the performance of a task in the normal practice of medicine or osteopathic medicine by a person to whom the task is delegated by a licensed physician.

**Reinstatement** – The reinstatement of a license in accordance with D.C. Official Code § 3-1205.12.

**Requestor** – a person seeking continuing education credits.

7999.2 The definitions in § 4099 of Chapter 40 (Health Occupations: General Rules) of this title are incorporated by reference into and are applicable to this chapter.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Phillip L. Husband, General Counsel, Office of the General Counsel, 899 North Capitol Street, N.E., 5<sup>th</sup> Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained during the hours of 9 a.m. to 5 p.m., Monday through Friday, excluding holidays, at the address listed above, or by contacting Angli Black, Administrative Assistant, at [Angli.Black@dc.gov](mailto:Angli.Black@dc.gov), (202) 442-5977.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in Section 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“the Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2012 Repl.)), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of the intent to adopt the following new Chapter 101 (Audiology Assistants) to Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

This rulemaking will establish regulation for the registration of audiology assistants, in accordance with Section 909 of the Act (D.C. Official Code § 3-1209.09 (2016 Supp.)).

**Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended by adding a new Chapter 101 to read as follows:**

**CHAPTER 101      AUDIOLOGY ASSISTANTS**

- 10100      GENERAL PROVISIONS**
- 10101      TERM OF REGISTRATION**
- 10102      EDUCATIONAL REQUIREMENT**
- 10103      WAIVER OF EDUCATIONAL REQUIREMENT**
- 10104      REGISTRATION BY ENDORSEMENT**
- 10105      SCOPE OF PRACTICE**
- 10106      SUPERVISION OF AUDIOLOGY ASSISTANT**
- 10107      STANDARDS OF CONDUCT FOR AUDIOLOGY ASSISTANTS**
- 10108      CONTINUING EDUCATION REQUIREMENTS**
- 10109      APPROVED CONTINUING EDUCATION PROGRAMS AND ACTIVITIES**
- 10110      CONTINUING EDUCATION CREDITS**
- 10199      DEFINITIONS**

**10100      GENERAL PROVISIONS**

- 10100.1      This chapter shall apply to applicants for and holders of a registration to practice as an audiology assistant.
- 10100.2      Chapters 40 (Health Occupations: General Rules), 41 (Health Occupations: Administrative Procedures), and 78 (Audiology) of this title shall supplement this chapter.
- 10100.3      No person may practice as an audiology assistant (also known as “audiology assisting”) without a registration issued pursuant to this chapter.



10100.4 Notwithstanding § 10100.3, during a period of twelve (12) months from the effective date of this chapter, a person who is practicing as an audiology assistant (also known as “audiology assisting”) on the effective date of this chapter and continue to practice without a registration shall not be deemed to be in violation of § 10100.3.

**10101 TERM OF REGISTRATION**

10101.1 Subject to § 10101.2, a registration issued pursuant to this chapter shall expire at 12:00 Midnight of December 31 of each even-numbered year.

10101.2 Pursuant to § 4006.3, the Director may change the renewal system and the expiration dates of registrations issued pursuant to this chapter.

**10102 EDUCATIONAL REQUIREMENT**

10102.1 Except as otherwise provided in this chapter, to qualify for a registration to practice as an audiology assistant, an applicant shall have completed one of the following educational levels in audiology assisting, hearing sciences and disorders, communication sciences and disorders, or equivalent as determined by the Board:

- (a) Two (2) years of accredited college education, with a minimum of forty-eight (48) semester hours or seventy-two (72) quarter hours;
- (b) An associate’s degree from an accredited college; or
- (c) A technical school certification program.

**10103 WAIVER OF EDUCATIONAL REQUIREMENT**

10103.1 The Board may waive the educational requirement of § 10102.1 for an applicant who:

- (a) Provides proof that he or she was employed as an audiology assistant under the direct supervision of an audiologist for a minimum of 15 hours per week during three (3) of the five (5) years before February 5, 2014; and
- (b) Applies for registration no later than twelve (12) months from the effective date of this section.

**10104 REGISTRATION BY ENDORSEMENT**

10104.1 An applicant may be eligible for registration by endorsement if:

- (a) The applicant is currently licensed or registered in good standing as an audiology assistant under the laws of a state or territory of the United States pursuant to the requirements determined by the Board to be substantially equivalent to the requirements of § 10102.1; or
- (b) The applicant is currently licensed or registered in good standing as an audiology assistant in another state or territory of the United States and has practiced in the state or territory for a minimum of two (2) years.

## **10105 SCOPE OF PRACTICE**

- 10105.1 No person may practice as an audiology assistant unless he or she is duly registered pursuant to this chapter and performs the duties of the profession under the supervision of a licensed audiologist meeting the requirements of § 10105.2.
- 10105.2 An audiologist licensed under this title may qualify to supervise an audiology assistant only if he or she meets the following requirements:
- (a) Possessing current and valid license to practice audiology in the District of Columbia;
  - (b) Having practiced audiology in the District or any other jurisdiction of the United States for at least two (2) years; and
  - (c) Not having been subject of a formal or public disciplinary action by the Board or any other jurisdiction within the United States within the previous two (2) years.
- 10105.3 An audiology assistant may assist an audiologist with audiological evaluation and in treatment programs.
- 10105.4 An audiology assistant may not perform any of the following actions or functions:
- (a) Independently performing or administering hearing diagnostic tests;
  - (b) Determining case selection or evaluation protocols;
  - (c) Interpreting observations or data into diagnostic statements of clinical management strategies or procedures;
  - (d) Participating in team or case conferences or on any interdisciplinary team, without the presence of the supervising audiologist or an audiologist designated by the supervising audiologist;
  - (e) Writing, developing, or modifying a patient's individualized treatment plan;

- (f) Assisting with patients without following the treatment plan prepared by the audiologist or without proper supervision;
- (g) Composing or signing any formal documents (*e.g.*, treatment plans, reimbursement forms, or reports);
- (h) Transmitting or disclosing clinical information, either orally or in writing, to anyone, including the patient, without the approval of the supervising audiologist;
- (i) Selecting patients for treatment services or discharging patients from treatment services;
- (j) Counseling or consulting with the patient, family, or others regarding the patient status or service or making referrals for additional services; or
- (k) Referring to him/ or herself either orally or in writing with a title other than one determined by the supervising audiologist.

10105.7 An audiology assistant may not practice when a supervisor cannot be reached by personal contact, phone, pager, or other immediate means.

10105.8 An audiology assistant shall cease practice immediately if there is no audiologist providing supervision.

#### **10106 SUPERVISION OF AUDIOLOGY ASSISTANT**

10106.1 The supervisor shall retain full professional and ethical responsibility for the professional conduct and performance of the audiology assistant and shall delegate duties only as commensurate with the training, experience, and ability of the audiology assistant and within the scope of lawful practice pursuant to this chapter.

10106.2 The supervisor shall be immediately available on the premises to the supervisee and within vocal communication of the supervisee either directly or by a communication device. The supervisor shall personally diagnose the condition to be treated, personally authorize procedures, and personally evaluate the performance of the audiologist assistant before dismissal of the patient.

10106.3 The supervisor shall verify that an audiology assistant holds a current, valid registration prior to the commencement of the audiology assistant's practice.

10106.4 The supervisor shall ensure that the audiology assistant under his or her supervision understands and adheres to the professional code of ethics applicable to the supervisor him- or herself.

**10107 STANDARDS OF CONDUCT FOR AUDIOLOGY ASSISTANTS**

- 10107.1 An audiology assistant shall adhere to the standards set forth in either the current Code of Ethics of the American Speech-Language-Hearing Association or the current Code of Ethics for the American Academy of Audiology as applicable to the supervising audiologist.
- 10107.2 An audiology assistant shall clearly identify himself or herself to patients or clients as an audiology assistant at all times and shall not act or communicate in any manner that may give the impression that the audiology assistant is authorized to practice independently or as an audiologist or speech-language pathologist in any way.
- 10107.3 An audiology assistant shall perform only those functions of the profession that are within his or her scope of competence, training, and experience.

**10108 CONTINUING EDUCATION REQUIREMENTS**

- 10108.1 This section shall apply to applicants for renewal, reactivation, or reinstatement of a registration and shall not apply to applicants for an initial registration or applicants seeking renewal of a registration for the first time after the initial grant of the registration.
- 10108.2 To be eligible for the renewal of a registration, an applicant shall have completed, during the two (2)-year period preceding the date the registration expires, ten (10) hours of approved continuing education related to audiology, including one (1) hour of ethics and two (2) hours of continuing education on cultural competency or specialized clinical training focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) meeting the requirements of Section 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5)).
- 10108.3 To be eligible for the reinstatement of a registration issued pursuant to this chapter, an applicant shall have completed ten (10) hours of continuing education described in § 10108.2 during the two (2) years preceding the submission of the reinstatement application.
- 10108.4 To qualify for the reactivation of a registration in accordance with section 511(c) of the Act (D.C. Official Code § 3-1205.11(c)), the following applicants shall be deemed to meet the requirement of Section 511(c)(2):
- (a) An applicant who has been actively and lawfully practicing audiology assisting in another jurisdiction or territory of the United States;
  - (b) An applicant who has not been actively and lawfully practicing audiology

assisting in another jurisdiction or territory of the United States, seeks the reactivation of the registration five (5) years or less after the last expiration of the registration, and has completed ten (10) hours of continuing education described in § 10108.2 during the two (2) years preceding the submission of the reactivation application; or

- (c) An applicant who has not been actively and lawfully practicing audiology assisting in another jurisdiction or territory of the United States and seeks the reactivation of the registration more than five (5) years after the last expiration of the registration who can demonstrate his or her current competency to the Board's satisfaction.

10108.5 The Board may conduct a random audit of at least ten percent (10%) of its active registrants to determine continuing education compliance. Any registrant selected for the audit shall submit proof of his or her continuing education compliance to the Board within thirty (30) days of receiving notification of the audit.

**10109 APPROVED CONTINUING EDUCATION PROGRAMS AND ACTIVITIES**

10109.1 A continuing education hour shall be valid and granted credit only if it is part of a program or activity approved by the Board as a program or activity that contributes to the growth of professional competence in the practice of audiology assisting, is current in its subject matter, and is developed and taught or conducted by qualified individuals.

10109.2 Subject to § 10109.1, the Board may grant continuing education credit for programs or activities offered or sponsored by the following organizations:

- (a) The Speech-Language Hearing Association of the District of Columbia or similar speech-language hearing association of another state;
- (b) The American Academy of Audiology;
- (c) The American Speech-Language Hearing Association (ASHA) and its approved continuing education providers;
- (d) An accredited provider of The Accreditation Council on Continuing Medical Education of the American Medical Association offering Category I continuing medical education;
- (e) The International Association of Continuing Education and Training (IACET) and its authorized providers;
- (f) A health care organization accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or

(g) The International Hearing Society.

10109.3 Subject to § 10109.1, the Board may grant continuing education credit for the following activities:

(a) Attendance and completion of:

(1) A course given at an accredited college or university;

(2) A seminar or workshop;

(3) An educational program given at a conference; or

(4) An in-service training;

(b) Serving as a presenter or speaker at a conference, seminar, workshop, or in-service training; or

(c) Publishing an article related to audiology or speech-language pathology in a professional journal or authoring or co-authoring a book, a chapter in a book or a book review related to audiology or speech-language pathology.

10109.4 The Board shall not grant credit for work done in the course of a requestor's normal occupation or incident to the performance of his or her regular duties, such as teaching courses, research, or course preparation in the case of a teacher or professor.

10109.5 A person seeking continuing education credits shall have the burden of verifying whether a program or activity is approved by the Board.

10109.6 Satisfactory proof of completion of a seminar, a workshop, or an educational program given at a conference or an in-service training shall include:

(a) The name and address of the provider of the program;

(b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;

(c) The dates on which the applicant attended the program;

(d) The hours of credit claimed; and

(e) Verification by the course provider or accreditor of completion, by signature, stamp, or official transcript in the case of accreditors.

**10110 CONTINUING EDUCATION CREDITS**

- 10110.1 For the purposes of this chapter, one (1) credit hour shall mean sixty (60) minutes of learning time.
- 10110.2 The Board may grant ten (10) continuing education hours for completion of each credit hour of an academic course offered at an accredited college or university provided that the continuing education credit may only be granted for courses completed during the registration cycle for which the credit is claimed.
- 10110.3 The Board may grant two (2) continuing education hours for the audit of a three (3)-credit-hour academic course offered at an accredited college or university provided that the continuing education credit may only be granted for courses audited during the registration cycle for which the credit is claimed.
- 10110.4 A requestor may receive a maximum of five (5) continuing education hours for attendance and completion of in-service training programs.
- 10110.5 The Board may grant credit for serving as a presenter or speaker at a conference, seminar, workshop, or in-service training, subject to the following restrictions:
- (a) Hours granted pursuant to this section shall not exceed three (3) per registration cycle;
  - (b) If a person has previously received credit in connection with a particular presentation, the Board shall not grant credit for a subsequent presentation unless it involves either a different subject or substantial additional research concerning the same subject;
  - (c) The presentation shall have been completed during the registration cycle for which credit is claimed; and
  - (d) The maximum amount of credit which may be granted for preparation time is twice the amount of the associated presentation time or twice the amount of contact hours awarded to the participants.
- 10110.6 The Board may grant credit to an applicant for publication of an article in a professional journal or publication of a book or a chapter in a book or publication of a book review in a professional journal related to audiology or speech-language pathology, subject to the following restriction as relevant:
- (a) The Board may grant eight (8) hours of continuing education credit per registration cycle, if the book has been published or accepted for publication during the period for which credit is claimed;
  - (b) The Board may grant four (4) hours of continuing education per

registration cycle to the sole author or co-author of a peer-reviewed, published original paper; or

- (c) The Board may grant one (1) continuing education hour of credit per registration cycle to the sole author of a published book review.

## 10199 DEFINITIONS

10199.1 As used in this chapter, the following terms shall have the meanings ascribed:

**Approved continuing education** – A continuing education program or activity that meets the requirements of § 10109.

**Board** – The Board of Audiology and Speech-Language Pathology, established by Section 841 of the Audiology and Speech-Language Pathology Amendment Act of 2006, effective March 6, 2007 (D.C. Law 16-219; D.C. Official Code § 3-1208.41 (2007 Repl.)).

**Direct supervision** – Supervision in which the supervisor is immediately available on the premises to the supervisee and within vocal communication of the supervisee either directly or by a communication device and the supervisor personally diagnoses the condition to be treated, personally authorizes procedures, and personally evaluates the performance of the audiologist assistant before dismissal of the patient.

**Registration Cycle** – A period of two years between January 1 of each odd-numbered year, when a registration issued pursuant to this chapter begins to be effective, to December 31 of each even numbered year, when a registration issued pursuant to this chapter expires.

**Reinstatement** – The reinstatement of a registration in accordance with Section 512 of the Act (D.C. Official Code § 3-1205.12).

**Supervisor** – An audiologist who is qualified under § 10105.2 and is supervising an audiology assistant.

10199.2 The definitions in § 4099 of this title are incorporated by reference into and are applicable to this chapter.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Phillip L. Husband, General Counsel, Office of the General Counsel, 899 North Capitol Street, N.E., 5<sup>th</sup> Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained during the hours of 9 a.m. to 5 p.m., Monday through Friday, excluding holidays, at the address listed above, or by contacting Angli Black, Administrative Assistant, at [Angli.Black@dc.gov](mailto:Angli.Black@dc.gov), (202) 442-5977.



DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in section 302(14) of the District of Columbia Health Occupations Revision Act of 1985, (“the Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2012 Repl.), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of the intent to adopt the following new Chapter 102 (Speech-Language Pathology Assistants) to Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

This rulemaking will establish regulation for the registration of speech-language pathology assistants in accordance with Section 910 of the Act (D.C. Official Code § 3-1209.10 (2016 Supp.)).

**Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended by adding a new Chapter 102 to read as follows:**

**CHAPTER 102      SPEECH-LANGUAGE PATHOLOGY ASSISTANTS**

- 10200          GENERAL PROVISIONS**
- 10201          TERM OF REGISTRATION**
- 10202          EDUCATIONAL REQUIREMENT**
- 10203          WAIVER OF EDUCATIONAL REQUIREMENT**
- 10204          REGISTRATION BY ENDORSEMENT**
- 10205          SCOPE OF PRACTICE**
- 10206          STANDARDS OF CONDUCT**
- 10207          SUPERVISION OF SPEECH-LANGUAGE PATHOLOGY ASSISTANTS**
- 10208          CONTINUING EDUCATION REQUIREMENTS**
- 10209          APPROVED CONTINUING EDUCATION PROGRAMS AND ACTIVITIES**
- 10210          CONTINUING EDUCATION CREDITS**
- 10299          DEFINITIONS**

**10200          GENERAL PROVISIONS**

10200.1          This chapter applies to applicants for and holders of a registration to practice as a speech-language pathology assistant.

10200.2          Chapters 40 (Health Occupations: General Rules), 41 (Health Occupations: Administrative Procedures), and 79 (Speech-Language Pathology) of this title supplements this chapter.

10200.3 No person shall practice speech-language pathology assisting or as a speech-language pathology assistant without a registration issued pursuant to this chapter.

10200.4 Notwithstanding § 10200.3, during a period of twelve (12) months from the effective date of this chapter, a person who is practicing speech-language pathology assisting or as a speech-pathology assistant on the effective date of this chapter and continue to practice without a registration shall not be deemed to be in violation of § 10200.3.

### **10201 TERM OF REGISTRATION**

10201.1 Subject to § 10201.2, a registration issued pursuant to this chapter shall expire at 12:00 Midnight of December 31<sup>st</sup> of each even-numbered year.

10201.2 The Director may change the renewal system and the expiration dates of registrations issued pursuant to this chapter pursuant to § 4006.3 of this title.

### **10202 EDUCATIONAL REQUIREMENT**

10202.1 Except as otherwise provided in this chapter, to qualify for a registration to practice as a speech-language pathology assistant, an applicant shall have graduated from an accredited college or university with at least an associate's degree from a technical training program in speech-language pathology assisting or a bachelor's degree in speech-language pathology.

### **10203 WAIVER OF EDUCATIONAL REQUIREMENT**

10203.1 The Board may waive the educational requirement of § 10202.1 for an applicant who:

- (a) Provides proof that he or she was employed as a speech-language pathology assistant practicing under the supervision of a speech-language pathologist for a minimum of fifteen (15 ) hours per week during three (3) of the five (5) years preceding before February 5, 2014; and
- (c) Applies for registration within twelve (12) months from the effective date of this provision.

### **10204 REGISTRATION BY ENDORSEMENT**

10204.1 An applicant for registration by endorsement may qualify for registration by endorsement if the applicant is licensed, registered, certified, or accredited by an accrediting association or a state board and recognized by the Board as a qualified professional according to standards that were the substantial equivalent of the requirements of § 10202, at the time of the licensing, registration, certification, or accreditation.

**10205 SCOPE OF PRACTICE**

- 10205.1 No person may practice as a speech-language pathology assistant unless registered in accordance with the requirements of this chapter.
- 10205.2 A speech-language pathology assistant may only practice under the supervision of a licensed speech-language pathologist who meets the requirements of § 10207.2 of this title.
- 10205.4 A speech-language pathology assistant may assist a speech-language pathologist in providing speech-language pathology services and treatments, which may include the following duties:
- (a) Participating in parent conferences, case conferences, or any interdisciplinary team;
  - (b) Signing or initialing informal treatment notes to be reviewed and co-signed by the supervising speech-language pathologist;
  - (c) Using a checklist or tabulating results of feeding or swallowing evaluations; or
  - (d) Treating medically fragile students, patients, or clients.
- 10205.5 A speech-language pathology assistant shall not engage in any of the following conducts:
- (a) Representing himself or herself as a speech-language pathologist;
  - (b) Performing standardized or non-standardized diagnostic tests, formal or informal evaluations, or swallowing screenings/checklists;
  - (c) Performing procedures that require a high level of clinical acumen and technical skills, including but not limited to vocal tract prosthesis shaping or fitting, vocal tract imaging, and oral pharyngeal swallow therapy with bolus material;
  - (d) Interpreting clinical results or observations;
  - (e) Participating in formal parent conferences, case conferences, or any interdisciplinary team without the presence of the supervising speech-language pathologist or other designated supervising speech-language pathologist;
  - (f) Providing interpretative information to the student/patient/client, family, or others regarding the patient/client status or service;

- (g) Writing, developing, or modifying a student's, patient's, or client's treatment plan in any way;
- (h) Assisting with students, patients, or clients without following the individualized treatment plan prepared by the certified speech-language pathologist or without access to supervision;
- (i) Signing any formal documents (*e.g.*, treatment plans, reimbursement forms, or reports; the speech-language assistant may sign or initial informal treatment notes for review and co-sign with the supervising speech-language pathologist as requested);
- (j) Selecting students, patients, or clients for service;
- (k) Discharging a student, patient, or client from services;
- (l) Making referrals for additional service;
- (m) Disclosing clinical or confidential information either orally or in writing to anyone other than the supervising speech-language pathologist unless mandated by law;
- (n) Developing or determining the swallowing strategies or precautions for patients, family, or staff;
- (o) Treating medically fragile students/patients/clients independently;
- (p) Designing or selecting augmentative and alternative communication systems or devices; or
- (q) Invoicing a payor directly for his or her services.

10205.7 A speech-language pathology assistant shall meet with the supervising speech-language pathologist at least once per month to discuss his or her practice and services.

10205.9 A speech-language pathology assistant shall cease practice immediately if there is no speech-language pathologist providing current and active supervision.

## **10206 STANDARDS OF CONDUCT**

10206.1 A speech-language pathology assistant shall adhere to the standards set forth in the most current publication of the "Code of Ethics" as published by the American Speech-Language-Hearing Association, as it may be republished from time to time.

- 10206.2 A speech-language pathology assistant shall clearly identify himself or herself to patients or clients as a speech-language pathology assistant practicing under the supervision of the supervising speech-language pathologist at all times.
- 10206.3 A speech-language pathology assistant shall display his or her current registration in a conspicuous place in the office in which he or she is employed.
- 10206.4 A speech-language pathology assistant shall perform only those functions of the profession that are within his or her scope of competence, training, and experience.

**10207 SUPERVISION OF SPEECH-LANGUAGE PATHOLOGY ASSISTANTS**

- 10207.1 The speech-language pathologist supervising a speech-language pathology assistant shall retain full professional and ethical responsibility for the professional conduct and performance of the speech-language pathology assistant and shall delegate duties only as consistent with the training, experience, and ability of the speech-language pathology assistant.
- 10207.2 A speech-language pathologist supervising a speech-language pathology assistant shall meet the following requirements:
- (a) Possess a current and valid license to practice speech-language pathology in the District of Columbia;
  - (b) Has practiced speech-language pathology in the District or any other jurisdiction of the United States for at least two (2) years; and
  - (c) Has not been the subject of a formal or public disciplinary action by the Board or any other jurisdiction within the United States within the previous two (2) years.
- 10207.3 The supervising speech-language pathologist shall provide direct supervision, which shall include:
- (a) Assuming responsibility for the supervisee's conduct in the speech-language pathology office or treatment facility;
  - (b) Personally diagnosing the condition to be treated;
  - (c) Remaining in the speech-language pathology office or treatment facility while the procedures are being performed by the supervisee; and
  - (e) Personally evaluates the performance of the supervisee before dismissal of the patient.
- 10207.4 The direct supervision described in § 10207.3 may include the supervisor viewing

and communicating with the supervisee via telecommunication technology as the supervisee performs clinical services provided that the supervisor can directly observe and give ongoing, immediate feedback.

- 10207.5 A supervising speech-language pathologist may supervise no more than the equivalent of two (2) full-time speech-language pathology assistants at any given time.
- 10207.6 A speech-language pathologist may not supervise more than a total of four (4) individuals, inclusive of speech-language pathology assistant(s), speech-language pathology clinical fellow(s), and speech-language pathology student(s), at any given time regardless of the total number of work hours performed by the supervisees.
- 10207.7 The supervising speech-language pathologist shall be responsible for designing and implementing a supervisory plan that ensures the highest standard of quality care can be maintained for patients and clients.
- 10207.8 The supervising speech-language pathologist shall provide supervision consistent with the speech-language pathology assistant's known and documented ability, training, education, and experience; the needs of the patients and clients; the service setting; the tasks assigned; and requirements set forth in this chapter.
- 10207.9 The supervising speech-language pathologist shall co-sign all documents and therapy notes prepared by the speech-language pathology assistant.
- 10207.10 A supervising speech-language pathologist who will not be able to supervise a speech-language pathology assistant for more than one (1) week shall:
- (a) Inform the speech-language pathology assistant of the planned absence; and
  - (b) Make other arrangements for the speech-language pathology assistant's supervision of services while the speech-language pathologist is unavailable; or
  - (c) Inform the patients or clients that services will be rescheduled.
- 10207.11 A supervising speech-language pathologist shall maintain ongoing written documentation of a systematic method of supervision of speech-language pathology assistants.
- 10207.12 The supervising speech-language pathologist shall maintain the record of all supervision and supervisory details provided to the speech-language pathology assistant continuously throughout the supervisory relationship. After the termination of the supervisory relationship, all supervision-related records shall be maintained and preserved for a minimum of three (3) years after the last adult

patient or client is seen, served, or treated or all minor patients or clients have reached the age of majority, whichever is later.

## **10208 CONTINUING EDUCATION REQUIREMENTS**

10208.1 This section shall apply to applicants for renewal, reinstatement, or reactivation of a registration and shall not apply to applicants for an initial registration or applicants seeking the renewal of a registration for the first time after the initial grant of the registration.

10208.2 To qualify for the renewal of a registration, an applicant shall have completed ten (10) hours of approved continuing education during the two (2)-year period preceding the date the license expires, including one (1) hour of ethics and two (2) hours of LGBTQ continuing education.

10208.3 To qualify for the reinstatement of a registration, an applicant shall have completed ten (10) hours of continuing education described in § 10208.2 during the two (2) years preceding the submission of the reinstatement application.

10208.4 To qualify for the reactivation of a registration in accordance with D.C. Official Code § 3-1205.11(c), the following applicant shall be deemed to meet the requirement of D.C. Official Code § 3-1205.11(c)(2):

- (a) An applicant who has been actively and lawfully practicing speech-language pathology assisting in another jurisdiction or territory of the United States;
- (b) An applicant who has not been actively and lawfully practicing speech-language pathology assisting in another jurisdiction or territory of the United States, seeks the reactivation of the registration five (5) years or less after the last expiration of the registration, and has completed ten (10) hours of continuing education described in § 10208.2 during the two (2) years preceding the submission of the reactivation application; or
- (c) An applicant who has not been actively and lawfully practicing speech-language pathology assisting in another jurisdiction or territory of the United States and seeks the reactivation of the registration more than five (5) years after the last expiration of the registration who can demonstrate his or her current competency to the Board's satisfaction.

10208.5 The Board may conduct a random audit of at least ten per cent (10%) of its active registrants to determine continuing education compliance. Any registrant selected for the audit shall provide proof of his or her continuing education compliance to the Board within thirty (30) days of receiving notification of the audit.

## **10209 APPROVED CONTINUING EDUCATION PROGRAMS AND ACTIVITIES**

- 10209.1 A continuing education hour shall be valid and granted credit only if it is part of a program or activity approved by the Board as a program or activity that contributes to the growth of professional competence in the practice of speech-language pathology or speech-language pathology assisting, is current in its subject matter, and is developed and taught or conducted by qualified individuals.
- 10209.2 Subject to § 10209.1, the Board may grant continuing education credit for programs or activities offered or sponsored by the following organizations:
- (a) The Speech-Language Hearing Association of the District of Columbia or similar speech-language hearing association of another state;
  - (b) The American Academy of Audiology;
  - (c) The American Speech-Language Hearing Association (ASHA) and its approved continuing education providers;
  - (d) An accredited provider of The Accreditation Council on Continuing Medical Education of the American Medical Association offering Category I continuing medical education;
  - (e) The International Association of Continuing Education and Training (IACET) and its authorized providers;
  - (f) A health care organization accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or
  - (g) The International Hearing Society.
- 10209.3 Subject to § 10209.1, the Board may grant continuing education credit for the following activities:
- (a) Attendance and completion of:
    - (1) A course given at an accredited college or university;
    - (2) A seminar or workshop;
    - (3) An educational program given at a conference; or
    - (4) An in-service training;
  - (b) Serving as a presenter or speaker at a conference, seminar, workshop, or in-service training; or



- (c) Publishing an article related to audiology or speech-language pathology in a professional journal or authoring or co-authoring a book, a chapter in a book or a book review related to audiology or speech-language pathology.

10209.4 The Board shall not grant credit for work done in the course of a requestor's normal occupation or incident to the performance of his or her regular duties, such as teaching courses, research, or course preparation in the case of a teacher or professor.

10209.5 A person seeking continuing education credits shall have the burden of verifying whether a program or activity is approved by the Board.

10209.6 Satisfactory proof of completion of a seminar, a workshop, or an educational program given at a conference or an in-service training shall include:

- (a) The name and address of the provider of the program;
- (b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;
- (c) The dates on which the applicant attended the program;
- (d) The hours of credit claimed; and
- (e) Verification by the course provider or accreditor of completion of the course, by signature, stamp, or official transcript in the case of accreditors.

## **10210 CONTINUING EDUCATION CREDITS**

10210.1 For the purposes of this chapter, one (1) credit hour shall mean sixty (60) minutes of learning time.

10210.2 The Board may grant ten (10) continuing education hours for completion of each credit hour of an academic course offered at an accredited college or university provided that the continuing education credit may only be granted for courses completed during a particular licensure cycle.

10210.3 The Board may grant two (2) continuing education hours for the audit of a three (3)-credit-hour academic course offered at an accredited college or university.

10210.4 A requestor may receive a maximum of six (6) continuing education hours for attendance and completion of in-service training programs.

10210.5 The Board may grant credit for serving as a presenter or speaker at a conference, seminar, workshop, or in-service training, subject to the following restrictions:

- (a) Hours granted pursuant to this section shall not exceed six (6) hours per licensure cycle;
- (b) If a requestor has previously received credit in connection with a particular presentation, the Board shall not grant credit for a subsequent presentation unless it involves either a different subject or substantial additional research concerning the same subject;
- (c) The presentation was completed during the licensure cycle for which credit is claimed; and
- (d) The maximum amount of credit which may be granted for preparation time is twice the amount of the associated presentation time or twice the amount of contact hours awarded to the participants.

10210.6 The Board may grant credit for publication of an article related to audiology or speech-language pathology in a professional journal or publication of a book, a chapter in a book or a book review related to audiology or speech-language pathology, subject to the following restrictions as relevant:

- (a) The Board may grant up to eight (8) continuing education hours per licensure cycle to the author or sole editor of a published book if the book was published or accepted for publication during the period for which credit is claimed;
- (b) The Board may grant four (4) continuing education hours per licensure cycle to the sole author or a co-author of a peer-reviewed, published original paper; or
- (c) The Board may grant one (1) continuing education hour per licensure cycle to the sole author of a published book review.

## 10299 DEFINITIONS

10299.1 As used in this chapter, the following terms shall have the meanings ascribed:

**Approved continuing education** – A continuing education program or activity that meets the requirements of § 10209.

**Board** – the Board of Audiology and Speech-Language Pathology, established by Section 841 of the Audiology and Speech-Language Pathology Amendment Act of 2006, effective March 6, 2007 (D.C. Law 16-219; D.C. Official Code § 3-1208.41 (2012 Repl.)).

**LGBTQ continuing education** – continuing education on cultural competency or specialized clinical training focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming,

queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) meeting the requirements of Section 510(b)(5) of the Act (D.C. Official Code § 3-1205.10 (b)(5) (2016 Supp.)).

**Speech-language pathology assistant** – a person duly registered and authorized to practice as a speech-language pathology assistant under this chapter.

**Supervisor** – A speech-language pathologist who is supervising a speech-language pathology assistant.

**Registration Cycle** – A period of two (2) years between January 1 of each odd-numbered year, when a registration issued pursuant to this chapter begins to be effective, to December 31 of each even-numbered year, when a registration issued pursuant to this chapter expires.

**Reinstatement** – The reinstatement of a registration in accordance with D.C. Official Code § 3-1205.12.

10299.1 The definitions in § 4099 of this title are incorporated by reference into and are applicable to this chapter.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Phillip L. Husband, General Counsel, Office of the General Counsel, 899 North Capitol Street, N.E., 5<sup>th</sup> Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained during the hours of 9 a.m. to 5 p.m., Monday through Friday, excluding holidays, at the address listed above, or by contacting Angli Black, Administrative Assistant, at [Angli.Black@dc.gov](mailto:Angli.Black@dc.gov), (202) 442-5977.

## OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF SECOND EMERGENCY AND PROPOSED RULEMAKING

The State Superintendent of Education, in consultation with the Department of Health, pursuant to the authority set forth in Sections 3(b), (15) and (24) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code §§ 38-2602(b)(15) and (24) (2012 Repl. & 2016 Supp.)) and the Student Access to Treatment Act of 2007, effective February 2, 2008 (D.C. Law 17-107; D.C. Official Code §§ 38-651.01 *et seq.* (2012 Repl. & 2016 Supp.)), hereby gives notice of the adoption, on an emergency basis, of the following amendments to create a new Chapter 11 (Access to Emergency Epinephrine in Schools) of Subtitle A (Office of the State Superintendent of Education), Title 5 (Education), of the District of Columbia Municipal Regulations (“DCMR”).

The State Superintendent of Education also hereby provides notice of her intent to adopt the following amendments as final rulemaking in not less than fourteen (14) days from the date of publication of this notice in the *D.C. Register*.

The purpose of this emergency and proposed rulemaking is to further establish procedures for schools to acquire and maintain a supply of undesignated epinephrine auto-injectors for administration by a certified employee or agent of the school to a student who the agent or employee believes in good faith is suffering or about to suffer from an anaphylactic reaction. Emergency rulemaking is necessary to ensure proper implementation of the Act and to provide local education agencies with guidance on the administration of both designated or undesignated epinephrine auto-injectors. Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on September 9, 2016 at 63 DCR 11449, with the emergency expiring on November 25, 2016. During the public comment period, the Council for the District of Columbia enacted the Access to Emergency Epinephrine in Schools Clarification Emergency Amendment Act of 2016, signed October 31, 2016 (D.C. Act 21-527; 63 DCR 13609 (November 4, 2016)) to add the definition of “designated epinephrine auto-injectors” and clarify that employees or agents of a public school certified by OSSE may legally administer to a student either a designated or undesignated epinephrine auto-injectors to a person suffering or about to suffer from an anaphylactic reaction. This emergency rulemaking is necessary to ensuring the health, safety and welfare of students throughout schools in the District of Columbia. Without this emergency rulemaking, access to emergency undesignated epinephrine injectors and authority for employees or agents of a public school certified by OSSE to administer designated epinephrine injectors would not be available students suffering or about to suffer from an anaphylactic reaction requiring immediate assistance in District schools.

This second emergency rulemaking supersedes the previous emergency rulemaking. The second emergency rulemaking was adopted on October 24, 2016, became effective immediately, and will remain in effect for up to one hundred twenty (120) days after the date of adoption, expiring on February 21, 2016, or upon earlier amendment or repeal by the State Superintendent of Education or publication of a final rulemaking in the *D.C. Register*, whichever occurs first.

The State Superintendent also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than fourteen (14) days after the publication of this notice

in the *D.C. Register*. Although the District of Columbia Administrative Procedure Act (82 Stat. 1206; D.C. Official Code § 2-505(a) (2012 Repl.)) generally requires that rules be published not less than thirty (30) days after publication, this period may be reduced upon good cause shown and published along with a notice of proposed rulemaking. Because the only changes in the second emergency and proposed rulemaking are to align with the Access to Emergency Epinephrine in Schools Clarification Emergency Amendment Act of 2016, stakeholder community has already been notified of the substance of this rulemaking, there is good cause to provide a reduced public notice and comment period for this proposed rulemaking.

**Title 5-A DCMR, OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION, is amended by adding a new Chapter 11 to read as follows:**

**CHAPTER 11 ACCESS TO EMERGENCY EPINEPHRINE IN SCHOOLS**

**1100 GENERAL PROVISIONS AND APPLICABILITY**

**1101 CERTIFIED USERS OF EPINEPHRINE AUTO-INJECTORS; TRAINING**

**1102 ADMINISTRATION OF DESIGNATED OR UNDESIGNATED EPINEPHRINE AUTO-INJECTORS**

**1103 ACCESS AND ACQUISITION OF UNDESIGNATED EPINEPHRINE AUTO-INJECTORS**

**1104 STORAGE, AND MAINTENANCE OF UNDESIGNATED EPINEPHRINE AUTO-INJECTORS**

**1105 DISPOSAL OF UNDESIGNATED EPINEPHRINE AUTO-INJECTORS**

**1106 MONITORING AND INSPECTIONS**

**1107 CORRECTIVE ACTION AND PENALTIES**

**1199 DEFINITIONS**

**1100 GENERAL PROVISIONS AND APPLICABILITY**

1100.1 The purpose of this chapter is to authorize employees or agents of public schools to administer designated and undesignated epinephrine auto-injectors and to establish the standards and procedures for the use, storage, and oversight of undesignated epinephrine auto-injectors.

1100.2 The provisions of this chapter shall not apply to a public school that provides education services only to adult students; except, the provisions of this chapter shall apply to public schools that provide only special education services for adult students.

1100.3 The Office of the State Superintendent of Education (“OSSE”) shall administer and enforce this chapter.

**1101 CERTIFIED USERS OF EPINEPHRINE AUTO-INJECTORS; TRAINING**

- 1101.1 Each public school shall have at least two (2) employees or agents of the public school certified in the use of both a designated and an undesignated epinephrine auto-injector available to administer epinephrine at all times throughout the instructional day. Such employees or agents shall not include a licensed health practitioner assigned to the public school by the Department of Health.
- 1101.2 In order to be certified, an employee or agent shall:
- (a) Be trained in the following areas:
    - (1) The storage of undesignated epinephrine auto-injectors;
    - (2) The proper administration of designated or undesignated epinephrine auto-injectors in emergency circumstances; and
    - (3) How to determine whether a public school student is suffering from an anaphylactic reaction; and
  - (b) Complete an epinephrine auto-injector administration training program that is developed and provided by OSSE or an epinephrine administration training that is approved by OSSE.
- 1101.3 Certification to administer a designated or undesignated epinephrine auto-injector shall expire one (1) year after the date the certification is issued.

**1102 ADMINISTRATION OF DESIGNATED OR UNDESIGNATED EPINEPHRINE AUTO-INJECTORS**

- 1102.1 In emergency circumstances, a certified employee or agent of a public school may administer epinephrine via an undesignated epinephrine auto-injector to a public school student or a designated epinephrine auto-injector to the student to whom it is prescribed if:
- (a) The certified employee or agent believes, in good faith, that the student is suffering from or about to suffer from an anaphylactic reaction; and
  - (b) The student is on the public school premises, on a school bus, or on a field trip or other sanctioned excursion away from the public school premises.
- 1102.2 After the administration of epinephrine via a designated or undesignated epinephrine auto-injector to a public school student pursuant to this chapter, the public school shall comply with the following requirements:
- (1) The student shall be immediately transported by emergency medical services to a hospital emergency department for medical evaluation;

- (2) The principal, or designee, of the public school shall, as soon as practicable, notify the student's emergency contact;
- (3) The certified employee or agent of the public school who administered the epinephrine auto-injector shall document the details of the incident; and
- (4) The principal of the public school, or the principal's designee, shall, within twenty-four (24) hours after the administration of an undesignated epinephrine auto-injector, notify OSSE and the physician, physician assistant, or advanced practice nurse who provided the standing order permitting the use of the undesignated epinephrine auto-injector of its use.

**1103 ACCESS AND ACQUISITION OF UNDESIGNATED EPINEPHRINE AUTO-INJECTORS**

- 1103.1 A public school shall stock, at all times, a minimum of two (2) pediatric dose and two (2) adult dose undesignated epinephrine auto-injectors on the public school premise.
- 1103.2 A public school shall obtain undesignated epinephrine auto-injectors for use in emergency circumstances from OSSE or OSSE's authorized designee.
- 1103.3 A public school shall request additional undesignated epinephrine auto-injectors from OSSE in the following circumstances:
- (1) An undesignated epinephrine auto-injector has been used;
  - (2) An undesignated epinephrine auto-injector is within two (2) months of expiration;
  - (3) An undesignated epinephrine auto-injector is discolored;
  - (4) An undesignated epinephrine auto-injector has visible particles; or
  - (5) The school is on notice that an undesignated epinephrine auto-injector is stolen or missing.
- 1103.4 Beyond what is provided for in Subsection 1103.1, a public school may request additional undesignated epinephrine auto-injectors from OSSE but the public school shall be responsible for the cost of any additional undesignated epinephrine auto-injectors.
- 1103.5 The public school shall be responsible for the cost of replacing a stolen or missing undesignated epinephrine auto-injector.

**1104 STORAGE, AND MAINTENANCE OF UNDESIGNATED EPINEPHRINE AUTO-INJECTORS**

1104.1 A public school shall store undesignated epinephrine auto-injectors in a secure, but easily accessible location(s) on the public school premises that is dark and maintained at room temperature or in accordance with the manufacturer label of the stock epinephrine auto-injector, which may include administrative offices, clinical space, or instructional space.

1104.2 A certified employee or agent of a public school may carry an appropriate supply of the public school's undesignated epinephrine auto-injectors during a field trip or sanctioned excursion away from public school property.

1104.3 A public school shall designate at least one (1) certified employee or agent of the public school as responsible for properly storing, destroying, and maintaining the undesignated epinephrine auto-injectors.

1104.4 A designated certified employee or agent of a public school shall routinely check the stock of undesignated epinephrine auto-injectors throughout the school year and maintain in a monthly log, in a format and manner as determined by OSSE, the following information:

- (1) The date the undesignated epinephrine auto-injector was received from OSSE or OSSE's authorized designee;
- (2) The expiration date of the undesignated epinephrine auto-injector;
- (3) Where the undesignated epinephrine auto-injector is stored on the public school premises;
- (4) Any visualized particles or color change in the solution;
- (5) The date and manner of disposition of each undesignated epinephrine auto-injector, if applicable;
- (6) The date an undesignated epinephrine auto-injector was used, if applicable; and
- (7) The date a replacement undesignated epinephrine auto-injector was requested of OSSE or OSSE's authorized designee.

1104.5 A public school shall retain each monthly log record for each undesignated epinephrine auto-injector acquired pursuant to this chapter for three (3) years.

**1105 DISPOSAL OF UNDESIGNATED EPINEPHRINE AUTO-INJECTORS**



- 1105.1 A public school shall dispose of a discharged undesignated epinephrine auto-injector by placing the discharged undesignated epinephrine auto-injector into its carrying case and giving it to the emergency responder or medical provider upon their arrival.
- 1105.2 A public school shall dispose of an unused, and expired undesignated epinephrine auto-injector as infectious waste in accordance with 22-B DCMR § 502 (Disposal of Unused Pharmaceuticals).

## **1106 MONITORING AND INSPECTIONS**

- 1106.1 OSSE, and any other duly authorized official of OSSE or another agency of the District of Columbia having jurisdiction over or responsibilities pertaining to undesignated epinephrine auto-injectors, shall have the right, with prior notice, to enter upon and into the public school premises to determine compliance with this chapter and the Act.
- 1106.2 The public school shall fully cooperate with authorized representatives of the Government of the District of Columbia, including OSSE, and shall provide them access to facilities, staff, and records related to the administration of undesignated epinephrine auto-injectors.
- 1106.3 The supply of undesignated epinephrine auto-injectors and the monthly log shall be available for review during these announced inspections.

## **1107 CORRECTIVE ACTION AND PENALTIES**

- 1107.1 If a public school fails to comply with this chapter or the Act, OSSE may issue an order (referred to hereinafter as a “corrective action order”) requiring the public school to take such action as is necessary to ensure compliance with this chapter or the Act or, after providing the public school with written notice of intent and a reasonable opportunity to respond, may issue an order revoking or limit the eligibility of the public school to compete for funding distributed by OSSE for the following school year pursuant to the Healthy Schools Act (“HSA”). In the absence of extenuating circumstances, a reasonable opportunity to respond shall be no less than thirty (30) calendar days.
- 1107.2 OSSE shall provide to each public school written notice of the decision to prohibit eligibility to receive HSA funding distributed by OSSE for the following school year, and, if applicable, required remedial action. The notice shall state with specificity the reasons, the specific remedial action required of the public school, the effective date of the enforcement action, and an opportunity to respond within thirty (30) calendar days from the date of the notice.
- 1107.3 The public school’s written response shall include the following:

- (a) Each basis for the school's contesting the decision and, for each such basis, a complete statement of facts and associated legal support;
- (b) The specific relief requested; and
- (c) Two (2) copies of all documentary evidence supporting the recipient's positions.

1107.4 An OSSE employee designated by the State Superintendent of Education shall review the public school's request. The OSSE employee shall not have participated in the monitoring or inspection of the public school for compliance with the Act or this chapter, or the decision to revoke or prohibit eligibility to receive funding distributed by OSSE pursuant to the HSA. The decision of the OSSE employee shall be final.

## 1199 DEFINITIONS

1199.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

**Act** – Access to Emergency Epinephrine in Schools Amendment Act of 2015 (Act), effective March 9, 2016 (D.C. Law 21-77; D.C. Official Code § 38-651.04a (2012 Repl. & 2016 Supp.)).

**Certified** – having obtained a certificate of completion of epinephrine administration training that is developed and implemented by OSSE and approved by OSSE.

**Designated epinephrine auto-injector** -- a disposable drug delivery system with a spring-activated needle, which is obtained with a prescription for a particular person, that is designed for the emergency administration of epinephrine to a person suffering an anaphylactic reaction.

**Emergency circumstances** – circumstances that indicate that a delay in treatment would endanger the health or life of a student.

**Epinephrine auto-injector** -- a disposable drug delivery system with a spring-activated needle that is designed for the emergency administration of epinephrine to a person suffering an anaphylactic reaction.

**Instructional day** – the period of the day when instruction begins and ends, not to include before or aftercare programming.

**OSSE** – the Office of the State Superintendent of Education established by Section 2 of the State Education Office Establishment Act of 2000,

effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2601).

**Public school** -- a District of Columbia Public Schools school or a public charter school. The term “public school” does not include a parochial school or a private school.

**Public school premises** -- A building, structure, field house, gymnasium, parking lot, greenhouse, playground, stadium, open space, or other property owned or used for school purposes.

**Undesignated epinephrine auto-injector** -- a disposable drug delivery system with a spring-activated needle, which is obtained without a prescription for a particular person, that is designed for the emergency administration of epinephrine to a person suffering an anaphylactic reaction.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than fourteen (14) days after the date of publication of this notice in the *D.C. Register* via email addressed to: [ossecomments.proposedregulations@dc.gov](mailto:ossecomments.proposedregulations@dc.gov); or by mail or hand delivery to the Office of the State Superintendent of Education, Attn: Jamai Deuberry re: Access to Emergency Epinephrine in Schools, 810 First Street, N.E. 9th Floor, Washington, D.C. 20002. Additional copies of this rule are available from the above address and on the Office of the State Superintendent of Education website at [www.osse.dc.gov](http://www.osse.dc.gov).

## DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF SECOND EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia (District) to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat.744; D.C. Official Code § 1-307.02 (2012 Repl. & 2016 Supp.)), and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of a new Chapter 101 (*Services My Way* Program) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These rules codify the program policies and procedures for the District of Columbia Medicaid participant-directed *Services My Way* program, offered under the Home and Community-Based Services Waiver for the Elderly and Persons with Physical Disabilities (EPD Waiver).

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of EPD Waiver beneficiaries who are in need of EPD Waiver services through the participant-directed services (PDS) program. The EPD Waiver serves some of the District's most vulnerable residents. Furthermore, the Centers for Medicare and Medicaid Services (CMS) have directed that the District implement its participant-directed services program immediately in order to provide these services to vulnerable beneficiaries. These rules will provide guidance to providers, beneficiaries, and other stakeholders as the District implements this new program, and clarify program requirements that will assist in preserving the health, safety and welfare of these EPD Waiver beneficiaries.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on May 20, 2016 at 63 DCR 007732. The comment period officially closed on June 20, 2016. Comments were received from Disability Rights DC at University Legal Services and IONA. DHCF carefully considered all comments received, as detailed below.

DHCF received a total of 38 comments from Disability Rights DC and IONA in the following areas:

The following comments were received regarding eligibility for the program:

Disability Rights DC stated that the rules do not describe PDS eligibility apart from a reference to the eligibility screening for long-term services and supports necessary for EPD Waiver participation and suggested that the regulations should indicate the basis (preferably an objective measure) for determining Medicaid beneficiaries' PDS eligibility. Disability Rights DC further stated that if beneficiaries are denied PDS participation, the regulations should incorporate a requirement for DHCF to provide written notice, reasons for the denial, and an opportunity to appeal. DHCF notes that as stated in §§ 10100.1-2, the only requirements for PDS eligibility are enrollment in the EPD Waiver and residing in a natural home setting. However, enrollment in the program is contingent upon approval of the participant's PDS budget, including participant-

directed community support (PDCS) and individual-directed goods and services. If any component of a person's PDS budget is denied, the reconsideration process detailed in § 10108 is applicable. In response to this comment, DHCF has added a clarifying provision regarding denials of eligibility for the PDS program and the attendant notice requirements.

Regarding the private residence requirement of § 10100.2, IONA stated that the organization hoped living in an unrelated person's home, such as a friend of the family could also be considered. IONA stated that it was the organization's understanding that any residence that the person considered his/her home would be considered under the EPD Waiver. IONA further asked if the regulation rules out group homes, the Center for Independent Living, congregate housing, or senior housing. DHCF notes that the language in this provision tracks to DHCF's selection in Appendix E of the EPD Waiver. The language regarding "participants who live in their own private residence or in the home of a family member" is CMS language from the waiver portal and therefore DHCF does not have the discretion to alter the language within these rules. This regulation would rule out any residential setting that is not owned by a private individual and in which personal care aide (PCA)-like services are provided. DHCF agrees with the commenter that the "home of a family member" language in the waiver portal selection is overly restrictive and plans to add supplemental modifying language to its portal selection for the EPD Waiver renewal.

IONA requested the reasoning behind *Services My Way* participants not receiving agency-based personal care aide services per § 10100.8, even for emergency back-up services. DHCF notes that there were several reasons for determining that PDS participants could not receive agency-based PCA services. It would not be feasible for a home health agency to allocate staff to provide emergency back-up services only, since these staff may or may not be required and could not be scheduled in advance. Furthermore, as PDCS and PCA offer the same scope of services through different service delivery models, DHCF must ensure that beneficiaries are not receiving duplicative services at any time. Lastly, the provision of agency-based PCA services to PDS participants is inconsistent with the philosophy of self-direction, as PDS participants should retain the authority to designate workers who will provide their PDCS services in the absence of their regular participant-directed worker(s) (PDW(s)).

The following comments were received regarding program enrollment:

Regarding the requirements set forth in § 10101.4, IONA asked how EPD Waiver case managers are being monitored for how long it takes them to complete the necessary forms to apply for the *Services My Way* program. As the program has been implemented, DHCF has determined that the most efficient way to ensure that participants are referred timely is to simply require the Waiver case manager to amend the interested beneficiary's person-centered plan (PCP) to include PDS and transmit the amended PCP to the *Services My Way* Program Coordinator. Therefore, in the second publication of these rules, the provision regarding the completion of inquiry forms by EPD Waiver case managers has been removed.

Disability Rights DC noted that the regulations do not describe the specific documents that are required for enrollment in PDS, although they are referenced generally in § 10101.6. As this is a new program, DHCF did not want to hamstring the agency by specifying a particular form, as

changes to the form would then require amendment of these rules. As noted above, references to any additional forms required to enroll in the program have been removed to clarify that all that is required for the EPD Waiver case manager to initiate the enrollment process is revision of the beneficiary's PCP to include PDS.

Disability Rights DC and IONA had the following comments regarding PDCS services:

Regarding § 10102.9, IONA stated that the hourly living wage and minimum wage are easy to find on the web, but the same is not true of the PCA rate and suggested that DHCF make the PCA methodology and amounts easily accessible. DHCF notes that the agency publishes transmittals on its website each time the rate for agency-based PCA services is changed. The transmittals include both the rate paid to the agency and the amount within the agency-based rate that must be paid to PCAs. DHCF also provided a presentation on the PDS budget methodology and process at the June 24, 2016 PDS stakeholder meeting.

IONA asserted that the regulations are not clear regarding the hourly wage rates for PDWs and asked on what basis the participant would set the rate. DHCF notes that in accordance with § 10102.9, participants have the authority to set the hourly wage rate for their PDWs at any amount between the current living wage in the District and the hourly rate paid to home health agencies for agency-based PCA services. This is known as budget authority, and is a fundamental tenet of the PDS program model. The participant may determine the wage rate for a given worker based on the criteria suggested by the commenter, such as experience level and competency, and may do so in consultation with the support broker and through negotiations with the potential PDW. Participants may use any money saved from paying their PDW(s) a lower wage than the amount paid to HHAs to purchase allowable and approved individual-directed goods and services.

Regarding § 10102.11, IONA asked whether a private agency Certified Nursing Assistant (CNA) or Home Health Aide (HHA) could be designated as an emergency back-up worker and if the support broker would help program participants develop an emergency back-up plan. The support broker will help the participant designate emergency-back up PDWs. A participant may designate an individual who is certified and works as a CNA or HHA as an emergency back-up PDW, but as set forth in this provision, may not designate an agency that provides PCA services as an emergency back-up provider of PDCS services.

Disability Rights DC asserted that the regulations unnecessarily exclude spouses as paid PDWs and suggested that the District should follow the practice in other states where spouses may serve as paid PDWs if they provide care that is significantly more than a spouse would ordinarily provide to a person with disabilities. Disability Rights DC further commented that the regulations' use of the term "other legally responsible relatives" is vague and asked who the other "legally responsible relatives" are. DHCF notes that these provisions mirror DHCF's selection in EPD Waiver and parallel provisions for PCA services under the EPD Waiver and Chapter 50 of Title 29 DCMR. The regulations reflect DHCF's selection in the EPD Waiver, which prohibits all legally responsible relatives, including spouses, from serving as PDWs. The description of legally responsible relatives for these rules is based on CMS' guidelines, and includes spouses, parents of minor children, and any other relative who has been authorized to exercise control over the participant's financial and/or healthcare decisions. DHCF

acknowledges that other states have made different selections regarding the provision of care by legally responsible relatives in 1915(c) waivers, but the District has not elected that option in the EPD Waiver.

Regarding § 10103.4, IONA asked how often PDWs must be recertified for Cardiopulmonary Resuscitation (CPR) and First Aid and raised concern regarding the ability of PDWs to take time off to attend trainings. A PDW needs to be re-certified in CPR and First Aid as often as the certifications expire so that the PDW may maintain current certification in accordance with these rules. If a PDW has trouble scheduling the recertification training due to his/her work schedule, the support broker may need to work with the participant to ensure that someone designated as an emergency back-up worker or a natural supports person can provide the necessary services while the regular PDW attends training.

IONA also requested the development of a checklist to assist participants and authorized representatives in verifying that prospective PDWs meet all qualifications described in § 10103.7. The Vendor Fiscal/Employer Agent Financial Management Services (VF/EA FMS) - Support Broker entity does provide participants and their authorized representatives with materials regarding the PDW qualifications and also verifies that a prospective PDW meets all qualifications prior to enrolling the PDW in its system.

The following comments were received regarding individual-directed goods and services:

IONA asked whether family members or non-profit organizations may give PDS participants goods or services outside the Service My Way program without affecting the participants' eligibility or jeopardizing their participation in the PDS program. DHCF notes that PDS participants may receive goods or services that would meet the requirements of an individual-directed good or service from a family member or outside organization without jeopardizing their participation in the PDS program. DHCF simply needs to ensure that if a good or service is being requested in the participant's PDS budget, that good or service is not available through another source and would not otherwise be paid for through Medicaid.

Both commenters requested the addition of language regarding maintenance of functionality to § 10104.2. DHCF appreciates the commenters' suggestions for additional language in this provision. However, this language tracks to CMS guidelines in the 1915(c) waiver application and the language in the approved EPD Waiver amendments and therefore cannot be altered in these rules.

IONA asked whether heavy cleaning services would be included under § 10104.3(a). Participants would be able to purchase such cleaning services if they are necessary in addition to those services that are already available under another Medicaid-funded service, such as the chore aide or homemaker service under the EPD Waiver.

IONA asked whether public transit was eligible for reimbursement as an individual-directed service in addition to reimbursement for mileage as provided in § 10104.4. DHCF appreciates the commenter's concern regarding reimbursement for other forms of transportation. The existing rule provision only contemplates reimbursement for mileage, but following internal

agency discussions this provision has been modified in this rulemaking to address reimbursement for public transit, as detailed below.

IONA also inquired regarding the rationale for the exclusion of certain items from the list of allowable goods and services and the requirement that providers of these goods and services execute a Medicaid provider agreement. DHCF notes that the list of non-allowable goods and services is based on CMS guidelines and best practices from other states and that a participant may obtain these items through an outside organization or family and friends. DHCF also notes that costs associated with airfare, lodging and meals may not be paid for through the PDS budget as Medicaid is not allowed to pay for such items. However, if a PDS participant would like a PDW to provide PDCS services while traveling, the PDW may be paid for the PDCS services provided while accompanying the participant. CMS requires vendors who provide individual-directed goods or services on a recurrent basis to execute a Medicaid provider agreement.

The following comments were received regarding the functions of the VF/EA FMS - Support Broker entity:

IONA inquired as to the caseload requirements for a support broker, which are the same as those for an EPD Waiver case manager. The current requirement is a maximum of 45 cases per support broker. IONA also inquired as to the reason the support broker receives the participant's monthly PDS allocation amounts from DHCF. The support broker receives the PDS budget amount in order to assist the participant in developing the budget and allocate money to PDCS and requested individual-directed goods and services. Participants and support brokers receive monthly reports tracking their budget utilization.

IONA also inquired as to what happens if a participant is not able to develop an emergency back-up and natural support plan with the assistance of the support broker. If this is the case, the participant cannot be enrolled in the program. DHCF must ensure that these plans are in place prior to enrollment for the health and safety of program participants.

IONA expressed concern regarding the frequency of visits by the support broker, particularly during a participant's initial phase of program enrollment. DHCF notes that the visits described in § 10106.6 are required at a minimum, and take place after several in-home visits to initially orient and train the participant regarding the program requirements. If the participant is struggling with a particular employer-related responsibility, the support broker will assist as part of the remediation, training and termination protocol. Also, these visits are in addition to the monthly visits conducted by participants' EPD Waiver case managers, who should also be able to identify any crisis that jeopardizes the PCP.

Both commenters expressed concern regarding communication between the support broker and the EPD Waiver case manager, as well as the inclusion of the participant in such communication. DHCF notes that § 10106.6(g) is intended to require coordination between support brokers and EPD Waiver case managers, such that they are not operating in silos and are collaboratively ensuring successful implementation of the PCP. As detailed below, DHCF has added clarifying language in this rulemaking to explicitly state that the participant should be included in such communication.



The following comments were received regarding the formulation of the PDS budget:

IONA inquired generally regarding how the PDS budget allocation amount is generated. The amount of the PDS budget allocation is derived from the results of the Delmarva functional assessment by multiplying the number of PCA hours by the rate paid by DHCF for agency-based PCA services. This amount is entered into an Excel spreadsheet by the *Services My Way* Program Coordinator and transmitted to the support broker to assist the participant in formulating the PDS budget.

IONA inquired whether the range of wage rates discussed in § 10107.6 includes the percentage of administrative costs by which the rate for agency-based PCA services is reduced. DHCF notes that this wage range reflects a span from the living wage in the District to the hourly rate paid by DHCF for agency-based PCA services. The participant will receive the full budget amount, which accounts for employer-related costs such as federal and state taxes and workers compensation coverage for PDWs.

Disability Rights DC expressed concern regarding the clarity of the budget formulation process related to individual-directed goods and services. DHCF notes that depending on what wage rate a participant chooses to pay a PDW, there may or may not be remaining funds in the PDS budget to purchase individual-directed goods and services. Participants may accrue unspent funds in order to make a large individual-directed good or service purchase or to allocate for payment of overtime to their PDWs. As described in § 10107.7, the PDS budget formulation process does account for individual-directed goods and services, and the VF/EA FMS-Support Broker entity is responsible for issuing monthly budget utilization reports to participants and support brokers.

The following comments were received regarding the reconsideration process:

Both commenters expressed concern regarding information on the participant's right to appeal the reconsideration decision by filing a notice of appeal with the Office of Administrative Hearings, particularly regarding a listing of legal resources and the continuation of services pending completion of an appeal. DHCF notes that all notices providing information regarding the participant's appeal rights include a listing of legal services organizations. At this point in the process, no individual-directed good or service has yet been furnished. As with all Medicaid-covered services, if a participant's assessed PDCS hours are decreased or terminated and the participant files a timely appeal with OAH, services are preserved at the current level pending appeal. DHCF has included more specific language regarding notices issued as a result of the reconsideration process in this rulemaking, as detailed below.

The following comments were received regarding the designation of authorized representatives:

Disability Rights DC asserted that the section on authorized representatives is problematic as it refers to a "legal guardian or other court-appointed guardian" as "legal guardians" are appointed by the court for individuals eighteen (18) years of age and older, there are no "other" court-appointed guardians. The language in the cited provision is "legal guardian or other court-appointed representative," and was drafted in order to capture individuals such as conservators.

IONA inquired regarding the process for designating a mandated representative in accordance with § 10109.4. A participant would choose a mandated representative just as a voluntary representative would be chosen by the participant, as described in this provision. What is being mandated is the participant's designation of a voluntary representative when there is currently no authorized representative.

IONA stated that the organization assumed DHCF would not prevent a court appointed lawyer who is paid through the court to provide guardianship services from serving as an authorized representative for the program, and suggested revised language for § 10109.6 to clarify that no one would be paid monetary compensation from the program. DHCF appreciates the commenter's concern, but believes this provision is clear as drafted. No one will be paid for acting as an authorized representative in the PDS program. If a participant's authorized representative is a court-appointed guardian, that individual is paid by the court for performing the duties of a guardian, but is not paid for serving as an authorized representative in the PDS program.

IONA stated that the participant should be given written notice that describes in detail the reasons why DHCF has determined that the participant cannot self-direct their services, and both commenters requested the inclusion of a provision barring DHCF from seeking guardianship based on the participant's ability or inability to continue in the PDS program. DHCF notes that § 10109.11 describes the content of the notice a participant receives if DHCF has determined a mandated representative is required to continue participating in the program. DHCF appreciates the commenters' concern regarding guardianship, but the agency would not be in a position to seek guardianship for any program participant.

The following comments were received regarding the involuntary termination process:

Both commenters suggested that DHCF institute a "probationary period" for new participants in order to give them a chance to adjust to the program rules. DHCF believes the remediation, training and termination protocol detailed in § 10112 addresses the commenters' concern regarding new participants adapting to the program requirements. The protocol was designed based on best practices from other states and supports those participants who need additional assistance in executing their new employer-related responsibilities.

IONA expressed that the organization hoped all EPD Waiver case managers would get periodic training to recognize abuse, neglect and exploitation and mandatory reporting requirements. DHCF appreciates the commenter's concern. However, training of EPD Waiver case managers in this area is outside the scope of these rules governing the PDS program.

IONA inquired as to what happens to a participant's PDW(s) in the event that the participant is transitioned out of the program or hospitalized. If a participant is voluntarily or involuntarily transitioned to agency-based PCA services, the PDW will no longer have authorization to deliver PDCS services and will not be paid by the VF/EA FMS-Support Broker entity. Similarly, if a participant is hospitalized and PDCS services are not delivered during the period of hospitalization, the PDW will not be paid as no services were delivered.

The following comments were received regarding the definitions of terms included in these rules:

IONA suggested that other examples of Instrumental Activities of Daily Living (IADLs) be added to the rule definition. The rule definition of IADLs includes a few illustrative examples of IADLs, but is not exhaustive. Cleaning, laundry, meal preparation, and money management for the participant could be included within this rule definition. The scope of PDCS services mirrors the scope of agency-based PCA services.

Disability Rights DC suggested that the definitions of Common Law Employer, Employer Authority and Participant Employer should be “unified.” DHCF is not quite clear on the commenter’s suggestion regarding the unification of several definitions. As each of these terms has a distinct meaning, DHCF believes that each of these three terms should remain separately defined.

In sum, DHCF determined that the following substantive changes were necessary to address the commenters’ concerns: (1) clarification of the case manager’s responsibilities related to enrollment of EPD Waiver beneficiaries in the *Services My Way* program; (2) specification of the types of training that prospective participant-directed workers (PDWs) must complete in order to provide services within the program; (3) clarification of the Vendor/Fiscal Employer Agent Financial Management Services -Support Broker entity’s responsibilities related to processing criminal background checks for prospective PDWs; (4) “maintenance of items that meet the criteria of individual-directed goods” has been added to the list of allowable uses of funds for individual-directed goods and services; (5) clarification regarding the use of PDS budget funds to advertise for prospective PDWs; (6) “reimbursement for public transit costs” has been added in addition to reimbursement for mileage costs; and (7) specification of notice requirements for EPD Waiver beneficiaries who do not meet the threshold eligibility criteria for *Services My Way* program participation.

The emergency rulemaking was adopted on November 22, 2016, and became effective on that date. The emergency rules shall remain in effect for one hundred and twenty (120) days until March 22, 2017, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

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

**A new Chapter 101, SERVICES MY WAY PROGRAM, is added to Title 29 DCMR, PUBLIC WELFARE, to read as follows:**

#### **CHAPTER 101      SERVICES MY WAY PROGRAM**

**10100      GENERAL PROVISIONS**  
**10101      OUTREACH AND ENROLLMENT**

**10102 PARTICIPANT-DIRECTED COMMUNITY SUPPORT SERVICES:  
SERVICE DESCRIPTION**

**10103 PARTICIPANT-DIRECTED COMMUNITY SUPPORT SERVICES:  
PROVIDER REQUIREMENTS**

**10104 INDIVIDUAL-DIRECTED GOODS AND SERVICES: SERVICE  
DESCRIPTION**

**10105 INDIVIDUAL-DIRECTED GOODS AND SERVICES: PROVIDER  
REQUIREMENTS**

**10106 VENDOR FISCAL/EMPLOYER AGENT FINANCIAL MANAGEMENT  
SERVICES-SUPPORT BROKER ENTITY FUNCTIONS**

**10107 PARTICIPANT-DIRECTED SERVICES BUDGET FORMULATION**

**10108 RECONSIDERATION PROCESS**

**10109 AUTHORIZED REPRESENTATIVES**

**10110 MANDATORY REPORTING**

**10111 VOLUNTARY TERMINATION OF PROGRAM PARTICIPATION**

**10112 INVOLUNTARY TERMINATION OF PROGRAM PARTICIPATION**

**10113 EXPENDITURE SAFEGUARDS**

**10199 DEFINITIONS**

**10100 GENERAL PROVISIONS**

- 10100.1 The *Services My Way* program shall be established as the Medicaid participant-directed services (PDS) program in the District of Columbia to afford persons enrolled in the Home and Community-Based Services Waiver for the Elderly and Persons with Physical Disabilities (EPD Waiver) the opportunity to self-direct certain EPD Waiver services.
- 10100.2 Participation in the *Services My Way* program shall be limited to beneficiaries enrolled in the EPD Waiver who live in their own private residence or in the home of a family member.
- 10100.3 If an EPD Waiver beneficiary is deemed ineligible to participate in the *Services My Way* program because of his or her failure to meet the criteria outlined in § 10100.2, Department of Health Care Finance (DHCF) shall issue timely written notice to the beneficiary which includes the following :
- (a) A clear statement that the beneficiary is not eligible to participate in the *Services My Way* program;
  - (b) The reason(s) for the decision;
  - (c) Citation to regulations supporting the decision; and
  - (d) Information on the beneficiary’s right to appeal the decision by filing a notice of appeal with the Office of Administrative Hearings.

- 10100.4 The *Services My Way* program shall include the following services:
- (a) Participant-directed community support (PDCS) services as described in § 10102; and
  - (b) Individual-directed goods and services as described in § 10104.
- 10100.5 PDCS services and individual-directed goods and services shall only be available to EPD Waiver beneficiaries enrolled as participants in the *Services My Way* program.
- 10100.6 *Services My Way* participants shall be afforded the following self-direction opportunities:
- (a) The opportunity to exercise “employer authority” to recruit, hire, supervise and discharge qualified participant-directed workers (PDWs) who provide PDCS services to them; and
  - (b) The opportunity to exercise “budget authority” to purchase allowable and approved individual-directed goods and services using a participant-directed services (PDS) budget.
- 10100.7 The *Services My Way* participant or the participant’s authorized representative, if designated by the participant, shall serve as a “common law employer” of all PDWs hired by the participant.
- 10100.8 Financial management services and information and assistance services, as set forth in § 10106.4 and § 10106.6, respectively, shall be provided to *Services My Way* participants through the Vendor Fiscal/Employer Agent (VF/EA) Financial Management Services (FMS)-Support Broker entity selected by the Department of Health Care Finance (DHCF) through a competitive procurement process.
- 10100.9 *Services My Way* participants shall not receive agency-based personal care aide services offered under Chapter 42 or Chapter 50 of Title 29 DCMR.
- 10100.10 *Services My Way* participants shall be eligible to receive all services offered under the EPD Waiver except for agency-based personal care aide services.
- 10100.11 *Services My Way* participants shall not serve as PDWs.

## **10101 OUTREACH AND ENROLLMENT**

- 10101.1 Both current EPD Waiver beneficiaries and new EPD Waiver enrollees who meet the requirements of § 10100.2 may elect to enroll in the *Services My Way* program.

- 10101.2 DHCF or its agent shall provide information regarding self-direction and the *Services My Way* program to all current EPD Waiver beneficiaries and to new EPD Waiver enrollees at the time of EPD Waiver enrollment.
- 10101.3 EPD Waiver case managers shall provide information regarding self-direction and the *Services My Way* program to all EPD Waiver beneficiaries who are not enrolled as *Services My Way* participants each time a beneficiary is reassessed for EPD Waiver services, each time a beneficiary's person-centered plan (PCP) is updated, and upon a beneficiary's request.
- 10101.4 All EPD Waiver case managers shall be required to complete a standardized training course on self-direction and the *Services My Way* program conducted by DHCF prior to the date enrollment begins for the *Services My Way* program, as well as all ongoing training required by DHCF.
- 10101.5 If an EPD Waiver beneficiary expresses interest in the *Services My Way* program, the beneficiary's EPD Waiver case manager shall assist the beneficiary in revising an existing PCP or developing an initial PCP to include the *Services My Way* program.
- 10101.6 Upon revising the existing PCP or developing an initial PCP which includes the *Services My Way* program, , the EPD Waiver case manager shall submit the PCP which includes the *Services My Way* program to the *Services My Way* Program Coordinator for approval.
- 10101.7 Enrollment in the *Services My Way* program shall only occur following the *Services My Way* Program Coordinator's approval of the beneficiary's PDS budget as described in § 10107 and issuance of a prior authorization for all PDCS services and individual-directed goods and services included in the approved budget.
- 10101.8 Beneficiaries shall be notified at the time of enrollment in the *Services My Way* program that participation in the program is conditioned upon compliance with all program rules and the terms of the Participant/Representative-Employer Agreement.

**10102 PARTICIPANT-DIRECTED COMMUNITY SUPPORT SERVICES:  
SERVICE DESCRIPTION**

- 10102.1 PDCS services shall be available only to EPD Waiver beneficiaries enrolled as participants in the *Services My Way* program.
- 10102.2 PDCS services shall be detailed in the participant's PCP and PDS budget and shall be designed to promote independence and ensure the health, welfare, and safety of the participant.

- 10102.3 The participant or his/her authorized representative, as applicable, shall serve as a “common law employer” of the PDW providing services. In the role of “common law employer,” the participant or authorized representative shall be responsible for recruiting, hiring, supervising and discharging PDWs providing PDCS services.
- 10102.4 Supports shall be available to assist the participant/representative-employer with his or her own employer-related responsibilities as described in § 10102.3 through the VF/EA FMS-Support Broker entity.
- 10102.5 PDCS services shall include cueing and assistance with activities of daily living and instrumental activities of daily living.
- 10102.6 All PDCS services provided by a PDW shall be prior authorized by DHCF or its agent in order to be reimbursed under the *Services My Way* program.
- 10102.7 To be eligible for PDCS services, a participant shall be in receipt of a service authorization for personal care aide services from DHCF or its designated agent that specifies the amount, duration, and scope of services authorized to be provided to the beneficiary, in accordance with 29 DCMR § 5003.
- 10102.8 Payment for PDCS services shall be provided in accordance with the participant’s PDS budget, at an hourly wage set by the participant/representative-employer which falls within the wage range established by DHCF as set forth in § 10102.9.
- 10102.9 The hourly wage paid to a PDW shall be no lower than the living wage in the District, set in accordance 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.*), and no higher than the wage paid by DHCF for services provided by a personal care aide in accordance with Chapter 42 of Title 29 DCMR.
- 10102.10 PDCS services shall not include the following:
- (a) Services that require the skills of a licensed professional, as defined in the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*); or
  - (b) Tasks usually performed by chore workers or homemakers, such as cleaning of areas not occupied by the participant, laundry for family members, shopping for items not used by the participant, or money management.
- 10102.11 An agency-based provider of personal care aide services shall not be designated as an emergency back-up provider of PDCS services.

10102.12 In order to ensure PDCS services are provided in a manner that ensures the participant's health and safety, if a participant has been assessed for one hundred twelve (112) or more hours of personal care aide services per week in accordance with 29 DCMR § 5003, PDCS services must be provided by at least two (2) PDWs each week.

**10103 PARTICIPANT-DIRECTED COMMUNITY SUPPORT SERVICES:  
PROVIDER REQUIREMENTS**

10103.1 PDCS services shall be provided only to EPD Waiver beneficiaries enrolled as participants in the *Services My Way* program.

10103.2 Qualified PDWs shall provide PDCS services as employees of *Services My Way* participants.

10103.3 PDCS services may be provided by family members and individuals other than a participant's spouse, other legally responsible relative, or court-appointed guardian. A legally responsible relative does not include parents of adult children, so parents of adult children are not precluded from providing PDCS services. Each family member providing PDCS services shall comply with the requirements set forth in these rules.

10103.4 All PDWs shall meet the following qualifications:

- (a) Be at least eighteen (18) years of age;
- (b) Complete and pass a criminal background check in accordance with the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999, as amended by Health-Care Facility Unlicensed Personnel Criminal Background Check Amendment Act of 2002, effective April 13, 2002 (D.C. Law 14-98; D.C. Official Code §§ 44-551 *et seq.* (2012 Repl. & 2016 Supp.));
- (c) Receive customized training provided by the participant and/or the participant's authorized representative that is related to the participant's functional needs and goals as outlined in the PCP;
- (d) Be able and willing to perform the service-related responsibilities outlined in the participant's PCP; and
- (e) Be certified in cardiopulmonary resuscitation (CPR) and First Aid through an in-person training course approved by the American Red Cross or an alternative course approved by the *Services My Way* Program Coordinator and maintain current certifications.



- 10103.5 *Services My Way* participants shall not serve as PDWs.
- 10103.6 The VF/EA FMS-Support Broker entity shall be responsible for verifying that criminal background checks are conducted for all prospective PDWs in accordance with § 10103.4(b), and providing participants, authorized representatives, prospective PDWs, and the *Services My Way* Program Coordinator with the results of all criminal background checks performed on prospective PDWs.
- 10103.7 The participant, or the participant's authorized representative if designated as the "common law employer" of the PDW, shall verify that a prospective PDW meets all qualifications set forth in § 10103.4 prior to hiring the PDW to provide PDCS services.
- 10103.8 The VF/EA FMS-Support Broker entity shall verify that a PDW meets all qualifications set forth in § 10103.4 prior to enrolling the PDW into its payroll system.
- 10103.9 The VF/EA FMS-Support Broker entity shall execute a Medicaid provider agreement with each PDW on behalf of DHCF at the time a PDW is enrolled into its payroll system.

**10104 INDIVIDUAL-DIRECTED GOODS AND SERVICES: SERVICE DESCRIPTION**

- 10104.1 Individual-directed goods and services are only available to EPD Waiver beneficiaries who are enrolled as participants in the *Services My Way* program, and are purchased from the participant's PDS budget.
- 10104.2 Individual-directed goods and services are services, equipment or supplies not otherwise provided through the EPD Waiver or the Medicaid State Plan that address an identified need in the participant's PCP, including improving and maintaining the participant's opportunities for full membership in the community. Individual-directed goods and services shall meet the following requirements:
- (a) The requested item or service would decrease the participant's need for other Medicaid services;
  - (b) The requested item or service would promote the participant's inclusion in the community; or
  - (c) The requested item or service would increase the participant's safety in the home environment.
- 10104.3 Allowable goods and services shall include, but not be limited to, the following:

- (a) Cleaning services from firms or individuals to clean the participant's personal areas including bedroom, bathroom, kitchen, etc., only if necessary in addition to those services otherwise available through the EPD Waiver;
- (b) Food preparation and delivery services, including grocery delivery and delivery of prepared foods (but not payment for the food itself);
- (c) Transportation services not currently available under Medicaid or the District's accessible transportation programs or through natural supports that are related to activities of daily living, and meet an objective outlined in the participant's PCP;
- (d) Small electric appliances which allow the participant to safely prepare meals;
- (e) Laundry services;
- (f) The cost of changing locks at the participant's home, as necessary, when a PDW stops working for the participant; and
- (g) Maintenance of items that meet the criteria of allowable individual-directed goods described in § 10104.2.

10104.4 Payment for allowable transportation services shall be made in the form of reimbursement for mileage documented on a Mileage Reporting Form provided by DHCF or its agent or reimbursement for public transit costs documented as specified by DHCF or its agent and submitted to the VF/EA FMS-Support Broker entity.

10104.5 Non-allowable goods and services shall include, but not be limited to, the following:

- (a) Gifts for PDWs, family or friends, including bonus payments to PDWs;
- (b) Loans to PDWs, family or friends;
- (c) Food, beverages and nutritional supplements;
- (d) Entertainment equipment or supplies such as videos, VCRs, televisions, stereos, CDs, DVDs, audio/video tapes, etc.;
- (e) Air conditioners, heaters, fans and similar items;
- (f) Electronic devices that do not meet the requirements of § 10104.2 and do not meet an objective outlined in the participant's PCP;

- (g) Illegal drugs;
- (h) Alcoholic beverages or tobacco products;
- (i) Costs associated with advertising for prospective PDWs;
- (j) Costs associated with travel (airfare, lodging, meals, etc.) for vacations or entertainment;
- (k) Utility, rent or mortgage payments;
- (l) Clothing or shoes;
- (m) Comforters, towels, linens or drapes;
- (n) Paint or related supplies;
- (o) Furniture or other household furnishings;
- (p) Cleaning or laundry for other household members or areas of a home that are not used as part of the participant's personal care;
- (q) Large household or kitchen appliances such as washers, dryers, dishwashers, refrigerators, or freezers;
- (r) Exercise equipment;
- (s) Medications, vitamins or herbal supplements;
- (t) Experimental or prohibited treatments;
- (u) Laundry detergent and household cleaning supplies;
- (v) Vehicle expenses, including routine maintenance, repairs, or insurance costs;
- (w) Transportation services that are otherwise available under Medicaid or the District's accessible transportation programs or through natural supports or that are not related to activities of daily living;
- (x) Landscaping and yard work;
- (y) Pet care and supplies, except when provided for service animals; and
- (z) Massages, manicures or pedicures.

- 10104.6 Participants in the *Services My Way* program may purchase individual-directed goods and services that are included in their PCP, meet the requirements of §§ 10104.2 and 10104.3, and are within their PDS budget to purchase.
- 10104.7 Individual-directed goods and services shall be documented in the participant's PDS budget and PCP. The participant's support broker shall assist participants to revise their PDS budgets, as necessary, to account for new, appropriate individual-directed goods and services they would like to purchase. All revisions to a participant's PDS budget to account for new, appropriate individual-directed goods and services shall be accompanied by justification supporting the revision.
- 10104.8 Upon revising a PDS budget to reflect a new individual-directed good or service, the support broker shall submit the revised PDS budget and justification to the *Services My Way* Program Coordinator for approval.
- 10104.9 The *Services My Way* Program Coordinator shall review all requested individual-directed goods and services.
- 10104.10 The VF/EA FMS-Support Broker entity shall only authorize payment of invoices submitted for individual-directed goods and services that are included in the participant's PCP and PDS budget and that have been approved by the *Services My Way* Program Coordinator.

**10105 INDIVIDUAL-DIRECTED GOODS AND SERVICES: PROVIDER REQUIREMENTS**

- 10105.1 Individual-directed goods and services shall be provided only to EPD Waiver beneficiaries enrolled as participants in the *Services My Way* program.
- 10105.2 All individuals and vendors providing individual-directed goods and services shall meet the following minimum qualifications:
- (a) All individuals providing individual-directed goods and services shall be at least eighteen (18) years of age;
  - (b) All individuals and vendors providing individual-directed goods and services shall be able to demonstrate to the participant that:
    - (1) The individual/vendor has the capacity to perform the requested work;
    - (2) The individual/vendor has the ability to successfully communicate with the participant; and

- (3) The individual/vendor has all the necessary professional and/or commercial licenses required by federal and District law.

10105.3 Individuals and vendors providing non-medical transportation as an individual-directed service shall meet the following additional qualifications:

- (a) The individual/vendor shall have a valid driver's license; and
- (b) The individual/vendor shall have the minimum amounts of property damage liability, third party personal liability, uninsured motorist bodily injury, and uninsured motorist property damage insurance coverage required by the District of Columbia for the type of vehicle used to provide the transportation, in accordance with the Compulsory/No-Fault Motor Vehicle Insurance Act, effective September 18, 1982 (D.C. Law 4-155; D.C. Official Code §§ 31-2401 *et seq.*).

10105.4 No individual or vendor shall provide any individual-directed good or service that is not:

- (a) Documented in the participant's PCP and PDS budget; and
- (b) Approved by the *Services My Way* Program Coordinator.

10105.5 An individual or vendor selected by a participant to provide individual-directed goods or services on a recurrent basis may be required to enter into a Medicaid provider agreement with DHCF prior to providing the goods or services. The Medicaid provider agreement shall be executed by the VF/EA FMS-Support Broker entity supporting the *Services My Way* program on behalf of DHCF.

10105.6 The VF/EA FMS-Support Broker entity shall verify that an individual or vendor selected by the participant to provide individual-directed goods and services meets all applicable requirements set forth in §§ 10105.2 and 10105.3 at the time of enrollment into the VF/EA FMS-Support Broker entity's provider payment system and thereafter, as necessary.

**10106 VENDOR FISCAL/EMPLOYER AGENT FINANCIAL MANAGEMENT SERVICES-SUPPORT BROKER ENTITY FUNCTIONS**

10106.1 *Services My Way* participants shall receive financial management services and information and assistance services through the VF/EA FMS-Support Broker entity selected by DHCF through a competitive procurement process.

10106.2 The VF/EA FMS-Support Broker entity shall operate in accordance with 26 U.S.C. § 3504 and Rev. Proc. 70-6, as modified by REG-137036 and Rev. Proc. 2013-39, as well as all applicable federal and District labor, citizenship and immigration, and workers compensation requirements.

- 10106.3 The VF/EA FMS-Support Broker entity shall consist of the following two (2) divisions:
- (a) The Financial Management Services Division; and
  - (b) The Support Broker Division.
- 10106.4 The VF/EA FMS-Support Broker entity's Financial Management Services Division shall provide the following services to *Services My Way* participants:
- (a) Assist participants in verifying citizenship status of prospective PDWs;
  - (b) Report PDWs in the District New Hire Reporting System;
  - (c) Collect and process timesheets for PDWs;
  - (d) Process payroll, withholding, filing and payment of applicable federal and District employment-related taxes and insurance for PDWs;
  - (e) Manage the receipt and renewal of workers' compensation insurance policies for participants' PDWs;
  - (f) Track and report participant funds, disbursements, and the balance of participant funds;
  - (g) Process and pay invoices for individual-directed goods and services outlined in the participant's PCP and approved PDS budget;
  - (h) Provide participants with periodic reports of expenditures and the status of their PDS budgets, as described in § 10113.2;
  - (i) Provide customer service, including toll-free phone numbers, written translation and oral language services 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.*); and
  - (j) Any other services specified in the VF/EA FMS-Support Broker entity contract and accompanying documents.
- 10106.5 The VF/EA FMS-Support Broker entity's Financial Management Services Division shall execute the following tasks on behalf of DHCF:
- (a) Execute Medicaid provider agreements for PDWs and individual-directed goods and services vendors providing goods or services on a recurrent

basis and maintaining such agreements as authorized under a written agreement with DHCF;

- (b) Process returned PDW payroll checks and returned payments to individual-directed goods and services vendors in accordance with the District Unclaimed Property Law, effective March 5, 1981 (D.C. Law 3-160; D.C. Official Code §§ 41-101 *et seq.*); and
- (c) Any other tasks specified in the VF/EA FMS-Support Broker entity contract and accompanying documents.

10106.6 The VF/EA FMS-Support Broker entity's Support Broker Division shall provide each *Services My Way* participant with a support broker to furnish information and assistance services. Support brokers shall provide the following services to *Services My Way* participants:

- (a) Assist participants in designating an authorized representative, if participants choose to do so;
- (b) Provide initial orientation to participants and authorized representatives, as appropriate, on participating in the *Services My Way* program, including the role and responsibilities of acting as a "common law employer" and the VF/EA FMS-Support Broker entity, the exercise of employer and budget authority, and management of the PDS budget;
- (c) Provide initial and ongoing skills training to participants and authorized representatives, as appropriate, on performing as a common law employer, utilizing financial management and information and assistance services provided by the VF/EA FMS-Support Broker entity, and managing the PDS budget;
- (d) Assist participant/representative-employers in developing, implementing, and revising, as needed, emergency back-up and natural support plans;
- (e) Receive participants' monthly PDS allocation amount from DHCF and assist participants and authorized representatives, as appropriate, in developing initial and revised PDS budgets using allocation amounts;
- (f) Conduct monthly phone calls and quarterly in-home visits with all participants and authorized representatives, as appropriate;
- (g) Communicate with EPD Waiver case managers to address any health and safety concerns identified for participants and ensure that participants are included in such communication; and

- (h) Any other services specified in the VF/EA FMS-Support Broker entity contract and accompanying documents.

## **10107 PARTICIPANT-DIRECTED SERVICES BUDGET FORMULATION**

- 10107.1 To be eligible for PDCS services, a *Services My Way* participant shall be in receipt of a service authorization for personal care aide services that specifies the amount, duration, and scope of services authorized to be provided, in accordance with 29 DCMR § 5003.
- 10107.2 A PDS budget shall be developed based on the following methodology:
- (a) The participant's total assessed hours per week for personal care aide services is determined through the assessment process as set forth in 29 DCMR § 5003.3 and converted to hours per month;
  - (b) The total number of personal care aide services hours per month is multiplied by the hourly rate paid by DHCF for personal care aide services; and
  - (c) The total amount computed in (b) above is reduced by a pre-determined percentage to reflect the administrative overhead amount included in the hourly rate paid by DHCF for personal care aide services.
- 10107.3 The amount resulting from the calculation described in § 10107.2 shall represent the *Services My Way* participant's monthly PDS allocation amount, which shall be used to compute the participant's PDS budget.
- 10107.4 A PDS budget shall be developed by the participant and authorized representative, as appropriate, with assistance from the participant's support broker.
- 10107.5 A PDS budget shall contain the following two (2) cost components:
- (a) PDCS services; and
  - (b) Individual-directed goods and services.
- 10107.6 Participant/representative-employers shall set the hourly wage rate paid to their PDWs within the wage range established by DHCF as set forth in § 10102.9.
- 10107.7 Funds available for purchase of individual-directed goods and services shall be those funds, if any, remaining in the PDS budget after the amount for PDCS services has been determined.
- 10107.8 Support brokers shall be responsible for explaining the method used to develop the monthly PDS allocation amount to *Services My Way* participants.



- 10107.9 DHCF shall calculate the monthly PDS allocation amount for all *Services My Way* participants.
- 10107.10 DHCF or its agent shall notify all *Services My Way* participants each time PDS allocation amounts are adjusted as a result of a change to the hourly rate paid by DHCF for personal care aide services.
- 10107.11 The participant and the authorized representative, if applicable, shall work with the support broker to develop the participant's PDS budget based on the allocation amount.
- 10107.12 The participant's support broker shall submit the participant's completed PDS budget to the *Services My Way* Program Coordinator for approval within the timeframe established by DHCF.
- 10107.13 The *Services My Way* Program Coordinator shall review all PDCS services and individual-directed goods and services requested in a participant's PDS budget. All PDCS services requested in a PDS budget shall be reviewed in accordance with all relevant provisions of the Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.*, and attendant regulations.
- 10107.14 If the *Services My Way* Program Coordinator denies any PDCS services or individual-directed good or service requested in a participant's PDS budget, the Program Coordinator shall send written notice of the denial to the participant, authorized representative as appropriate, and the participant's support broker. The notice shall contain information on the reconsideration process, as described in § 10108, and the participant's appeal rights.
- 10107.15 Once a participant's PDS budget is approved by the *Services My Way* Program Coordinator, the Program Coordinator shall provide the approved PDS budget to the VF/EA FMS-Support Broker entity.
- 10107.16 The VF/EA FMS-Support Broker entity shall only release payment for PDCS services and individual-directed goods and services included in the participant's approved PDS budget and for which prior authorizations have been issued.

## **10108 RECONSIDERATION PROCESS**

- 10108.1 If the *Services My Way* Program Coordinator denies any PDCS services or individual-directed good or service requested in a participant's PDS budget, the participant may request reconsideration of the denial in accordance with § 10108.2.
- 10108.2 If the participant wishes to request reconsideration of the denial, the following steps shall occur:

- (a) The participant shall submit a written request for reconsideration to DHCF within twenty-one (21) days of the postmark date on the notice of denial, containing the following elements:
  - (1) The reason the participant believes the denial decision should not be upheld; and
  - (2) Any additional information and/or documentation the participant believes is relevant to the reconsideration decision;
- (b) The Director of DHCF or a designee shall issue a reconsideration decision within forty-five (45) days of the date the reconsideration request was received, containing the following elements:
  - (1) A clear statement that the PDS budget denial explained in the initial notice has been upheld or overturned on reconsideration;
  - (2) An explanation of the reason(s) the PDS budget denial was upheld or overturned;
  - (3) Citation to regulations supporting the decision;
  - (4) Information regarding the participant's right to appeal the reconsideration decision by filing a notice of appeal with the Office of Administrative Hearings; and
  - (5) An explanation of the circumstances under which the participant's current level of PDCS and individual-directed goods and services will be continued if the participant files a timely notice of appeal with the Office of Administrative Hearings.

10108.3 A *Services My Way* participant shall not be required to request reconsideration of the denial and may appeal the PDS budget denial decision directly by filing a notice of appeal with the Office of Administrative Hearings.

## **10109 AUTHORIZED REPRESENTATIVES**

10109.1 A *Services My Way* participant may designate an authorized representative to exercise employer-related responsibilities in the *Services My Way* program.

10109.2 An authorized representative is an individual who willingly accepts responsibility for performing employer and PDS budget management tasks that a participant is unable to perform without the assistance of a representative.

- 10109.3 An individual shall execute a Designation of Authorized Representative form in order to be recognized as a *Services My Way* participant's authorized representative.
- 10109.4 A *Services My Way* participant may designate one (1) of the following three (3) types of authorized representative:
- (a) Pre-Determined Representative: A legal guardian or other court-appointed representative in place at the time of the participant's enrollment in the *Services My Way* program;
  - (b) Voluntary Representative: An individual twenty-one (21) years of age or older who is actively engaged in the participant's life and lives in the participant's community; or
  - (c) Mandated Representative: An individual who meets the criteria of (b) above who is designated by the participant if DHCF or its agent determines that the participant requires an authorized representative in order to continue participation in the *Services My Way* program.
- 10109.5 A *Services My Way* participant shall only have one (1) authorized representative at any time.
- 10109.6 No individual shall receive any monetary compensation for acting as an authorized representative for a *Services My Way* participant.
- 10109.7 No individual acting as an authorized representative for a *Services My Way* participant shall serve as a PDW for that participant.
- 10109.8 All authorized representatives shall be responsible for working collaboratively with *Services My Way* participants to ensure that:
- (a) The participant receives all needed PDCS services from qualified PDWs; and
  - (b) PDCS services and individual-directed goods and services are provided in accordance with the participant's PCP and PDS budget.
- 10109.9 *Services My Way* participants may revoke an authorized representative designation at any time by notifying the support broker, who shall assist the participant to complete any required forms.
- 10109.10 DHCF may determine that a participant requires an authorized representative to continue participation in the *Services My Way* program if the participant has demonstrated an inability to self-direct their services after additional counseling, information, training or assistance.

- 10109.11 If DHCF determines that a participant requires an authorized representative to continue participation in the *Services My Way* program in accordance with § 10109.10, DHCF shall issue written notice to the participant, support broker and EPD Waiver case manager which shall:
- (a) Inform the participant that designation of an authorized representative is required in order to continue participation in the *Services My Way* program;
  - (b) Detail the reasons that designation of an authorized representative is required;
  - (c) Provide instructions on designating an authorized representative; and
  - (d) Provide information regarding the participant's right to appeal the determination by filing a notice of appeal with the Office of Administrative Hearings.

#### **10110 MANDATORY REPORTING**

- 10110.1 All EPD Waiver case managers, authorized representatives, and employees of the VF/EA FMS-Support Broker entity shall be required to report any suspected instance of abuse, neglect, or exploitation of a *Services My Way* participant to DHCF and Adult Protective Services.

#### **10111 VOLUNTARY TERMINATION OF PROGRAM PARTICIPATION**

- 10111.1 *Services My Way* participants may decide at any time to voluntarily terminate their participation in the *Services My Way* program.
- 10111.2 A *Services My Way* participant shall indicate the decision to voluntarily terminate participation in the program by completing and submitting any required voluntary termination forms to the *Services My Way* Program Coordinator. The participant's authorized representative and/or support broker shall assist the participant to complete the forms as necessary.
- 10111.3 Upon receipt of the participant's voluntary termination forms, the *Services My Way* Program Coordinator shall inform the participant's EPD Waiver case manager and support broker of the participant's decision to terminate program participation.
- 10111.4 EPD Waiver case managers shall be responsible for assisting participants to transition to agency-based personal care aide services. EPD Waiver case managers shall ensure that there is no break in service provision during the

transition period and shall coordinate the approval by DHCF or its designee of the request to initiate agency-based personal care aide services.

## **10112 INVOLUNTARY TERMINATION OF PROGRAM PARTICIPATION**

10112.1 Participant/representative-employers shall be required to comply with all program rules and terms of the Participant/Representative-Employer Agreement executed at the time of enrollment in the *Services My Way* program.

10112.2 Non-compliance with program rules or the terms of the Participant/Representative-Employer Agreement shall result in referral of the participant to the Remediation, Training and Termination Protocol established by DHCF.

10112.3 Non-compliance with the terms of the Participant/Representative-Employer Agreement may be identified by the VF/EA FMS-Support Broker entity, the participant's support broker, the participant's EPD Waiver case manager, or DHCF staff.

10112.4 If a *Services My Way* participant is found to be non-compliant with the terms of the Participant/Representative-Employer Agreement three (3) times within a twelve (12) month period, the third episode of non-compliance shall necessitate termination from the program and transition to agency-based personal care aide services.

10112.5 When a participant/representative-employer is found to be out of compliance with the Participant/Representative-Employer Agreement for the first time, the following steps shall occur:

- (a) The *Services My Way* Program Coordinator shall issue a notice of non-compliance to the participant/representative-employer, the support broker, and the EPD Waiver case manager, which shall:
  - (1) Identify the issue of non-compliance and request that the issue be corrected, if possible, and not repeated;
  - (2) Detail requirements of the Corrective Action Plan (CAP) the participant shall create to address the issue;
  - (3) Offer training and/or technical assistance;
  - (4) Encourage the participant/representative-employer to direct questions to the support broker regarding the issue of non-compliance, including requesting training, obtaining assistance in preparing the CAP, and designating an authorized representative;

- (5) Identify consequences of further non-compliance with the Participant/Representative-Employer Agreement; and
  - (6) Provide information on the participant's appeal rights for termination from the program should three (3) episodes of non-compliance occur in a twelve (12) month period.
- (b) Within five (5) business days of issuing the notice of non-compliance, the support broker shall contact the participant/representative-employer to discuss the episode of non-compliance;
  - (c) Within five (5) business days of the contact described in (b) above, the participant shall, with the assistance of the authorized representative and/or the support broker, if needed, draft and sign a written CAP regarding the issue of non-compliance; and
  - (d) The support broker shall provide copies of the participant's signed CAP to the participant's EPD Waiver case manager and the VF/EA FMS-Support Broker entity.
- 10112.6 The participant's support broker shall be responsible for monitoring the participant's adherence to the CAP.
- 10112.7 If the participant or authorized representative, as applicable, fails to implement all or a portion of the CAP, this failure shall be considered an episode of non-compliance with the terms of the Participant/Representative-Employer Agreement and shall be reported to the *Services My Way* Program Coordinator.
- 10112.8 If a participant/representative-employer is found to be out of compliance with the Participant/Representative-Employer Agreement a second time, the following steps shall occur:
- (a) The *Services My Way* Program Coordinator shall issue a second notice of non-compliance to the participant/representative-employer, the support broker, and the EPD Waiver case manager, which shall meet all requirements described in § 10112.5(a);
  - (b) Within five (5) business days of issuing the notice of non-compliance, the support broker shall contact the participant/representative-employer to discuss the episode of non-compliance;
  - (c) Within five (5) business days of the contact described in (b) above, the participant shall, with the assistance of the authorized representative and/or the support broker, if needed, draft and sign a written CAP regarding the issue of non-compliance; and

- (d) The support broker shall provide copies of the participant's signed CAP to the participant's EPD Waiver case manager and the VF/EA FMS-Support Broker entity.

10112.9

If a participant/representative-employer is found to be out of compliance with the Participant/Representative-Employer Agreement a third time, the following steps shall occur:

- (a) The *Services My Way* Program Coordinator shall issue a third notice of non-compliance to the participant, the support broker, and the EPD Waiver case manager, which shall:
  - (1) Identify the three (3) episodes of non-compliance;
  - (2) Clearly state that DHCF is terminating the participant's enrollment in the *Services My Way* program, per notice provided in the first and second notifications of non-compliance;
  - (3) Inform the participant that he/she will be transitioned to agency-based personal care aide services, per notice provided in the first and second notifications of non-compliance; and
  - (4) Provide information regarding the participant's right to appeal the *Services My Way* program termination decision by filing a notice of appeal with the Office of Administrative Hearings;
- (b) The support broker shall provide copies of the termination notice to the participant's EPD Waiver case manager and the VF/EA FMS-Support Broker entity;
- (c) Within five (5) business days of issuing the termination notice, the support broker shall contact the participant/ representative-employer and address the following topics:
  - (1) Reference to the first and second notices of non-compliance and the termination notice;
  - (2) Review of the consequences of three (3) episodes of non-compliance within a twelve (12) month period;
  - (3) Explanation of the process to transition the participant to agency-based personal care aide services; and
  - (4) Explanation of the participant's right to appeal the *Services My Way* program termination decision and the appeal process; and

(d) Within five (5) business days of the contact described in (c) above, the support broker shall complete all required participant termination forms and submit them to the *Services My Way* Program Coordinator.

10112.10 If a participant files a notice of appeal with the Office of Administrative Hearings within thirty (30) days of the date on the *Services My Way* program termination notice, the participant shall remain enrolled in the *Services My Way* program and continue to receive PDCS services and individual-directed goods and services included in the participant's approved PDS budget while the participant's appeal is pending.

10112.11 EPD Waiver case managers shall be responsible for transitioning participants to agency-based personal care aide services. EPD Waiver case managers shall ensure that there is no break in service provision during the transition period and shall coordinate the approval by DHCF or its designee of the request to initiate agency-based personal care aide services.

10112.12 Nothing in this section shall be construed to limit the District's authority to investigate and prosecute a *Services My Way* program participant for criminal acts including but not limited to theft and fraud.

### **10113 EXPENDITURE SAFEGUARDS**

10113.1 DHCF shall implement all safeguards described in this section to prevent premature depletion of *Services My Way* participants' PDS budgets and address potential service delivery issues associated with budget underutilization.

10113.2 The Financial Management Services Division of the VF/EA FMS-Support Broker entity shall prepare and issue a monthly PDS budget report to all participant/representative-employers, their support brokers, EPD Waiver case managers, and the *Services My Way* Program Coordinator. The monthly PDS budget report shall include the following elements:

- (a) The participant's monthly PDS budget amount, services used, and expenses incurred for both the current month and the year to date; and
- (b) The remaining balance of the participant's PDS budget amount.

10113.3 Support brokers shall review the monthly PDS budget report with participant/representative-employers during their monthly phone contact.

10113.4 The Financial Management Services Division of the VF/EA FMS-Support Broker entity shall monitor PDCS services utilization and provide written notice to the participant/representative-employer, the support broker, the EPD Waiver case manager, and the *Services My Way* Program Coordinator of any over- or under-utilization of PDCS services.



10113.5 If the Financial Management Services Division of the VF/EA FMS-Support Broker entity discovers over-utilization of PDCS services, the participant/representative-employer shall be referred to the Remediation, Training and Termination Protocol described in § 10112.

10113.6 If the Financial Management Services Division of the VF/EA FMS-Support Broker entity discovers under-utilization of PDCS services, the support broker shall address the issue with the participant/representative-employer and develop a corrective action plan as necessary to remedy the issue.

## 10199 DEFINITIONS

10199.1

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

**Authorized Representative** - An individual who willingly accepts responsibility for performing employer and PDS budget management tasks that a participant is unable to perform without the assistance of a representative, and who has been designated by the participant in writing by executing a Designation of Authorized Representative form.

**Budget Authority** - The authority granted to *Services My Way* program participants and their authorized representatives, as applicable, to develop and manage their own PDS budget with the assistance of the support broker and the approval of the *Services My Way* Program Coordinator. This authority allows participants to set the wage rate for their own participant-directed workers within the range prescribed by DHCF, and to allocate funds in their own PDS budget to individual-directed goods and services.

**Common Law Employer** - A person for whom the services are being performed who has the right to direct and control the actions of the individual who performs the services, not only as to the result to be accomplished by the work, but also as to the details and the means by which the result is accomplished, and who is responsible for payment of wages and employment taxes to its employees and all federal, state and local government agencies.

**District New Hire Reporting System** - The electronic system in which all District employers are required to enter new employees within twenty (20) days of hire, per 42 U.S.C. § 653A.

**Employer Authority** - The authority granted to *Services My Way* program participants and their authorized representatives, as applicable, to recruit, hire, supervise, and discharge their own qualified participant-directed workers who provide participant-directed community support services to program participants, with the assistance of the VF/EA FMS-Support Broker entity.

**Fraud** - An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or herself or some other person, including any act that constitutes fraud under federal or District law.

**Instrumental Activities of Daily Living (IADLs)** - The ability to perform activities not necessary for day-to-day functioning, but which allow an individual to live independently in the community, such as telephone use and medication administration.

**Participant-Directed Worker** - An individual meeting the qualifications set forth in § 10103 who is hired by the participant/representative employer to provide PDCS services.

**Participant/Representative-Employer** - The *Services My Way* participant or the participant's authorized representative, as applicable, who performs employer-related duties including recruiting, hiring, supervising and discharging participant-directed workers.

**Person-Centered Plan** - An individualized service plan developed by the EPD Waiver case manager that identifies the supports and services to be provided to the person enrolled in the EPD Waiver and the evaluation of the person's progress on an ongoing basis to assure that the person's needs and desired outcomes are being met.

**Self-Direction** - The ability of program participants, or their representatives if applicable, to exercise decision-making authority over certain services and take direct responsibility to manage their services with the assistance of a system of available supports.

**Support Broker** - An employee of the VF/EA FMS-Support Broker entity who provides information and assistance services to *Services My Way* participants to enable participants and authorized representatives, as appropriate, to independently direct and manage their participant-directed services.

**Theft** - To wrongfully obtain or use the property of another with intent to deprive the other of a right to the property or a benefit of the property or to

appropriate the property to an individual's own use or to the use of a third person.

**Vendor** - A corporate entity providing individual-directed goods or services.

**Vendor Fiscal/Employer Agent (VF/EA) Financial Management Services (FMS)-Support Broker Entity** - An entity operating in accordance with 26 USC § 3504 and Rev. Proc. 70-6, as modified by REG-137036 and Rev. Proc. 2013-39, which provides financial management services and information and assistance services to *Services My Way* participants and their authorized representatives, as appropriate.

**Wrongfully Obtain or Use** - Taking or exercising control over property; making an unauthorized use, disposition, or transfer of an interest in or possession of property; or obtaining property by trick, false pretense, false token, tampering, or deception. The term "wrongfully obtain or use" includes conduct previously known in the District as larceny, larceny by trick, larceny by trust, embezzlement, and false pretenses.

Comments on the proposed rule shall be submitted, in writing, to Claudia Schlosberg, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, N.W., Suite 900S, Washington, D.C. 20001, via telephone on (202) 442-8742, via email at [DHCFPubliccomments@dc.gov](mailto:DHCFPubliccomments@dc.gov), or online at [www.dcregs.dc.gov](http://www.dcregs.dc.gov), within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rule may be obtained from the above address.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2016-182  
November 28, 2016

**SUBJECT:** Appointments — Humanities Council of Washington, D.C.

**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 the National Foundation on the Arts and Humanities Act of 1965, Pub. L. No 89-209, 79 Stat. 845 (1965), it is hereby **ORDERED** that:

1. **ANTOINETTE FORD** is appointed as a member of the Humanities Council of Washington, D.C., replacing Courtney Davis, and shall serve in that capacity for a term of three (3) years, to end on June 1, 2018.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.




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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 2016-183  
November 29, 2016

**SUBJECT:** Appointments — Board of Medicine


**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 pursuant to section 203 of the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.03) (2012 Repl. and 2016 Supp.), 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 2016 Supp.)), it is hereby **ORDERED** that:

1. **THOMAS SMITH** pursuant to the Board of Medicine Thomas Smith Confirmation Resolution of 2016, effective November 26, 2016, PR21-0946, is appointed as a consumer member of the Board of Medicine, filling a vacant seat, for a term to end August 5, 2019.
2. **DAVID WESSEL** pursuant to the Board of Medicine David Wessel Confirmation Resolution of 2016, effective November 26, 2016, PR 21-0947, is appointed as a licensed physician member of Board of Medicine, filling a vacant seat, for a term to end August 5, 2019.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to the date of confirmation.



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 2016-184  
December 2, 2016

**SUBJECT:** Appointment – Board of Ethics and Government Accountability

**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 pursuant to Section 203 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012, D.C. Law 19-124; D.C. Official Code § 1-1162.02 (2012 Repl. and 2016 Supp.), 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. **TAMEKA COLLIER** pursuant to the District of Columbia Board of Ethics and Government Accountability Tameka Collier Confirmation Resolution of 2016, effective November 1, 2016, Resolution 21-0632, is appointed as a member of the Board of Ethics and Government Accountability, filling a vacant seat, for a term to end July 1, 2020.
2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to November 1, 2016.




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MURIEL BOWSER  
MAYOR

ATTEST: 

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LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-185  
December 2, 2016

**SUBJECT:** Reappointment - Board of Real Estate Appraisers

**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 1002 of the Second Omnibus Regulatory Reform Amendment Act of 1998, effective April 20, 1999, D.C. Law 12-261; D.C. Official Code § 47-2853.06(g) (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 2016 Supp.), it is hereby **ORDERED** that:

1. **MARGOT D. WILSON** pursuant to the Board of Real Estate Appraisers Margot D. Wilson Confirmation Resolution of 2016, effective November 5, 2016, Proposed Resolution 21-0876, is reappointed as the licensed real estate broker member of the Board of Real Estate Appraisers for a term to end June 26, 2018.
2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to November 5, 2016.




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MURIEL BOWSER  
MAYOR

ATTEST: 

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LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

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

Mayor's Order 2016-186  
December 2, 2016

**SUBJECT:** Appointments — Historic Preservation Review Board

**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 Mayor's Order 83-119, dated May 6, 1983, pursuant to section 4 of the Historic Landmark and Historic Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144; D.C. Official Code § 6-1103) (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 2016 Supp.)), it is hereby **ORDERED** that:

1. **GRETCHEN PFAEHLER** pursuant to the District of Columbia Historic Preservation Review Board Gretchen Pfaehler Confirmation Resolution of 2016, effective July 12, 2016, Resolution 21-0556, is appointed as a licensed interior designer member of the District of Columbia Historic Preservation Review Board, for a term to end July 21, 2018.
2. **ANDREW AURBACH** pursuant to the District of Columbia Historic Preservation Review Board Andrew Aurbach Confirmation Resolution of 2016, effective July 12, 2016, Resolution 21-0555, is appointed as a historian member of the District of Columbia Historic Preservation Review Board, for a term to end July 21, 2018.
3. **CHRIS LANDIS** pursuant to the District of Columbia Historic Preservation Review Board Chris Landis Confirmation Resolution of 2016, effective September 20, 2016, Resolution 21-0583, is appointed as an architect member of the District of Columbia Historic Preservation Review Board, replacing Maria T. Casarella-Cunningham, for a term to end July 21, 2019.
4. **LINDA MERCADO GREENE** pursuant to the District of Columbia Historic Preservation Review Board Linda Greene Confirmation Resolution of 2016, effective September 20, 2016, Resolution 21-0584, is appointed as a public member of the District of Columbia Historic Preservation Review Board, replacing Donald Graham Davidson, for a term to end July 21, 2019.




5. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to confirmation date.



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MURIEL BOWSER  
MAYOR

ATTEST: 

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LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM


Mayor's Order 2016-187  
December 2, 2016

**SUBJECT:** Appointment — Corrections Information 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 pursuant to section 11201 of the National Capital Revitalization and Self-Government Improvement Act of 1977, effective October 2, 2010, (D.C. Law 18-233; D.C. Official Code §24-101.01 (2016 Supp.)), 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 2016 Supp.)), it is hereby **ORDERED** that:

1. **CHARLES THORNTON**, pursuant to the Corrections Information Council Governing Board Charles Thornton Confirmation Resolution of 2016, effective November 15, 2016, Resolution 21-0660, is appointed as a member and chairperson of the Corrections Information Council, replacing Samuel Whittaker, for a term to end May 1, 2017.
2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to the date of confirmation.




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MURIEL BOWSER  
MAYOR

ATTEST: 

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LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-188  
December 2, 2016

**SUBJECT:** Appointments — Child Fatality Review Committee

**ORIGINATING AGENCY:** Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(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 pursuant to 4604(c) of the Child Fatality Review Committee Establishment Act of 2001, effective October 3, 2001, (D.C. Law 14-28; D.C. Official Code § 4-1371.01 (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 2016 Supp.)), it is hereby **ORDERED** that:

1. **CLAUDIA BOOKER** pursuant to the Child Fatality Review Committee Claudia Booker Confirmation Proposed Resolution of 2016, effective November 15, 2016, Resolution 21-0661, is appointed as a member of the Child Fatality Review Committee, for a term to end July 16, 2019.
2. **MARIE COHEN** pursuant to the Child Fatality Review Committee Marie Cohen Confirmation Proposed Resolution of 2016, effective November 15, 2016, Resolution 21-0662 is appointed as a member of the Child Fatality Review Committee, for a term to end July 16, 2019.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to November 15, 2016.




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MURIEL BOWSER  
MAYOR

ATTEST: 

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LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

**ADMINISTRATIVE ISSUANCE SYSTEM**

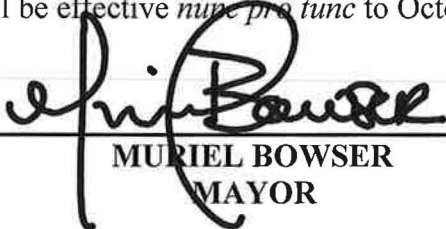
Mayor's Order 2016-189  
December 2, 2016

**SUBJECT:** Appointments — Board of Professional Counseling

**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 213 of the District Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.13 (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 2016 Supp.)), it is hereby **ORDERED** that:

1. **MATTHEW SIBLO**, pursuant to the Board of Professional Counseling Matthew Siblo Confirmation Resolution of 2016, effective October 8, 2016, Proposed Resolution 21-0804, is appointed as a member of the District of Columbia Board of Professional Counseling, replacing Arthur Blecher, for a term to end July 1, 2018.
2. **JOHNNY ALLEM**, pursuant to the Board of Professional Counseling Johnny Allem Confirmation Resolution of 2016, effective October 8, 2016, Proposed Resolution 21-0803, is appointed as a member of the District of Columbia Board of Professional Counseling, filling vacant seat, for a term to end July 1, 2018.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to October 8, 2016.




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MURIEL BOWSER  
MAYOR

ATTEST: 

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LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

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

Mayor's Order 2016-190  
December 2, 2016

**SUBJECT:** Reappointments and Appointments — District of Columbia Board of Library Trustees

**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 pursuant to section 4 of an Act to establish and provide for the maintenance of a free public library and reading room in the District of Columbia, approved June 3 1986, (29 Stat. 244; D.C. Official Code § 39-104 (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 2016 Supp.)), it is hereby **ORDERED** that:


1. **CLEVE MESIDOR** pursuant to the District of Columbia Board of Library Trustees Cleve Mesidor Confirmation Resolution of 2016, effective June 7, 2016, Resolution 21-0498 is appointed as a member of the District of Columbia Board of Library Trustees, replacing Brenda Lee Richardson, for a term to end January 5, 2021.
2. **GREGORY MCCARTHY** pursuant to the District of Columbia Board of Library Trustees Gregory McCarthy Confirmation Resolution of 2016, effective June 7, 2016, Resolution 21-0497 is reappointed as a member of the District of Columbia Board of Library Trustees, for a term to end January 5, 2021.
3. **KARMA COTTMAN** pursuant to the District of Columbia Board of Library Trustees Karma Cottman Confirmation Resolution of 2016, effective June 28, 2016, Resolution 21-0533 is reappointed as a member of the District of Columbia Board of Library Trustees, for a term to end January 5, 2021.
4. **FAITH HUBBARD** pursuant to the District of Columbia Board of Library Trustees Faith Hubbard Confirmation Resolution of 2016, effective November 1, 2016, Resolution 21-0633 is reappointed as a member of the District of Columbia Board of Library Trustees, for a term to end January 5, 2020.

5. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to the date of confirmation.



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MURIEL BOWSER  
MAYOR

ATTEST: 

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LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

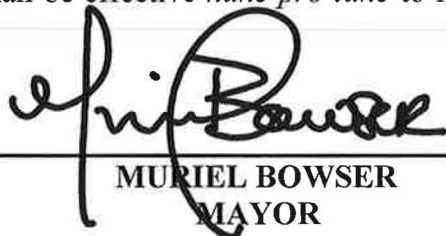
Mayor's Order 2016-191  
December 2, 2016

**SUBJECT:** Appointments — Domestic Violence Fatality Review Board

**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 pursuant to section 2 of the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act of 2002, effective April 11, 2003, (D.C. Law 14-296; D.C. Official Code § 16-1053 (2012 Repl.)), and in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 20142; D.C. Official Code § 1-523.01 (2014 Repl. And 2016 Supp.)), it is hereby **ORDERED** that:

1. **LAILA LEIGH** pursuant to the Domestic Violence Fatality Review Board Laila Leigh Confirmation Proposed Resolution of 2016, effective November 15, 2016, Resolution 21-0663, is appointed as a member of the Domestic Violence Fatality Review Board, filling a vacant seat, for a term to end July 20, 2018.
2. **HEATHER POWERS** pursuant to the Domestic Violence Fatality Review Board Heather Powers Confirmation Proposed Resolution of 2016, effective November 15, 2016, Resolution 21-0664, is appointed as a member of the Domestic Violence Fatality Review Board, filling a vacant seat, for a term to end July 20, 2018.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to November 15, 2016.

  
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 MURIEL BOWSER  
 MAYOR

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-192  
December 5, 2016

**SUBJECT:** Appointment — Director, Department of For-Hire Vehicles


**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. No. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl. and 2016 Supp.), in accordance with 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, as amended by Section 401(e) of Title IV of the Transportation Reorganization Amendment Act of 2016, effective June 22, 2016, D.C. Law 21-124, 63 DCR 10569 (August 19, 2016), and pursuant to the Department of For-Hire Vehicles Ernest Chrappah Confirmation Resolution of 2016, effective November 1, 2016, Res. 21-0634, it is hereby **ORDERED** that:

1. **ERNEST CHRAPPAH** is appointed Director of the Department of For-Hire Vehicles, and shall serve in that capacity at the pleasure of the Mayor.
2. This Order supersedes Mayor's Order 2016-096, dated June 30, 2016.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to November 1, 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 2016-193  
December 5, 2016

**SUBJECT:** Delegation Authority to the General Counsel to the Mayor to Enter Agreements, Including Memoranda of Understanding, with Law Schools to Hire Legal Fellows

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by sections 422(2), (6) and (11) 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), (6) and (11) (2014 Repl. and 2016 Supp.), and pursuant to the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979, D.C. Law 2-139, D.C. Official Code § 1-628.01 (2014 Repl. and 2016 Supp.), it is hereby **ORDERED** that:

1. The General Counsel to the Mayor (“**General Counsel**”) is delegated the authority to enter into agreements, including Memoranda of Understanding, with law schools in the District of Columbia metropolitan area, for the purpose of hiring legal fellows who will assist in the legal work of the Executive Office of the Mayor. All legal fellows will receive financial compensation pursuant to terms agreed to by the General Counsel and participating law schools.
2. This Order supersedes all previous Mayor’s Orders to the extent that there is any inconsistency therein.
3. **EFFECTIVE DATE:** This Order shall become effective immediately.




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MURIEL BOWSER  
MAYOR

ATTEST: 

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LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD**

**NOTICE OF PUBLIC HEARINGS  
CALENDAR**

**WEDNESDAY, DECEMBER 14, 2016  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S  
WASHINGTON, D.C. 20009**

**Donovan W. Anderson, Chairperson  
Members: Nick Alberti, Mike Silverstein,  
James Short, Mafara Hobson, Jake Perry**

<b>Protest Hearing (Status)</b> <b>Case # 16-PRO-00104;</b> 647 Rooftop, LLC, t/a 647 Rooftop, 647 Florida Ave NW, License #104008, Retailer CT, ANC 1B <b>Application for a New License</b>	<b>9:30 AM</b>
<b>Protest Hearing (Status)</b> <b>Case # 16-PRO-00105;</b> Spo-dee-o-dee, LLC, t/a The Showtime, 113 Rhode Island Ave NW, License #89186, Retailer CT, ANC 5E <b>Application to Renew the License</b>	<b>9:30 AM</b>
<b>Show Cause Hearing (Status)</b> <b>Case # 16-CMP-00385;</b> T and A, LLC, t/a Montana Liquors, 1801 Montana Ave NE, License #97473, Retailer A, ANC 5C <b>No ABC Manager on Duty</b>	<b>9:30 AM</b>
<b>Show Cause Hearing (Status)</b> <b>Case # 16-CMP-00116;</b> Brilliant, LLC, t/a Flash, 645 Florida Ave NW, License #90823, Retailer CT, ANC 1B <b>No ABC Manager on Duty (Two Counts)</b>	<b>9:30 AM</b>
<b>Show Cause Hearing (Status)</b> <b>Case # 16-CMP-00486;</b> Schawarmji, LLC, t/a Michos, 500 H Street NE, License #94784, Retailer CR, ANC 6C <b>No ABC Manager on Duty</b>	<b>9:30 AM</b>
<b>Show Cause Hearing (Status)</b> <b>Case # 16-CMP-00503;</b> HRH Services, LLC, t/a The Alibi, 237 2nd Street NW License #97969, Retailer CR, ANC 6C <b>Failed to Comply with Board Order</b>	<b>9:30 AM</b>

Board's Calendar  
December 14, 2016

**Show Cause Hearing (Status) 9:30 AM**  
**Case # 16-CMP-00600;** HRH Services, LLC, t/a The Alibi, 237 2nd Street NW  
License #97969, Retailer CR, ANC 6C  
**Failed to Comply with Board Order**

**Show Cause Hearing (Status) 9:30 AM**  
**Case # 16-CMP-00695;** Sylvia & David Industries, Inc., t/a Sosnick's Liquor  
2318 4th Street NE, License #72301, Retailer A, ANC 5E  
**Sold Go-Cups**

**Show Cause Hearing\* 11:00 AM**  
**Case # 15-CMP-00826;** 2718 Corporation, t/a Chuck & Bill Bison Lounge  
2718 Georgia Ave NW, License #14759, Retailer CT, ANC 1B  
**Trade Name Change Without Board Approval**

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

**Show Cause Hearing\* 1:30 PM**  
**Case # 15-CMP-00780;** Los Brothers, Inc., t/a La Molienda, 3568 14th Street  
NW, License #60398, Retailer CR, ANC 1A  
**Selling Serving, or Permitting the Consumption of Alcoholic Beverages  
after Hours**

**Fact Finding Hearing\* 2:30 PM**  
Georgia Avenue Media Lounge, LLC, t/a Parkview Patio; 3632 Georgia Ave  
NW, License #82215, Retailer CT, ANC 1A  
**Request to Extend Safekeeping**

**Protest Hearing\* 3:00 PM**  
**Case # 16-PRO-00036;** 1001 H St, LLC, t/a Ben's Upstairs/Ten 01, 1001 H  
Street NE, License #93103, Retailer CR, ANC 2C  
**Application to Renew the License**

**Protest Hearing\* 4:30 PM**  
**Case # 16-PRO-00078;** Columbia Lodge #85, t/a Columbia Lodge #85  
I.B.P.E.O. Of Wo, 1844 3rd Street NW, License #237, Retailer C Club, ANC 1B  
**Application to Renew the License**

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

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD**

**NOTICE OF MEETING  
INVESTIGATIVE AGENDA**

**WEDNESDAY, DECEMBER 14, 2016  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

**On Wednesday, December 14, 2016 at 4:00 pm., the Alcoholic Beverage Control Board will hold a closed meeting regarding the matters identified below. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed “to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations.”**

1. Case#16-251-00248, Exiles, 1610 U Street N.W., Retailer CT, License # ABRA-102051

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2. Case# 16-AUD-00081, Scion Restaurant, 2100 P Street N.W., Retailer CR, License # ABRA-082174

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3. Case# 16-AUD-00083, Bar Louie, 701 7<sup>th</sup> Street N.W., Retailer CR, License # ABRA-084428

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4. Case# 16-AUD-00082, Justin’s Café, 1025 1<sup>st</sup> Street S.E., Retailer CR, License # ABRA-083690

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5. Case# 16-CMP-00778, Golden Paradise Restaurant, 3903-3905 14<sup>th</sup> Street N.W., Retailer CR, License # ABRA-098206

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6. Case# 16-251-00253, Stadium Club, 2127 Queens Chapel Road N.E., Retailer CN, License # ABRA-094244

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7. Case# 16-AUD-00065, Grand Hyatt Washington, 1000 H Street N.W., Retailer CH, License # ABRA-087920

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ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
LICENSING AGENDA

WEDNESDAY, DECEMBER 14, 2016 AT 1:00 PM  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Request to Extend Safekeeping of License – Third Request. Original Safekeeping Date: 4/1/2009. ANC 1C. SMD 1C03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Mr. Henry's*, 1836 Columbia Road NW (formerly), Retailer CR, License No. 017006.
- 

2. Review Request to Extend Safekeeping of License – First Request. Original Safekeeping Date: 5/4/2016. ANC 6C. SMD 6C06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Coast In Liquors*, 301 Florida Avenue NE, Retailer A Liquor Store, License No. 000014.
- 

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

DISTRICT OF COLUMBIA COMMISSION ON THE ARTS AND HUMANITIES

NOTICE OF PUBLIC MEETING

Board of Commissioners

The Board of Commissioners of the District of Columbia Commission on the Arts and Humanities (DCCAH) will be holding a meeting on Thursday, December 15, 2016 at 3:30 p.m. The meeting will be held in the DCCAH Large Conference Room at 200 I Street, SE, Suite 1400, Washington, DC. Below is the draft agenda for this meeting. A final agenda will be posted to the DCCAH website at <http://dcarts.dc.gov/page/commissioner-meetings>.

For further information, please contact the front desk at (202) 724-5613.

DRAFT AGENDA

- 1. Public Comment Period
- 2. Call to Order Chairperson
- 3. Adoption of the Agenda All Commissioners Present
- 4. Adoption of Minutes All Commissioners Present
- 5. Chairperson’s Report Chairperson
- 6. Executive Director’s Report Executive Director
- 7. Committee Reports Respective Committees
- 8. Office of the Poet Laureate Poet Laureate
- 9. Panel Recommendations
- 10. Unfinished Business All Commissioners Present
- 11. New Business and Announcements All Commissioners Present
- 12. Adjournment Chairperson

## DC COMMISSION ON THE ARTS AND HUMANITIES

## NOTICE OF FUNDING AVAILABILITY

**FY 2017 Special Arts Initiative:  
Marion S. Barry, Jr. Summer Youth Employment Program (SYEP) Grant**

The DC Commission on the Arts and Humanities (DCCA) announces the availability of the Marion S. Barry, Jr. Summer Youth Employment Program (SYEP) grant for fiscal year 2017. Each year, DCCA partners with the Department of Employment Services (DOES) to offer grants to partner arts organizations that are willing to craft and supervise an employment experience for youth participating in the Marion S. Barry, Jr. Summer Youth Employment Program.

DCCA seeks District-based arts organizations with a proven track record of offering exemplary arts education programming to fulfill the goals for youth participating in SYEP:

- 1) Earn money and gain meaningful work experience;
- 2) Learn and develop the skills, attitudes, and commitment necessary to succeed;
- 3) Gain exposure to various exciting career industries; and,
- 4) Interact with dynamic working professionals in a positive work environment.

Partnering arts organizations have the opportunity to work with youth who are early in their process and understanding of careers in the arts to introduce them to the variety of opportunities available to them. Youth participating in SYEP are paid directly by DOES and partner sites are paid for the oversight of the participating youth through the DCCA grant process.

Organizations must be incorporated in the District, headquartered with a land address in DC and have 501(c)(3) status for at least one year prior to the application period in addition to other eligibility criteria listed in the program's guidelines. Applicants must also be a registered organization in good standing with the DC Department of Consumer and Regulatory Affairs (DCRA), Corporation Division, the Office of Tax and Revenue (OTR), the Internal Revenue Service (IRS), and the Department of Employment Services (DOES) and possess clean hands certification at the time of application.

All eligible applications are reviewed through a competitive process. Evaluation criteria are based on 1) Arts Education experience, and 2) Assessed DC Impact and Engagement.

**The Request for Applications (RFA) will be available electronically beginning Friday, December 16, 2016 on the DCCA website at <http://dcarts.dc.gov/>. Applicants must apply online. The deadline for applications is Tuesday, January 17, 2017. DCCA will present program orientation workshops on Wednesday, December 21, 2016 (10:00am-11:00am) and Wednesday, January 11, 2017 (10:00am-11:00am).**

For more information, please contact:

David Markey  
Arts Education Coordinator  
DC Commission on the Arts and Humanities  
200 I (EYE) St. SE, Washington, DC 20003  
(202) 671-1354 or [david.markey@dc.gov](mailto:david.markey@dc.gov)

CHILD AND FAMILY SERVICES AGENCY

Mayor’s Advisory Committee on  
Child Abuse and Neglect (MACCAN)

Tuesday – December 6, 2016  
10:00 a.m. – 12:00 p.m.  
Child and Family Services Agency  
200 I Street SE, Conference Room 1001-A  
Washington, DC 20003

Agenda

- 1. Call to Order
- 2. Ascertainment of Quorum

*Update/Note: As MACCAN does not have bylaws which establish a quorum, the quorum is set at a majority of the members. (Current membership stands at 21)*

- 3. Acknowledgement of Adoption of the Minutes of the September 27, 2016 meeting
- 4. Report by the Chair and Co-Chair of MACCAN
  - a. 2017 Monthly Meeting Schedule

DATE	TIME	ROOM NUMBER
Tuesday, January 24, 2017	10:00 AM	Room 2203B
Tuesday, March 28, 2017	10:00 AM	Room 2203B
Tuesday, May 23, 2017	10:00 AM	Room 2203B
Tuesday, July 25, 2017	10:00 AM	Room 2203B
Tuesday, September 26, 2017	10:00 AM	Room 2203B
Tuesday, December 5, 2017	10:00 AM	Room 2203A

- a. Response from Deputy Mayor’s Office re: *Think Before You Spank* campaign
- b. 211 Update



c. Sample *Think Before You Spank* awareness card

d. SpankOut Day-USA, Sunday, April 30, 2017

The Center for Effective Discipline sponsors SpankOut Day USA on April 30 of each year. SpankOut Day USA was initiated in 1998 to give widespread attention to the need to end corporal punishment of children and to promote non-violent ways of teaching children appropriate behavior.

5. Membership Update

a. VACANCY- Child & Family Services Agency

6. Presentation: Joyce Thomas

a. Harmful Effects of Corporal Punishment on Children

7. Opportunity for Public Comment

8. Adjournment

9. Next Meeting January 24, 2017, 10:00-12:00 pm @ CFSA, room 2203-B

If any questions/comments, please contact Roni Seabrook at (202) 724-7076 or [roni.seabrook@dc.gov](mailto:roni.seabrook@dc.gov).

**DC INTERNATIONAL PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****Low Voltage / IT Services**

DC International PCS is seeking proposals for low voltage / IT services. For full details, e-mail Kate Dydak at [kdydak@programmanagers.com](mailto:kdydak@programmanagers.com). Proposals must be received no later than December 15<sup>th</sup>, 2016.

**DEPARTMENT OF EMPLOYMENT SERVICES  
OFFICE OF YOUTH PROGRAMS**

**NOTICE OF FUNDING AVAILABILITY**

**Innovation/ Youth Grants**

**Release Date for Applications: December 5, 2016**  
**Notice of Intent to Apply Due: December 14, 2016**  
**GRANT APPLICATIONS DUE: January 5, 2017**

The District of Columbia Department of Employment Services (DOES) is pleased to announce a funding opportunity soliciting grant applications to support the delivery of innovative workforce solutions that will drastically improve the opportunity for youth between the ages of 18-24 years to successfully enter and remain in the 21<sup>st</sup> Century Workforce.

DOES, Office of Youth Programs (OYP) will provide grant applications to assist youth in obtaining high school credentials, entering post-secondary education programs, and obtaining post-secondary credentials to improve workforce opportunities.

Recipients of the Innovation/ Youth Grants will aid youth in placement and retention in employment, education, or training, in program skills gains and credential attainment.

Applicants will develop a model based upon a theory of action that is supported by a solid research basis with evidence of previous successes. The model should address the following elements:

1. Prepare youth for work experiences through training and guidance in soft skills.
2. Offer training for youth in technical skills, or hard skills, needed for specific career pathways or work settings.
3. Address how a significant amount of time will be used to develop and maintain relationships with employers to promote youth employment opportunities.
4. Provide matching opportunities for youth entering post-secondary education programs and obtaining post-secondary credentials to enter the workforce based upon individual interests and skills.

The DOES is soliciting proposals under three categories.

<b>Developing Youth Who are Prepared to Start Small Businesses</b>	<b>Engaging DC’s Youth in College and Career Readiness</b>	<b>Engaging DC’s youth in an emerging career field</b>
Models proposed under this category will recruit youth who are interested in becoming business owners.	Models proposed under this category will recruit youth who need support engaging or reengaging in the post-	Models proposed under this category will recruit youth for emerging careers in Professional, Scientific, and

<p>Through this opportunity youth must receive a holistic program that assesses individual interests, mentoring and adult relationship building, and address barriers that may keep them from becoming a business owner at a minimum.</p>	<p>secondary education arena. Successful models under this category may consider accelerated basic skills development, college cultural capital, strategic college visits, and any research proven strategy to increase the likeliness of youth who enter and persist through college.</p>	<p>Technical Services, Health Care and Social Assistance, Finance and Insurance, Public Administration, and Educational Services, Retail Trade and Manufacturing.</p>
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The DOES is seeking innovative proposals for high quality, technology- infused employment programs that will introduce and enhance technical skills, promote new methodologies in employment training, and build workforce readiness skills in a way that will allows DC’s most valuable population to fully engage in the 21<sup>st</sup> Century economy.

To apply for this grant opportunity, applicants must be an entity who is eligible to do business with the District Government or an eligible training provider with documented experience providing training for DC’s youth

At least \$ 300,000 in grant funds will be available for these small grants.

Determinations regarding the number of innovative grant awards will be based on the quality and number of applications received and available funding. Successful applicants may be awarded amounts less than requested.

A review panel(s) will be convened to review, score, and rank each application for a competitive grant. The review panel(s) will be composed of external neutral, qualified, professional individuals selected for their expertise, knowledge or related experiences. Each application will be scored against a rubric and applications 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). The Agency Director or her designee will make all final award decisions.

For more information or questions, please contact:  
 LaShaun Basil  
 Program Manager, Office of Youth Programs  
 4058 Minnesota Ave, NE, 2nd Floor  
 Washington, DC 20019  
 Email: [lashaun.basil@dc.gov](mailto:lashaun.basil@dc.gov)

## DEPARTMENT OF ENERGY AND ENVIRONMENT

## NOTICE OF FUNDING AVAILABILITY

## K-12 Energy and Environmental Education Program

The Department of Energy and Environment (the Department) seeks eligible entities to propose a program design that fills environmental education gaps within grades K-12 in the District of Columbia. The amount available for the project is approximately \$100,000.00. This funding will not cover the cost of implementation.

Beginning 12/9/2016, 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.doe.dc.gov](http://www.doe.dc.gov). Select the *Resources* tab. Cursor over the pull-down list and select *Grants and Funding*. On the new page, cursor down to the announcement for this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.

**Email** a request to [RFA.DOE@dc.gov](mailto:RFA.DOE@dc.gov) with "Request copy of RFA 2017-1707-OCR" 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 Linda O'Brien at (202) 535-1990 and mention this RFA by name.

**Write** DOE at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Linda O'Brien RE:2017-1707-OCR" on the outside of the envelope.

**The deadline for application submissions is 1/31/2017, at 4:30 p.m.** Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to [RFA.DOE@dc.gov](mailto:RFA.DOE@dc.gov).

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

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

For additional information regarding this RFA, write to: [RFA.DOE@dc.gov](mailto:RFA.DOE@dc.gov).

## DEPARTMENT OF ENERGY AND ENVIRONMENT

## NOTICE OF FUNDING AVAILABILITY

**Technical Assistance for RiverCents Automotive Pollution Prevention Program**

The Department of Energy and Environment (the Department) seeks eligible entities to create DOEE's RiverCents P2 Program (P2 Program) that will help reduce land, air, and stormwater pollution from District automotive repair shops through P2. The P2 Program will offer onsite technical assistance and a certification integral to the District's efforts to improve local environmental health by reducing pollution from auto body shops and mechanics. The amount available for the project is approximately \$110,992.00. This amount is subject to availability of funding and approval by the appropriate agencies.

Beginning 12/9/2016, 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.doe.dc.gov](http://www.doe.dc.gov). Select the *Resources* tab. Cursor over the pull-down list and select *Grants and Funding*. On the new page, cursor down to the announcement for this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.

**Email** a request to [RiverCents.TechSupport@dc.gov](mailto:RiverCents.TechSupport@dc.gov) with "Request copy of RFA 2016-1611-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 Clara Elias at (202) 645-4231 and mention this RFA by name.

**Write** DOEE at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Clara Elias RE:2016-1611-SWMD" on the outside of the envelope.

**Two informational meetings with call-in options** will provide opportunities for questions and answers, and will be held on the following dates, Monday, December 19, 2016 at 12pm, and Wednesday, January 11, 2016 at 3:00pm, at 1200 First Street NE, Fifth Floor, Washington, DC 20002. The call-in number for both meetings is 1- 866-741-7514 and the conference code is 2014667.

**The deadline for application submissions is 1/19/2017, at 4:30 p.m.** Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to [RiverCents.TechSupport@dc.gov](mailto:RiverCents.TechSupport@dc.gov).

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

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

For additional information regarding this RFA, write to: [RiverCents.TechSupport@dc.gov](mailto:RiverCents.TechSupport@dc.gov).

## DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF REQUEST FOR INFORMATION**Solar for All DC Innovation**

The District Department of Energy and Environment (DOEE) is requesting input on portions of a draft Statement of Work (SOW), which seeks to identify innovative ways to overcome barriers that may prevent the District from increasing the amount of locally generated solar capacity to 5% by 2032, increasing the access of seniors, small local businesses, nonprofits and low-income households in the District to the benefits of solar power, and reducing 100,000 low-income households' with high energy burdens electricity bills by 50% by December 31, 2032. Comments on the accuracy and relevancy of technical aspects of the work plan are welcome, as are suggestions on approaches to implementing an effective program.

The document is a Request for Information (RFI) only – it is not being posted as an actual SOW at this time, nor does it constitute a Request for Proposal (RFP) or Request for Application (RFA) or a promise to issue an RFP or RFA in the future. Respondents are advised that DOEE will not pay for any information or administrative costs incurred in response to this RFI; all costs associated with responding to this RFI will be solely at the interested party's expense. Not responding to this RFI does not preclude participation in any future RFP or RFA.

A person may obtain a copy of this RFI by any of the following means:

**Download** from the Department's website, [www.doe.dc.gov](http://www.doe.dc.gov). Select the *Laws & Regulations* tab. Cursor over the pull-down list and select *Public Notices & Hearings*. On the new page, cursor down to the announcement for this RFI. Click on *Read More* and download this RFI.

**Email** a request to [ben.stutz@dc.gov](mailto:ben.stutz@dc.gov) with "RE: Solar for All Innovation RFI" 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 Ben Stutz at (202) 481-3839 and mention this RFI by name.

**The deadline for RFI responses is Friday, December 23, 2016, at 12:00 p.m.** Responses should be submitted via email (preferred) to [ben.stutz@dc.gov](mailto:ben.stutz@dc.gov) or by mail to DOEE office at 1200 First Street NE, 5th Floor, Washington, DC 20002; Attention: Ben Stutz, Office of the Director.

For additional information regarding this RFI, call Ben Stutz at 202-481-3839.



**FRIENDSHIP PUBLIC CHARTER SCHOOL**  
**REQUEST FOR PROPOSALS**

Friendship Public Charter School is seeking bids from prospective vendors to provide;

- Communications Strategy and Support Services

The competitive Request for Proposal can be found on FPCS website at <http://www.friendshipschools.org/procurement>. Proposals are due no later than 4:00 P.M., EST, December 22th, 2016. No proposal will be accepted after the deadline. Questions can be addressed to: [ProcurementInquiry@friendshipschools.org](mailto:ProcurementInquiry@friendshipschools.org)-- **Bids not addressing all areas as outlined in the RFP will not be considered.**

**HEALTH BENEFIT EXCHANGE AUTHORITY****NOTICE OF EXECUTIVE BOARD PUBLIC MEETING**

The Executive Board of the Health Benefit Exchange Authority, pursuant to the requirements of Section 6 of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-0094), hereby announces a public meeting of the Executive Board. The meeting will be held at 1225 I Street, NW, 4<sup>th</sup> Floor, Washington, DC 20005 on **Wednesday, December 14, 2016 at 5:30 pm**. The call in number is 1-877-668-4493, Access code 731 905 527. The Executive Board meeting is open to the public.

If you have any questions, please contact Debra Curtis at (202) 741-0899.

**INTERAGENCY COUNCIL ON HOMELESSNESS****NOTICE OF PUBLIC MEETING****Full Council**

The DC Interagency Council on Homelessness (ICH) will be holding a meeting on Tuesday, December 13, 2016 at 2:00 pm. The meeting will be held at Child and Family Services Agency (Address: 200 I Street, SE, Washington, DC 20003; Room number: 1001A/B).

Below is the draft agenda for this meeting.

For additional information, including updates on location, please visit the ICH calendar online at <http://ich.dc.gov/events>. You can also contact the ICH info line at (202) 724-1338 or [ich.info@dc.gov](mailto:ich.info@dc.gov).

**Meeting Details**

Date: Tuesday, December 13, 2016

Time: 12 noon – 1:30 pm Pre-Meeting for advocates, agencies, consumers, providers  
2 – 3:30 pm Full Council

Location: Child and Family Services Agency (CFSA)  
Room number: 1001A/B  
200 I Street, SE, Washington, DC 20003

Updates will be available online <http://ich.dc.gov/events>

**Draft Agenda**

- I. Welcome and Opening Remarks
- II. Public Comments
- III. ICH Youth Strategic Plan
- IV. HUD FY 2016 Youth Homelessness Demonstration Program (YHDP) Competition Submission
- V. Public Comments (*Time Permitting*)
- VI. Adjournment

**MERIDIAN PUBLIC CHARTER SCHOOL**

**REQUEST FOR PROPOSALS**

**Financial/Accounting Services**

The Meridian Public Charter School solicits proposals for Financial/Accounting Services.

The full text of the request for proposals can be obtained by emailing Michael Russell at [mbids@meridian-dc.org](mailto:mbids@meridian-dc.org).

Email questions to [mbids@meridian-dc.org](mailto:mbids@meridian-dc.org) with the subject line as “Financial/Accounting Services”.

Deadline for submissions is December 23rd, 2016 by 3pm Eastern Time.

Please email all questions and submit final proposals to [mbids@meridian-dc.org](mailto:mbids@meridian-dc.org).

Mr. Michael Russell  
Meridian Public Charter School  
Business Manager

**PERRY STREET PREP PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS**

Perry Street Prep Public Charter School, in compliance with Section 2204 (c) of the District of Columbia School Reform Act of 1995 (“Act”), hereby solicits expressions of interest from Vendors or Consultants for the following tasks and service:

- Landscaping Services

Please send an email to [psp\\_bids@pspdc.org](mailto:psp_bids@pspdc.org) to receive a full RFP offering more detail on scope of work and bidder requirements.

Proposals shall be received no later than 5:00 pm, Monday, December 19, 2016.

Prospective Firms shall submit one electronic submission via e-mail to the following address:

Bid Administrator  
[psp\\_bids@pspdc.org](mailto:psp_bids@pspdc.org)

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

## NOTICE OF PROPOSED TARIFF

## GAS TARIFF 2016-2, IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY'S RESIDENTIAL ESSENTIAL REFORM TARIFF;

AND

## FORMAL CASE NO. 1127, IN THE MATTER OF THE COMMISSION'S ESTABLISHMENT OF A DISCOUNT PROGRAM FOR LOW-INCOME NATURAL GAS CUSTOMERS IN THE DISTRICT OF COLUMBIA

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 34-802 of the District of Columbia Code and in accordance with Section 2-205 of the District of Columbia Code,<sup>1</sup> of its intent to act upon the proposed Residential Essential Service ("RES") Reform Tariff of Washington Gas Light Company ("WGL")<sup>2</sup> in not less than 30 days after the date of publication of this Notice of Proposed Tariff ("NOPT") in the *D.C. Register*.

2. On October 11, 2016, the Commission, in Order No. 18565, adopting a new methodology for computing the credit associated with the RES Program for eligible low-income natural gas customers in the District of Columbia and directed WGL to file a revised tariff for the RES Rider that will include a RES credit equal to 55% of the distribution portion of the customer's bill as presented in the Technical Conference Final Report, with a provision to automatically increase the credit to 70% on a short term basis.<sup>3</sup> On November 1, 2016, WGL, as directed in Order No. 18565, filed its Implementation Plan and proposed RES Reform Tariff.

3. In the RES Reform Tariff, WGL sets forth the process to be used to recover from its non-RES customers the costs of the RES Program in accordance with the following tariff pages:

**GENERAL SERVICES TARIFF, P.S.C. of D.C. No. 3  
Seventh Revised Page No. 4  
Superseding Sixth Revised Page No. 4**

**P.S.C. of D.C. No. 3  
Twelfth Revised Page No. 5  
Superseding Eleventh Revised Page No. 5**

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<sup>1</sup> D.C. Code § 34-802 (2001); D.C Code § 2-505 (2001).

<sup>2</sup> *Formal Case No. 1127, In the Matter of the Commission's Establishment of a Discount Program for Low-Income Natural Gas Customers in the District of Columbia* ("Formal Case No. 1127"), Washington Gas Light Company's Implementation Plan, filed November 1, 2016 ("RES Implementation Plan").

<sup>3</sup> *Formal Case No. 1127*, Order No. 18565, ¶ 26, rel. October 11, 2016.

4. The proposed RES Reform Tariff updates WGL's tariff "to remove the existing language showing eligible credits by month and include new language explaining that eligible customers will receive an approximate 25% discount on the total bill," which "will be achieved through a 55% discount on the distribution service, which includes the customer and distribution charges."<sup>4</sup> Additionally, the tariff includes language that "on a short-term basis, the discount will automatically rise to 70% when the price of natural gas, as determined by the Purchase Gas Charge ("PGC") price per therm, rises above 50% of the base year price for a given month."<sup>5</sup> WGL indicates that the tariff revisions will become effective upon the implementation of Project Vision, its new customer billing system, projected in January 2017.

5. The proposed RES Reform Tariff may be reviewed at the Office of the Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday as well as on the Commission's web site at [www.dcpSC.org](http://www.dcpSC.org). Once at the website, open the "eDocket" tab, click on the "Searchable database" and input "FC1127" as the case number and "100" as the item number. Copies of the tariff are available upon request, at a per-page reproduction cost, by contacting the Commission Secretary at (202) 626-5150 or [psc-commissionsecretary@dc.gov](mailto:psc-commissionsecretary@dc.gov).

6. All persons interested in commenting on the proposed RES Reform Tariff are invited to submit written comments and reply comments no later than 30 and 45 days, respectively, after the publication of this NOPT in the D.C. Register. Written comments should be filed with: Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005 or at the Commission's website at <http://edocket.dcpSC.org/comments/submitpubliccomments.asp>.

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<sup>4</sup> *Formal Case No. 1127*, RES Implementation Plan at 5.

<sup>5</sup> *Formal Case No. 1127*, RES Implementation Plan at 5.

**DISTRICT DEPARTMENT OF TRANSPORTATION  
PUBLIC SPACE COMMITTEE**

**Notice of Regularly Scheduled Public Meetings  
Calendar Year 2017**

HEARING DATES	DEADLINE FOR FILING APPLICATIONS
January 26, 2017	November 18, 2016
February 23, 2017	December 16, 2016
March 23, 2017	January 18, 2017
April 27, 2017	February 23, 2017
May 25, 2017	March 23, 2017
June 22, 2017	April 19, 2017
July 27, 2017	May 23, 2017
August 24, 2017	June 21, 2017
September 28, 2017	July 26, 2017
October 26, 2017	August 22, 2017
November 16, 2017	September 13, 2017
December 14, 2017	October 11, 2017

**MEETING LOCATION**

1100 4<sup>th</sup> Street, SW  
2<sup>nd</sup> Floor – Hearing Room  
9:00 am

The location or time may vary. To confirm attendance and location please contact: Catrina Felder  
Public Space Committee Coordinator  
Government of the District of Columbia  
Department of Transportation  
Public Space Regulation Administration  
1100 4<sup>th</sup> Street, SW – 3<sup>rd</sup> Floor  
Washington, DC 20024

Phone: (202) 442-4960 or Fax: (202) 535-2221

[PublicSpace.Committee@dc.gov](mailto:PublicSpace.Committee@dc.gov)

**\*All applications must be submitted by 2:00pm  
on the deadline date**



## DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

## BOARD OF DIRECTORS

## NOTICE OF PUBLIC MEETING

**Environmental Quality and Sewerage Services Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Environmental Quality and Sewerage Services Committee will be holding a meeting on Thursday, December 15, 2016 at 9:30 a.m. The meeting will be held in the Board Room (4<sup>th</sup> floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at [www.dewater.com](http://www.dewater.com).

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or [linda.manley@dewater.com](mailto:linda.manley@dewater.com).

**DRAFT AGENDA**

- |  |  |
|--|--|
| 1. <b>Call to Order</b>                                  | Committee Chairperson                          |
| 2. <b>AWTP Status Updates</b><br>BPAWTP Performance      | Assistant General Manager,<br>Plant Operations |
| 3. <b>Status Updates</b>                                 | Chief Engineer                                 |
| 4. <b>Project Status Updates</b>                         | Director, Engineering &<br>Technical Services  |
| 5. <b>Action Items</b><br>- Joint Use<br>- Non-Joint Use | Chief Engineer                                 |
| 6. <b>Emerging Items/Other Business</b>                  |  |
| 7. <b>Executive Session</b>                              |  |
| 8. <b>Adjournment</b>                                    | Committee Chairperson                          |

**DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY****BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING****Finance and Budget Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Finance and Budget Committee will be holding a meeting on Friday, December 16, 2016 at 11:00 a.m. The meeting will be held in the Board Room (4<sup>th</sup> floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at [www.dewater.com](http://www.dewater.com).

For additional information please contact: Linda R. Manley, Board Secretary at (202) 787-2332 or [lmanley@dewater.com](mailto:lmanley@dewater.com).

**DRAFT AGENDA**

- |   |                              |
|---|------------------------------|
| 1. Call to Order                        | Chairman                     |
| 2. November Financial Report            | Director of Finance & Budget |
| 3. Agenda for January Committee Meeting | Chairman                     |
| 4. Adjournment                          | Chairman                     |

**DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**

**BOARD OF DIRECTORS**

**NOTICE OF PUBLIC MEETING**

**District of Columbia Retail Water and Sewer Rates Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) District of Columbia Retail Water and Sewer Rates Committee will be holding a meeting on Friday, December 16, 2016 at 9:30 a.m. The meeting will be held in the Board Room (4<sup>th</sup> floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to the DC Water’s website at [www.dcwater.com](http://www.dcwater.com).

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or [لمانley@dcwater.com](mailto:لمانley@dcwater.com).

**DRAFT AGENDA**

- |                               |                         |
|-------------------------------|-------------------------|
| <b>1. Call to Order</b>       | Committee Chairman      |
| <b>2. Monthly Updates</b>     | Chief Financial Officer |
| <b>3. Committee Work plan</b> | Chief Financial Officer |
| <b>4. Other Business</b>      | Chief Financial Officer |
| <b>5. Adjournment</b>         | Chief Financial Officer |

**DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**

**BOARD OF DIRECTORS**

**NOTICE OF PUBLIC MEETING**

**Water Quality and Water Services Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Water Quality and Water Services Committee will be holding a meeting on Thursday, December 15, 2016 at 11:00 a.m. The meeting will be held in the Board Room (4<sup>th</sup> floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at [www.dewater.com](http://www.dewater.com).

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or [linda.manley@dewater.com](mailto:linda.manley@dewater.com).

**DRAFT AGENDA**

- |  |  |
|--|--|
| <b>1. Call to Order</b>                  | Committee Chairperson                    |
| <b>2. Water Quality Monitoring</b>       | Assistant General Manager, Consumer Ser. |
| <b>3. Action Items</b>                   | Assistant General Manager, Consumer Ser. |
| <b>4. Emerging Issues/Other Business</b> | Assistant General Manager, Consumer Ser  |
| <b>5. Executive Session</b>              |  |
| <b>6. Adjournment</b>                    | Committee Chairperson                    |

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 15-16**  
**Z.C. Case No. 15-16**  
**MRP 600 RI LLC and B&R Associates**  
**(Consolidated and First-Stage PUD @ Square 3629, Lots 7, 813 and 814)**  
**September 26, 2016**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held public hearings on May 19, 2016 and May 25, 2016 to consider an application from MRP 600 RI, LLC and B&R Associates (“Applicant”) for review and approval of a consolidated and first-stage planned unit development (“PUD”) for Lots 7, 813, and 814 in Square 3629 (“Property”). The application proposes a mixed-use development consisting of retail, office, and residential uses (“Project”). The Commission considered the application pursuant to Chapters 24 and 30 and § 102 of the D.C. Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”)<sup>1</sup>. The public hearings were conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application with conditions.

**FINDINGS OF FACT**

**Application, Parties, and Hearing**

1. The Property consists of Lots 7, 813, and 814 in Square 3629 and is located at 524-528 and 600-602 Rhode Island Avenue, N.E. (Exhibit [“Ex.” 2.]
2. On July 14, 2015, the Applicant submitted an application to the Commission for the review and approval of a PUD in the C-3-A Zone District. The original application requested review and approval of a consolidated PUD for Phase I (Buildings 1A and 1B) and a first-stage approval for the other five phases of development. (Ex. 2-2G.)
3. The PUD application does not include a PUD-related Map Amendment. (Ex. 2.)
4. On November 13, 2015, the Office of Planning (“OP”) submitted a setdown report recommending that a public hearing be held on the application. It requested additional information on several items prior to the public hearing: (Ex. 15.)
  - Design of private streets;
  - Justification of curb cut for Block 4 from 4<sup>th</sup> Street;
  - Collaboration with the District Department of Transportation (“DDOT”) regarding Metropolitan Branch Trail (“MBT”) signage, maintenance, and amenities;

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<sup>1</sup> 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.

- Lighting plan;
  - Detailed landscaping plan;
  - Increase in affordable housing proffer, which may include levels of deeper affordability or larger unit sizes.
  - Details on sustainability initiatives and stormwater management requirements;
  - Refine design of plaza area;
  - Bicycle parking;
  - Site grading information; and
  - Detailed benefits and amenities.
5. On November 23, 2015, the Commission set the application down for a public hearing, supporting OP's request for additional information prior to the public hearing. (11/23/2015 Transcript ["Tr."], at p. 72.)
  6. The Applicant filed its pre-hearing statement on February 29, 2016, which included responses to OP's and the Commission's comments. It also modified its application to request consolidated review and approval of Building 5B. It further modified the site plan for the first-stage PUD approval, which was reflected in the plans submitted with the pre-hearing statement. (Ex. 16, 17A1-17A17.)
  7. Notice of the public hearing was published in the *D.C. Register* on March 21, 2016 and was mailed to Advisory Neighborhood Commission ("ANC") 5E and to owners within 200 feet of the Property on March 21, 2016. (Ex. 20-22.)
  8. Edgewood West filed for party status in opposition to the application on May 4, 2016, citing concerns with respect to green space, height, and circulation. (Ex. 33). The party is made up of neighbors living within 400 feet of the Project. The Commission granted its request for party status given their proximity to the Project. (5/19/2016 Tr., at p. 8.)
  9. A public hearing was held on May 19, 2016, during which the Applicant gave its presentation and responded to cross-examination; and the ANC gave its presentation and responded to cross-examination. The public hearing was continued to May 25, 2016, at which time OP and DDOT gave their reports in support of the application and Edgewood West provided its presentation in opposition to the application. (5/19/2016 Tr.)
  10. The Applicant proffered, and the Commission accepted, Erwin Andres as an expert in transportation engineering and Don Hoover as an expert in landscape architecture. The Applicant proffered Federico Olivera Sala as an expert in architecture; however, the

Commission noted that they required experts to be registered in the District of Columbia. Seeing as Mr. Sala was not registered as an architect in the District of Columbia, he was not accepted as an expert. Mr. Sala, nevertheless, testified to the architectural features of the Project. (5/19/2016 Tr., at pp. 10-11.)

11. In addition to Edgewood West, ANC 5E was a party to the proceeding. The ANC submitted a report in opposition of the Project at the public hearing and proffered testimony in opposition of the application at the public hearing. (Ex. 75A.) On July 11, 2016, the ANC submitted a subsequent letter in support of the Project conditioning its support on an increase in the set aside for affordable housing. (Ex. 89.)
12. Edgewood West provided a presentation in opposition to the application at the public hearing. (Ex. 82.)
13. At the public hearing, the Commission heard testimony and received evidence in support of the Project from OP and DDOT. (5/25/2016 Tr.)
14. Ninety-one letters of support were submitted into the record, including letters in support from the Community Preservation Development Corporation, Rhode Island Main Street Program, the Washington Area Bicycling Association, Gearin' Up Bicycle, the Coalition for Smarter Growth, Washington, DC Economic Partnership, and residential neighbors of the Project. (Ex. 34-52, 54, 57-61, 63, 64, 66, 67, 69.)
15. Three letters in opposition were submitted into the record, including a letter submitted by a resident in ANC 5E. (Ex. 62, 76.)
16. Suzanne Welch, a representative of the Community Preservation and Development Corporation ("CPDC"), the immediate neighbor to the north of the Project, testified at the public hearing in support of the application, noting areas where CPDC wanted continued collaboration with the Applicant including the proffer regarding the affordability levels of the Project, the buffer between the two properties, and the location of the stair connection between the properties. (Ex. 66, 78,)
17. Claire Jaffe, a representative of the Coalition for Smarter Growth, testified in support of the application at the public hearing. She noted that the Project was a transit-oriented development that improved connections within the community. (5/25/2016 Tr. at pp. 19-24.)
18. Patricia Williams, the Single Member District representative for ANC 5E02, testified in opposition to the application at the public hearing noting that she was "coming around" to supporting it. She testified that there were many aspects of the Project that she supported; however, she still had concerns regarding the level of affordable housing being proffered. (5/25/2016 Tr. at pp. 68-73.)

19. Cheryl Cort, Kyle Todd, and Joe Kakesh attended the public hearing on May 19, 2016 and requested an opportunity to testify in support of the Project; however, because the opportunity for public testimony was continued to May 25, 2016 they did not have an opportunity to testify. (Ex. 83.)
20. Abigail DeRoberts, Michael Clark of the Edgewood Civic Association, and Denetta Clark attended the public hearing on May 19 and requested an opportunity to testify in opposition to the Project; however, because the opportunity for public testimony was continued to May 25, 2016, they did not have an opportunity to testify. (Ex. 83.)
21. At the conclusion of the second night of the public hearing, the Commission closed the record except for the Applicant's post-hearing submission and proposed order as well as responses to the Applicant's post-hearing submission from OP, DDOT, ANC 5E, and Edgewood West. The Commission requested additional information regarding:
  - a. The functionality of the drive aisle around Block 1A;
  - b. The feasibility of stepping down the buildings with frontage on 4<sup>th</sup> Street to a lower height along 4<sup>th</sup> Street;
  - c. Reconsideration of the proposed affordable housing scheme;
  - d. Consideration of increasing the LEED proffer to LEED-Gold;
  - e. Provide written explanation of the phasing of the Project;
  - f. Additional renderings, including renderings of the road between Buildings 1A and 1B, the area of the retaining wall and its relationship to the trail; a view of the Project from 4<sup>th</sup> Street, Edgewood Commons, and Rhode Island Avenue; and a rendering of the connection between Edgewood Commons and the Property.
  - g. Details regarding the plantings in the terraced area of the retaining wall;
  - h. Details regarding the treatment of the slope in the northeast corner of the property;
  - i. Consider making the materials for 1B "warmer" and more residential;
  - j. Provide a section of 4<sup>th</sup> Street; and
  - k. Provide more information regarding the proposed jobs program.
22. The Commission specifically asked the Applicant to meet with the ANC prior to submission of the post-hearing materials.



23. The Applicant filed its post-hearing submission and draft order on June 28, 2016. (Ex. 87-87D18.) Its submission provided responses to each item requested by the Commission.
24. On July 6, 2016, Edgewood West submitted its response to the Applicant's post hearing submission. (Ex. 88.) The response was supportive of the Project.
25. At its public hearing on July 11, 2016, the Commission took proposed action to approve the application. The Commission requested that the Applicant provide additional information about its affordable housing proffer, the Project's 4<sup>th</sup> Street setback, access to the Metropolitan Branch Trail during construction of the Project, and the building signage proposed for Phase I of the Project.
26. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") as required by the District of Columbia Home Rule Act on July 13, 2016. NCPC did not submit any comments within 30 days after the Commission's referral, and the Commission proceeded to approve the application, as authorized by § 492 of the Home Rule Act.
27. On July 18, 2016 the Applicant submitted its preliminary list, and on August 1, 2016, the Applicant submitted its list of final proffered public benefits of the PUD and draft conditions, pursuant to 11 DCMR §§ 2403.16 -2403.18 and 2403.20. (Ex. 91, 92.)
28. On August 19, 2016, the Applicant submitted its responses to each item requested by the Commission at proposed action. (Ex. 93-93C.) The Applicant attached plans showing proposed IZ unit locations, a building massing analysis showing the 4<sup>th</sup> Street setback, and proposed retail tenant storefront and signage design guidelines.
29. On September 1, 2016, the Applicant requested to re-open the record so it could correct its parking count for Block 5B. (Ex. 94.) The Commission granted this request, and the Applicant submitted a corrected parking count. (Ex. 95, 95A.)
30. At a public meeting on September 12, 2016, the Commission deferred taking final action and requested that the Applicant submit additional information about the Project's 4<sup>th</sup> Street setbacks and design, a revised signage plan, and to work with the Office of the Attorney General regarding the proposed conditions.
31. On September 20, 2016, the Applicant submitted a response to the Commission's requests. The submission attached an updated section drawing showing revised building massing along 4<sup>th</sup> Street. The submission attached the Applicant's proposed retail and residential signage for Phase I. The submission also requested additional flexibility to modify the proposed unit count in Phase I of the development. (Ex. 96, 96A, 96B.)
32. At a public meeting on September 26, 2016, the Commission again deferred taking final action and requested that the Applicant submit a revised signage plan.

33. On October 3, 2016, the Applicant submitted a revised signage plan. (Ex. 97, 98.)
34. On October 11, 2016, OP submitted a supplemental report stating that it supported the “overall general direction” of the Applicant’s revised signage plan, but was opposed to the bladed signs shown on the plan. (Ex. 99.)
35. On October 12, 2016, the Applicant submitted a letter withdrawing its signage plan, and stating that it would “return to the Zoning Commission to modify the PUD once the branding for Phase I has been established.” (Ex. 100.)
36. On October 17, 2016, the Commission voted to take final action to approve the application subject to the conditions enumerated in this Order. The Commission stated that it was not approving any of the signage shown in the plans, and that the Applicant would be required to submit an acceptable signage plan as a PUD modification if it wanted to include signage in the Project.

## **THE MERITS OF THE APPLICATION**

### **Description of Property and Surrounding Areas**

37. The Property includes just over 13 acres of land and is improved with a strip shopping center and surface parking lot. The Property has frontage on both 4<sup>th</sup> Street and Rhode Island Avenue, yet the bulk of the site is set back from street frontage. (Ex. 2.)
38. The shopping center was initially developed in 1984, when there had been a dearth of retail opportunities in this part of Ward 5 and it has remained largely unchanged since that time. The design of the shopping center is a product of the times in which it was built: it is auto-centric, set back from the street and does not interact with the greater community; it does not facilitate connections within the community but rather isolates itself, creating a barrier between the Metropolitan Branch Trail (“MPT”) and the pedestrian path to the Rhode Island Avenue-Brentwood Metrorail Station. (Ex. 2.)
39. The Property is defined by a significant grade change from south to north. There is a 40-foot grade difference between the Property’s frontage on Rhode Island Avenue and the northeast corner of the Property. (Ex. 2.)
40. There are a series of retail uses as well as a church that are not included in the PUD that stand between the Property and Rhode Island Avenue. (Ex. 2.)
41. To the west of the Property are a series of low-scale commercial establishments lining 4<sup>th</sup> Street, as well as low-scale residential rowhouses; to the north of the Property are residential apartment buildings, including an 11-story apartment house that stands approximately 110 feet tall; to the east of the Property are railroad tracks that separate the Property from a series of low-scale commercial, industrial and residential uses; finally, to the south of the Property are low-scale industrial and commercial uses on the south side

of Rhode Island Avenue. The Property is located across Rhode Island Avenue from the Rhode Island Avenue-Brentwood Metrorail station and is immediately adjacent to the Metropolitan Branch Trail. It is also located along the G8, D8, and P6 bus lines. (Ex. 2.)

42. The existing strip commercial shopping center along Rhode Island Avenue, N.E. is located in the C-3-A Zone District. The Property is located in the Medium-Density Residential land use and Mixed-Use, Moderate-Density Commercial land use categories on the District of Columbia's Comprehensive Plan Future Land Use Map. (Ex. 2.)
43. The Property is located within the boundaries of ANC 5E. (Ex. 2.)

### **The Project**

44. The Project consists of six blocks, nine buildings, and six phases. The final and controlling details of the massing, uses and design of the Project are detailed in the plans. (Ex. 87D, 96A.) Excerpts concerning the details of the Project are provided herein for ease of reference. The first phase of development will be a consolidated PUD and will include the two eastern blocks of development: Blocks 1A and 1B as well as Block 5B, which has frontage on Rhode Island Avenue. These blocks represent the first phase of development since they provide the key link to Rhode Island Avenue, the Rhode Island Avenue Metrorail Station, the MBT and the CPDC property. (Ex. 2, 87.)
45. Blocks 1A and 1B are immediately adjacent to the pedestrian bridge that provides access to the station and will serve as the eastern gateway to the Project. The link to Metrorail is crucial to the success of this Project; accordingly, the Applicant will begin development with the eastern edge of the site, working in concert with the natural fluidity of the site and building on the momentum created by the Metrorail Station. Block 5B represents the second point of ingress and egress from Rhode Island Avenue. (Ex. 2, 87.)
46. Block 1A will be located in the northeast corner of the site; it will not have street frontage on any public rights of way. Rather, it will front on the internal roadway network established by this Project. It will have a density of up to a 2.6 floor area ratio ("FAR") and will include approximately 212 units. Up to 0.29 FAR will be dedicated to retail use. The Applicant seeks flexibility to convert a portion of residential use to retail use in the event there is demand for retail in this location. The building will be seven stories in height, or up to 90 feet, as measured from the finished grade at the front of the building. Loading and parking will both be provided on-site. One 40-foot loading berth will be provided with access from the private drive. Approximately 127 parking spaces will be provided in a below-grade garage. The garage will include a below-grade link to the Block 1B garage, which will provide up to an additional 371 parking spaces. The Applicant will reserve space in Block 1A for use by the Metropolitan Police Department. (Ex. 87D.)
47. Block 1A is composed by the interactions of three parts; a body, the structure, and a hinge element. The body, a sequence of heavy dark masonry piers with a warehouse feel,

marches along the train tracks as one would expect, but suddenly it bends into the site creating a funnel that draws one into the site from metro as well as attention as one passes by the trail. The masonry body serves as a sound attenuator from the train tracks. At the same time, it anchors the building to the ground and with its texture creates a scalable relationship with pedestrians. With the technology of the industrial era, the structure was an omnipresent denominator. In this case, the structure reveals itself past and in between the masonry. The structure is characterized as “the bare bones” of the building. This minimalistic treatment of glass and structure represents underlying geometry that generates the façade. And finally “the hinge element” that is purposely located at the bend of the building is a multitask signifier. This element is raised from the ground to provide transparency for the public functions of the building as well as an announcer of the main entrance and beacon like expression in the roof line. Also, this element is carved out at the top to allow outdoor activities while interacting visually with the surroundings. (Ex. 2, 87D.)

48. Block 1B will be located on the southeast corner of the Property and have frontage directly on Rhode Island Avenue. It will include up to 141 residential units and have a total density of up to 3.56 FAR. Approximately .96 FAR will be reserved for retail uses; there is flexibility to convert a portion of residential use to retail use once retail demand is established at this location. The retail will be located on the ground floor and will screen portions of the garage that are not below grade so that they are not visible from the roadway. The building will be up to 90 feet tall, as measured from its frontage on Rhode Island Avenue. It will include one 40-foot loading berth to serve both the residential and retail uses. (Ex. 2, 87D.)
49. The building site for Block 1B is bounded by Rhode Island Avenue, the main road entrance, the central open space and the MBT. The building bends and rotates to define the edge of the public domain and at the same time create opportunities to articulate the facade. The building presents a stone base that recalls “train related” structures of another era, but with a contemporary combination of glass and metal. This very distinctive vernacular allows the retail future tenant to have his own identity and at the same time creates a strong foundation for the building. Atop of this stone plinth, three corner buildings reside. With simple lines, dark metal frame-like “superstructures” with embedded windows, shape those corner buildings. These frame structures work as point of reference for orientation around the site as well as ambassadors for the Project to the city as you approach the site from all directions. In between these corner elements there is a masonry fabric that knits the building together. Again the heavy masonry helps with sound attenuation from the train track but also brings a residential “punch openings” type texture to the composition. The articulation and combination of a secondary brick creates a rhythmic pattern in the façade that simulates the use of different window sizes as you would expect in a residential building. To crown the vertical composition, the “superstructure” appears above the heavy brick façade bringing lightness to the top floor and relating it to the articulation of the corner. (Ex. 2, 87D.)

50. Block 5B will be located on Rhode Island Avenue. It will include up to 131 residential units. It will have a residential density of up to 3.55 FAR but has flexibility to convert some residential space to office use should a market for office be established. Up to .84 FAR of retail will be provided on the ground floor. Up to 156 parking spaces will be provided in the garage. The building will be up to 90 feet in height and will include one 40-foot loading dock. (Ex. 87D.)
51. The design of Block 5B will adopt the same industrial theme that informs the aesthetic of Blocks 1A and 1B. The design juxtaposes masonry materials with metal panels to create a warehouse feel for the building. The rooftop incorporates a sawtooth design that distinguishes the building from both Blocks 1A and 1B while also establishing a presence along Rhode Island Avenue. (Ex. 17A, 87D,)
52. The Applicant is seeking stage-one PUD approval for Blocks 2, 3, 4, 5A, and 6; accordingly, it only seeks approval for the massing, site plan, and uses for these phases. With the exception of Block 2B, each of the blocks will include ground-floor retail with multifamily residential above. Block 2B will be dedicated entirely to retail uses, including a movie theater. (Ex. 87D.)
53. Blocks 2A and 2B are located immediately west of Block 1A. Along with its southern counterpart, Block 6, they will establish the retail stronghold on the site as it will line the interior roadway with retail uses, creating a pedestrian-friendly experience through the site that links the MBT and Metrorail with 4<sup>th</sup> Street. To that end, Block 2B will be dedicated to a movie theater and will include additional retail uses on the ground floor. The building will be up to 90 feet in height, have a density of up to 1.97 FAR and will include 142 parking spaces. Block 2A will be a residential building with ground-floor retail. It will have a maximum height of 90 feet, a density of up to 3.79 FAR, with up to 0.4 FAR being reserved for retail uses. Block 2A will include up to 265 parking spaces. Both Blocks will include a 40-foot loading dock. (Ex. 87D.)
54. Block 3 will include up to 368 residential units for a total residential density of up to 2.73 FAR. This phase will include density of 0.72 FAR of retail uses. This phase will incorporate a full-service grocery store, which will be a significant convenience for the residents of the Project and the adjacent neighborhood. Up to 646 parking spaces will be provided in the garage, along with three loading berths at 55 feet and one at 40 feet. The loading berths will all be located along the northern edge of the building to avoid any pedestrian or vehicular conflicts with the interior roadway. Block 3 has frontage on 4<sup>th</sup> Street. It is oriented to have a major presence on 4<sup>th</sup> and to attract those who are driving or walking by. The building will have a maximum height of 90 feet; however, it will step down to a maximum height of 65 feet along 4<sup>th</sup> Street. (Ex. 87D.)
55. Block 4 also has frontage along 4<sup>th</sup> Street and given its limited street frontage, the proposed retail will correspond to the grocery store to its north. Block 4 will have a residential density of up to 3.47 FAR and a retail density of 0.53 FAR. It will include up

- to 163 residential units and include up to 125 parking spaces. The building will be a maximum height of 90 feet but will step down to a maximum height of 65 feet for its frontage on 4<sup>th</sup> Street. It will include one 40-foot loading berth on-site. (Ex. 87D.)
56. Block 5A will have a maximum residential density of 3.99 FAR and a maximum retail density of 0.55 FAR. It will include up to 164 residential units. The maximum height for Block 5A will be 90 feet. It will include up to 150 parking spaces in its garage and include one 40-foot loading berth. (Ex. 87D.)
  57. Block 6 will include up to 116 residential units and 88 parking spaces. It will have a maximum residential density of 2.59 FAR and a retail density of 0.27 FAR. It will have a maximum height of 90 feet and will include one 40-foot loading berth. (Ex. 87D.)
  58. Central to the planning of the Project is the creation of an engaging and exciting public realm that focuses on developing streets that extend the city grid and that are highly activated, human-scaled, and pedestrian-oriented. The Project's framework is established by a tree-lined Bryant Street with retail frontages, outdoor dining, and residential lobbies that help create a vibrant and activated spine that runs through the Project. Along its length, Bryant Street includes a collection of small public spaces and plazas that further enrich the public realm. Bryant Street also includes a dedicated off-street bicycle lane that also activates the street experience. The Project incorporates a fully integrated bicycle network that connects two major existing routes: the MBT and the 4<sup>th</sup> Street bicycle lanes. (Ex. 2, 87D.)
  59. The two most significant green spaces along Bryant Street include an outdoor plaza and green space on Block 3 and an urban plaza and Bryant Street Park on the eastern edge of the site. (Ex. 87D.)
  60. The Block 3 plaza and park was created in response to comments received from residents living to the west of 4<sup>th</sup> Street who requested additional green space on-site. The original plaza area was comprised entirely of hardscape and consisted of 13,385 square feet of area. The Applicant redesigned the plaza to respond to the comments of neighbors to incorporate green space and to enlarge the space up to 30,750 square feet. (Ex. 87A, 87D.)
  61. Bryant Street culminates at an urban plaza that engages directly with the MBT and the Rhode Island Avenue-Brentwood Metrorail Station pedestrian access bridge. The plaza is activated with outdoor dining, an interactive water feature, and public art. It will serve as a community gathering space for events and performances. In addition, a portion of Bryant Street that wraps around Block 1A will be developed using similar special treatments including distinctive permeable paving and curb-less edges. Together, the plaza and Bryant Street Park offer a significant space for larger public gatherings and events. The Applicant has worked with the community to create a Memorandum of

Understanding that will allow the community to take part in the programming of this space. (Ex. 2, 87A, D.)

62. The Project will incorporate two stair connections with the property to its north. These connections will improve porosity for the community, as it will allow more direct access to the Metrorail pedestrian bridge and the MBT. The Applicant has worked with the neighboring property owner regarding the location of the stair on their property; as the neighboring property is not a part of the PUD, the final location of both stairs on the northern property can continue to be coordinated with the property owner. (Ex. 87D.)

### **PUD Flexibility Requested**

63. *Use:* The Applicant sought flexibility to provide retail uses in Block 1A along its eastern façade, facing the MBT and to relocate the residential lobbies on the ground floor for both Blocks 1A and 1B. Given the isolation of the eastern frontage, retail may not be feasible immediately. The flexibility discussed below will allow the Applicant to dedicate this space for residential use and allow a conversion to retail use, when feasible: (Ex. 31, 87.)
- a. Related to the provision of retail uses, the Applicant sought flexibility for the height of the retail space for Blocks 1A, 1B, and 5B. Depending on the retailers ultimately secured, additional floor-to-ceiling height may be required. Accordingly, the Applicant requested flexibility to adjust the height of the retail level so long as the maximum building height does not exceed 90 feet; (Ex. 31, 87.)
  - b. The Applicant sought flexibility to convert one floor of Block 5B from residential use to office use, if market demand allows. Block 5B is located along Rhode Island Avenue and provides an opportunity to provide creative office/incubator space in a location where office use does not currently exist. Again, market demands may not allow this use immediately, however, the Applicant sought flexibility to convert the second floor of the building if and when market conditions allow; (Ex. 31, 87.)
  - c. The Applicant requested flexibility to provide an additional level of parking for Blocks 1A, 1B, and 5B as noted on the plans submitted as Exhibit 87D of the record; and (Ex. 31, 87)
  - d. The Applicant also requested flexibility to provide interim uses on the Phase I PUD properties before construction of the later phases begins. This will help generate interest in the site and will activate the site prior to the application for a second-stage application. The Applicant also sought flexibility to locate temporary retail kiosks on the eastern edge of the site. The Applicant proposed

that the kiosks would not be permanently affixed to the ground, no greater than 500 square feet each, and would rotate periodically. (Ex. 31)

64. **Loading:** The Applicant requested relief from the loading requirements for each development block. Each block, with the exception of Block 2B, requires one 55-foot berth for the residential use, whereas the Applicant is proposing 40-foot berths, which will be shared with the retail uses. In sum, 24 loading berths are required for this site (11 at 55 feet and 13 at 30 feet); the Applicant is providing 12 loading berths (three at 55 feet and nine at 40 feet). (Ex. 31, 87D.)
65. **Section 2516:** The Applicant is proposing nine buildings on a single record lot, which is permitted pursuant to § 2516. The Applicant requested flexibility from § 2516.5(b), which requires front yards for each principal building and § 2516.5(c), which requires a rear yard for each building. None of the buildings are providing a front yard as the Applicant believes it is more appropriate to pull the building faces as close to Main Street as possible. This creates a more urban site plan, as opposed to setting the buildings back. Rear yard relief is required for Blocks 2A and 2B which are not set back from the northern lot line, rather than the requisite 18.75 feet. There is a significant grade change immediately to the north of the building, which requires a retaining wall; as such, there is no adverse impact from the reduction in the depth of the rear yard. (Ex. 31, 87.)
66. **Parking:** Parking flexibility is required for Blocks 2B, 5A, and 5B. Parking will be shared between Blocks 1A and 1B. (Ex. 31, 87D.)

### **Project Amenities and Public Benefits**

67. As detailed in the Applicant's testimony and written submissions, the proposed PUD will provide the following Project amenities and public benefits:
  - a. Exemplary Urban Design, Architecture, and Open Spaces. The Project creates an urban fabric where one does not currently exist. It also addresses significant topographic challenges that enables porosity and connections with the community. The building designs incorporate high quality materials and enable enhanced open spaces to better serve the community; (Ex. 2.)
  - b. Site Planning and Efficient Land Utilization. This development reflects this benefit by replacing an underutilized site with a mixed-use development. As noted above, the Project provides vehicular, pedestrian, and bicycle connections that do not currently exist. These connections integrate the site with the existing community in a way that the existing shopping center does not. The introduction of residential uses on this property is an appropriate proposal given its proximity to the Metrorail station as well as the MBT; (Ex. 2.)



- c. Housing and Affordable Housing. This Project provides for the creation of approximately 1,600 residential units on the Property; eight percent of the residential gross floor area will be reserved for affordable housing. In Phase One, half of the set aside (four percent of residential GFA in Phase I) will be reserved for households with an annual income no greater than 50% of the Area Median Income (“AMI”). The other half of the set aside (four percent of residential GFA in Phase I) will be set aside for households with an annual income no greater than 80% of the AMI. For the remaining phases (Blocks 2A, 3, 4, 5A, and 6), eight percent of the residential GFA will be set aside for affordable housing: five percent of the residential GFA of the later phases will be reserved for households with an annual income no greater than 50% AMI and three percent of the residential GFA will be reserved for households with an annual income no greater than 80% AMI. (Ex. 87.) The Project therefore includes affordable housing at a deeper level of affordability than is required under Chapter 26 of the Zoning Regulations. The Applicant is required to reserve eight percent of the residential GFA for affordable housing for households with an annual income of no greater than 80% of AMI. So all of the affordable housing reserved for households at the 50% of AMI level is at a deeper affordability level than required by Chapter 26 of the Zoning Regulations;
- d. Effective and Safe Vehicular and Pedestrian Access and Transportation Demand Management Measures. The expected pedestrian and vehicular circulation associated with this Project has been carefully and thoroughly studied by the Applicant. By extending the street grid, the Applicant is creating a safer vehicular and pedestrian experience for those traversing the site. The extended street grid helps create clarity and predictability, which is safer for both drivers, bicyclists, and pedestrians. The Applicant attempts to remove any vehicular conflicts by removing all parking and loading access from the main internal drive and locating all entrances from private alleyways. Finally, the Applicant is proposing to improve the Metropolitan Branch Trail along the eastern edge of its site and will encourage biking among its residents; (Ex. 2, 87D.)
- e. Uses of Special Value. The Applicant is offering the following benefits and amenities as uses of special value, in addition to those items referenced above:
- i. Construction. The Applicant shall abide by the terms of the Construction Management Plan; (Ex. 87A.)
  - ii. Security. The Applicant shall implement the Security Plan outlined in Exhibit 31A of the Record up to a cost of \$300,000 per year for a period of no less than five years from the date of issuance of the certificate of occupancy for Building 1A. This plan shall include: (Ex. 87C.)

- Private Security. The Applicant shall retain a private security firm to provide security on-site 24 hours per day, seven days per week;
  - Security Call Boxes. The Applicant shall provide two security call-boxes. One call-box shall be located at the base of the stairs leading to the pedestrian bridge for the Metrorail Station and the second call-box shall be located at 8<sup>th</sup> Street and Edgewood Street;
  - Metropolitan Police Department. The Applicant shall reserve at least 500 square feet in Building 1A, as defined in the Record, for use by the Metropolitan Police Department; and
  - Lighting. The Security Plan shall incorporate the lighting depicted in Exhibit 31A as well as lighting along the MBT below the staircase leading to the pedestrian bridge to the Metrorail Station;
- iii. Seabury Transportation for Seniors. The Applicant shall partner with Seabury Transportation for Seniors and the District Department on Aging to provide services, at a cost up to \$30,000 per year, to transport seniors at the Edgewood Commons community to the Site at least once a week for five years. These services shall begin upon the issuance of building permit for Building 1A and at the request of Edgewood Commons; (Ex. 87C.)
- iv. Green Area Ratio (“GAR”). The Applicant is providing a GAR in excess of the required 0.25; (Ex. 87C.)
- v. Murals. The Applicant will retain, restore, or replace in-kind the mosaic on the 4<sup>th</sup> Street exterior wall of Forman Mills up to a cost of \$50,000. This work will be completed in connection with the construction of Block 3 and the timing will be further refined during the second-stage PUD process. The Applicant will retain, restore, or replace in-kind the mural wall along the rear of the property up to a cost of \$100,000. The Applicant will work with Peter Krsko, the original artist, to recreate the mural in its original likeness through the Open Walls DC Program. Similar to the painting of the original mural, its re-creation will involve the work of District of Columbia students. The timeframe for the completion of this work will be finalized during the second-stage application for Block 2; (Ex. 87C.)
- vi. Sculptures. The Applicant will preserve and relocate existing sculptures along the MBT. This work will be completed prior to issuance of a certificate of occupancy for Building 1A; (Ex. 87C.)

- vii. Connections. The Applicant will construct two pedestrian staircases between the Site and Edgewood Commons. The location of the staircases are depicted in Exhibit 87D and may be refined in coordination with the neighboring property owner, DDOT, and OP. The connection shall integrate benches and solid-backed 6.5-inch risers and 11-inch treads to accommodate those with limited mobility. The eastern staircase shall also incorporate a bicycle trough. The eastern staircase shall be constructed during the construction of Phase I while the western staircase shall be constructed during construction of Block 2. Applicant shall provide a gate on both stair connections. The gates shall be closed between 1:00 a.m. and 4:30 a.m. Monday through Friday and between 3:00 a.m. and 6:30 a.m. Saturday and Sunday. Signage shall be provided to notify pedestrians and bikers of the stair hours; (Ex. 87.)
- viii. MBT Improvements. The Applicant will improve the MBT including realignment, signage, wayfinding, landscaping, and lighting, including security lighting underneath the staircase to the Metro pedestrian bridge. These improvements shall be completed prior to issuance of a certificate of occupancy for Building 1A, in accordance with the Construction Management Plan in Exhibit 87A, and in consultation with DDOT. The Applicant will also contribute \$10,000 towards pedestrian/sidewalk improvements between the MBT and Franklin Street; (Ex. 87C.)
- ix. Community Meeting Room. The Applicant will allow the ANC 5E, the Single Member District representative, and the Edgewood Civic Association to use the common area in Building 1A, or another mutually agreeable building, for public meetings once a month on a mutually agreeable date; (Ex. 87C.)
- x. ANC Office. The Applicant will reserve space in the Development for use by ANC 5E. This requirement may be satisfied by providing a membership to the co-working space proposed for Building 5B; (Ex. 87C.)
- xi. D.C. Workforce Investment Council. The Applicant will partner with the D.C. Workforce Investment Council to create and fund an employment program targeting Ward 5 residents up to a cost of \$200,000; (Ex. 87.)
- xii. Local Businesses. The Applicant will partner with Bald Cypress, a Ward 5 company, to publicize opportunities to engage small and local businesses in this Project up to a cost of \$10,000; (Ex. 87C.)

- xiii. Edgewood Adult Reading Program. The Applicant shall contribute \$5,000 to the Edgewood Adult Reading Program prior to issuance of a certificate of occupancy for Building 1A; (Ex. 87C.)
- xiv. Beacon House. The Applicant shall contribute \$10,000 to Beacon House prior to issuance of a certificate of occupancy for Building 1A; (Ex. 87C.)
- xv. Community Preservation and Development Corporation Food Pantry Program. The Applicant shall contribute \$15,000 to the CPDC Food Pantry Program prior to issuance of a certificate of occupancy for Building 1A; (Ex. 87C.)
- xvi. McKinley Technology Education Campus. The Applicant shall contribute \$10,000 to the McKinley Technology Education Campus's greenhouse program prior to issuance of a certificate of occupancy for Building 1A; (Ex. 87C.)
- xvii. Edgewood Recreation Summer Camp. The Applicant shall contribute \$10,000 to the Edgewood Recreation Summer Camp prior to issuance of a certificate of occupancy for Building 1A; (Ex. 87C.)
- xviii. Edgewood Recreation Center Equipment. The Applicant shall contribute \$10,000 to the Department of Parks and Recreation to be designated for equipment for the Edgewood Recreation Center. This contribution shall be made prior to issuance of a certificate of occupancy for Building 1A; (Ex. 87C.)
- xix. Scholarship Funding. The Applicant shall contribute \$16,000 to the Community Foundation of the National Capital Region for local scholarships to be administered by the Foundation; (Ex. 87C.)
- xx. Bryant Street and 4<sup>th</sup> Street. The Applicant shall reconfigure the traffic signal at Bryant Street and Fourth Street. The timeline for the completion of this work shall be determined during the second-stage PUD application for Block 3, as defined in the Record. The Applicant will discuss appropriate signage for Bryant Street with DDOT during the second-stage application for Block 3; (Ex. 87C.)
- xxi. Channing Street and 4<sup>th</sup> Street. The Applicant shall reconfigure the entrance of Edgewood Commons and install a traffic signal to align with Channing Street, N.E. The timeline for this work shall be determined during the second-stage PUD application for Block 3, as defined in the Record. Applicant will discuss appropriate signage for Channing Street

with the District Department of Transportation during the second-stage application for Block 3; (Ex. 87C.)

- xxii. Rhode Island and 3<sup>rd</sup> Street. The Applicant will contribute \$60,000 to the provision of a stop light at the intersection of Rhode Island Avenue and 3<sup>rd</sup> Street; (Ex. 87C.)
- xxiii. Rhode Island Pedestrian Improvements. The Applicant will provide pedestrian and intersection improvements in coordination with input from DDOT at the intersection of 5<sup>th</sup> Street and Rhode Island Avenue, this work will include signal modifications; (Ex. 87C.)
- xxiv. Bikeshare. The Applicant will purchase, install, and fund the operation and maintenance of a Capital Bikeshare station along the MBT for a period of one year. The installation of this station shall occur prior to the issuance of the certificate of occupancy for the last building in Phase I, subject to the schedule of the Capital Bikeshare distributor. The Applicant will purchase, install, and fund the operation and maintenance of a second Capital Bikeshare station on 4<sup>th</sup> Street between Bryant Street and Franklin Street. The timeframe for this station will be determined during the second-stage application for Block 3; (Ex. 87C.)
- xxv. Transportation Welcome Package. The Applicant proposes to provide \$225 per residential unit in alternative transportation incentives that can be used as an annual membership for Capital Bikeshare, an annual carshare membership, a car-share driving credit, or for bicycle repair/maintenance. These funds, currently anticipated to be a total of \$330,075, will be pooled during each phase of the Project into a fund that would make incentives available to residents until it is exhausted. This benefit shall be codified in rental/condominium documents for all of the residential units planned within the Project, both in Phase 1 and future phases. This fund must be exhausted within five years of certificate of occupancy of each phase, otherwise it will be disbursed to a TDM-related entity or organization at DDOT's direction; (Ex. 87C.)
- xxvi. Transit Screens. A total of 10 transportation information screens are proposed for the Project. Eight are proposed to be placed in residential lobbies (one per lobby), one is proposed to be placed in the office lobby in Building 5b, and one is proposed to be placed in the plaza on the eastern end of the development; (Ex. 87C.)
- xxvii. Electric Charging Stations. The Applicant will provide a total of nine 240-volt electric car-charging stations: at least six spaces will be provided

in the residential building garages, two in the grocery store garage and one on the street; (Ex. 87C.)

- xxviii. Tree Boxes and Banners. The Applicant will assist in beautifying 4<sup>th</sup> Street between Rhode Island Avenue and Channing Street, by providing tree boxes and Edgewood lamp post banners up to a cost of \$50,000. The timeline for this work will be refined during the second-stage application for Building 4; (Ex. 87C.)
- xxix. Memorandum of Understanding. The Applicant will abide by the terms of the Memorandum of Understanding. (Ex. 87B.) Events shall take place on a mutually agreeable date and the calendar of events will be finalized at the Applicant's sole discretion, to be exercised in good faith; and (Ex. 87B, 87C.)
- xxx. Landscaping. The Applicant will host a public meeting, with notice provided to the ANC, in a good faith effort to discuss the final landscape plan for Bryant Park. The details of the landscape plan will be finalized at the Applicant's sole discretion. The final plan will include a bike "fix-it" station, a drinking water fountain, a public message board, trash and recycling receptacles, relocating the existing "little free library," and the existing tulips, unless otherwise agreed upon by the community. (Ex. 87C.)

### **Compliance with PUD Standards**

68. In evaluating a PUD application, the Commission must "judge, balance, and reconcile the relative value of Project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects." The Commission finds that the development incentives for the height and flexibility are appropriate and fully justified by the additional public benefits and Project amenities proffered by the Applicant. The Commission finds that the Applicant has satisfied its burden of proof under the Zoning Regulations regarding the requested flexibility from the Zoning Regulations and satisfaction of the PUD standards and guidelines set forth in the Applicant's statement and the OP report.
69. The Commission credits the testimony of the Applicant and its experts as well as OP and DDOT, and finds that the superior design, site planning, streetscape and MBT improvements, housing and affordable housing, uses of special value, and transportation demand and loading management plans all constitute acceptable Project amenities and public benefits.
70. The Commission finds that the PUD as a whole is acceptable in all proffered categories of public benefits and Project amenities. In fact, the Commission notes that the benefits

and amenities package exceeds the typical level of proffers, particularly for a Project that does not receive additional density from the PUD process. The proposed benefits and amenities are superior as they relate to urban design, landscaping, open space, housing and affordable housing, effective and safe transportation access, and uses of special value to the neighborhood and the District as a whole. These benefits and amenities, including the affordable housing proffer, shall serve as the benefits and amenities for the second-stage applications for the remaining phases. No additional benefits and amenities shall be expected when the second-stage applications are processed.

71. The Commission believes the final benefits and amenities package addresses the comments and concerns noted by the party in opposition, Edgewood West, and the ANC. The Commission credits the testimony of OP and agrees that the PUD provides significant and sufficient public benefits and Project amenities.
72. The Commission finds that the character, scale, massing, mix of uses, and design of the PUD are appropriate, and finds that the site plan is consistent with the intent and purposes of the PUD process to encourage high quality developments that provide public benefits. Specifically, the Commission credits the testimony of the Applicant and the Applicant's architectural and transportation planning witnesses that the PUD represents an efficient and economical redevelopment of a strategic and transit-oriented parcel located near a Metrorail Station and along the MBT.
73. The Commission credits the testimony of OP and DDOT, and accepts the ANC's report, noting that the PUD will provide benefits and amenities of substantial value to the community and the District commensurate with the additional height sought through the PUD process. The Commission notes that the Applicant is seeking a development that proposes approximately 670,000 less square feet on-site than is permitted as a matter-of-right and acknowledges that the PUD is providing additional height, not density, than would otherwise be allowed. The Commission agrees with the Applicant that given the Property's location adjacent to the MBT, Metrorail, Rhode Island Avenue, and given the topographical challenges of the site, the 90-foot proposed height is appropriate.
74. The Commission credits OP and DDOT's testimony that the impact of the PUD on the level of services will not be unacceptable. The Commission notes that the TDM measures that the Applicant undertakes will mitigate any impacts of the Project.
75. The Commission credits the testimony of the Applicant's traffic consultant, who submitted a comprehensive transportation review that concluded that the PUD would not have adverse effects due to traffic or parking impacts. The Applicant is providing a substantial TDM package, that DDOT supports, and which will not only mitigate impacts from the Project but generally improve existing conditions. Specifically, the Applicant will improve pedestrian, bicycling, and vehicular conditions on the Property and nearby intersections. Any traffic, parking, or other transportation impacts of the PUD on the surrounding area are capable of being mitigated through the measures proposed by the

Applicant and are acceptable given the quality of the public benefits of the PUD, particularly in light of the robust transportation demand management plan being proffered.

**Compliance with the Comprehensive Plan**

76. The Commission credits the testimony of OP and the Applicant regarding the Property's designation as appropriate for Medium-Density Residential and Moderate-Density Commercial development pursuant to the Future Land Use Map of the District of Columbia. The proposed height of the PUD is consistent with this designation. The proposed density is significantly less than what would be permitted as a matter of right on the Property.
77. The Commission credits the testimony of the Applicant and OP regarding the compliance of the PUD with the District of Columbia Comprehensive Plan. The development is fully consistent with and furthers the goals and policies in the map, citywide, and area elements of the plan as follows:
- a. The Commission finds that the proposed PUD is not inconsistent with the written elements of the Comprehensive Plan and promotes the policies of its Land Use, Transportation, Housing, and Urban Design Citywide Elements and its Upper Northeast Area Element;
  - b. The Project implements Land Use Element policies that designate the area around the Brentwood – Rhode Island Avenue Metrorail station, as well as along the MBT, for future growth and encourage infill development and development near Metrorail stations. The PUD brings growth and revitalization to an underutilized lot along a high transit corridor;
  - c. The Project implements Transportation Element policies that promote transit-oriented development and urban design improvements. The PUD brings new housing and retail uses within walking distance of the Metrorail station, the MBT and Rhode Island Avenue, and, through its Transportation Demand Management Plan, provides effective incentives to discourage motor vehicle use;
  - d. The Project implements Housing Element policies that encourage expansion of the city's supply of high-quality market-rate and affordable housing, including affordable housing units that provide deeper affordability limits;
  - e. The Project implements Urban Design Element policies that call for enhancing the aesthetic appeal and visual character of areas around major thoroughfares. The PUD significantly improves an underutilized parcel of land along a vital corridor in the District of Columbia;



- f. The Project implements the Upper Northeast Area Element policies particularly those calling for development of additional medium- to high-density mixed use development around the Rhode Island Avenue Metro station, particularly on the surface parking lots in the station vicinity; improving the visual quality of streets in Upper Northeast, especially along North Capitol Street, Rhode Island Avenue, Bladensburg Road, Eastern Avenue, Michigan Avenue, Maryland Avenue, Florida Avenue, and Benning Road. Landscaping, street tree planting, street lighting, and other improvements should make these streets more attractive community gateways; and encouraging [similar] pedestrian-oriented retail development along Rhode Island Avenue; and
- g. The Commission credits the testimony of the Applicant that the PUD is consistent with and furthers the goals of the Diamond in the District Small Area Plan, particularly as it designates this subarea as appropriate for medium-high density, making this Project's 90-foot heights and 3.6 FAR entirely appropriate.

### Agency Reports

- 78. By report dated May 9, 2016 and by testimony at the public hearing on May 25, 2016, OP recommended approval of the application. OP confirmed that the Project supports the written elements of the Comprehensive Plan and is not inconsistent with the Future Land Use and Generalized Policy maps of the Comprehensive Plan. OP concluded that the benefits and amenities of the PUD were commensurate given the development incentives requested. (Ex. 55.)
- 79. OP specifically noted that the Applicant worked to address the concerns expressed by the Commission and OP at the setdown meeting. (Ex. 55.)
- 80. OP noted in its report that it supports relocating loading for Block 5B to a private alley between Block 5A and 5B once Block 5A is constructed. OP supported an interim condition of street-side loading for Block 5B. (Ex. 55.)
- 81. OP supported the Applicant's request for relief from record lot, rear yard, parking and loading requirements. OP also supported the requests for flexibility for temporary uses, phasing, approved uses, and height of the retail space. (Ex. 55.)
- 82. DDOT submitted a request to file its report out of time on May 9, 2017. (Ex. 56.)
- 83. DDOT filed its report on May 13, 2016, in support of the PUD. It found that the site plan was logical and the proposed street network has the potential to disperse site traffic in a way that minimizes the Project's impacts on the external road network and improve connectivity to adjacent neighborhoods. It further found the Applicant's methodology to be sound and that the Project would minimally increase travel delay in most study area locations. The Project includes significant improvements to the pedestrian and bicycle

network and the proposed transportation demand management (“TDM”) measures are robust and support the proposed non-auto mode split. (Ex. 65.)

84. DDOT found the proposed TDM to be appropriate, including: provision of two pedestrian staircases to provide a connection between the Project and Edgewood Commons; appropriate signalization at the intersections of 4<sup>th</sup> Street and Bryant Street and 4<sup>th</sup> Street and Channing Street; modified intersections at Rhode Island Avenue and 5<sup>th</sup> Street, N.E., provision of a CCTV camera at Rhode Island and 4<sup>th</sup> Street; a \$10,000 contribution toward improvements to the connection between the MBT and Franklin Street; improvement of the MBT, with a mutually agreeable maintenance agreement; provision of a Capital Bikeshare Station; multimodal street design on the private portion of Bryan Street to include dedicated bicycle facilities; and offering a robust TDM to encourage non-auto modes. (Ex. 65.)
85. DDOT sought additional mitigation with a commitment to construct a signal at 3<sup>rd</sup> Street and Rhode Island Avenue, in conjunction with contributions from prior developments. The Applicant agreed to contribute \$60,000 toward the light and to construct the light prior to issuance of a certificate of occupancy for Building 1A. If the cost exceeds \$60,000, the Applicant and DDOT may reallocate funds from its TDM proffer.
86. This Order includes conditions to ensure the potential adverse effect identified by DDOT will be mitigated.

#### **Advisory Neighborhood Commission 5E Reports**

87. ANC 5E submitted a letter in opposition to the application on the day of the hearing, May 19, 2016. The letter stated that the ANC’s concerns were that the Applicant’s affordable housing proffer was insufficient, the effect the Project would have on the views of neighboring residential properties, that two of the provisions of the community benefits agreement were potentially unenforceable, and that the ANC had not had enough time to fully consider the community benefits agreement.
88. The Chair of ANC 5E testified to its objections at the public hearing. (Ex. 75A; 5/19/2016 Tr. at pp. 132-138.)
89. The Applicant subsequently modified its affordable housing proffer in response to comments from the ANC. (Ex. 87, 87C.) At the time of the hearing, the Applicant proposed reserving eight percent of the residential gross floor area of the entire PUD for affordable housing, with half set aside at the 50% of AMI level, and half set aside at the 80% of AMI level. The Applicant maintained the eight percent of the residential gross floor of the entire PUD for affordable housing, but increased the percentage of the affordable housing that is set aside at the deeper, 50% of AMI affordability level. In Phase I of the Project, the Applicant will provide the same four percent at the 50% AMI and four percent at 80% of AMI it presented at the hearing. In subsequent Phases of the Project, the Applicant will provide five percent of the residential gross floor area at the

50% of AMI level, and three percent of the residential gross floor area at the 80% of AMI level.

90. The Applicant also modified its construction management plan, and its future programming of open spaces with the PUD. (Ex. 87, 87A, 87D.)
91. On July 11, 2016, the ANC submitted a report (dated July 7, 2016) stating that it voted in support of the application contingent on increasing the affordable housing proffer to setting aside 14% of the residential gross floor area for households with an annual income no greater than 60% AMI. (Ex. 89.) The report did not address the changes to the community benefits agreement.

### **Party in Opposition**

92. Edgewood West submitted a request for party status in opposition to the application on May 4, 2016, which was approved by the Commission. (Ex. 33.)
93. The party was comprised of residents living within 400 feet of the proposed Project. They cited concerns regarding social, economic, and environmental impacts. (Ex. 33.)
94. Edgewood West testified at the public hearing on May 25, 2016, noting their concerns regarding the desire to incorporate additional green space in the Project, limit the heights of the buildings along 4<sup>th</sup> Street to a maximum height of 65 feet, and to improve access through the site during construction. (5/25/2016 Tr. at pp. 42-58.)
95. With respect to the first item, Edgewood West requested the Applicant consider narrowing the drive aisle circling Building 1A in order to convert some of the hardscape to green space. The Applicant noted that a minimum width of 20 feet is required for fire access, thus it cannot be minimized; however, the drive aisle is comprised of permeable pavers, which mitigates the impact of the pavers. Nevertheless, the Applicant revised its site plan to provide additional green space with Block 3. The initial proposal included a plaza consisting of 13,835 square feet of area; the Applicant increased the set aside to 30,750 square feet and converted a portion of the plaza area to green space. (Ex. 87.)
96. With respect to the height of the buildings along 4<sup>th</sup> Street, the Applicant agreed that although a maximum height of 90 feet is permitted for Blocks 3 and 4 that both buildings would step down to a maximum height of 65 feet for their frontage along 4<sup>th</sup> Street. (Ex. 87.)
97. Finally, the Applicant committed to work in good faith to minimize the length of time through access on the Property was not permitted to the MBT during construction of Phase I. Edgewood West requested a more specific commitment; however, the Applicant noted that it could not provide such a commitment prior to starting construction. Nevertheless, the Applicant committed to hosting quarterly meetings to provide updates

on the status of construction. At the public hearing, Edgewood West acknowledged that the Property was privately owned. (Ex. 87A.)

98. The Applicant made further modifications to its proposal in direct response to comments from Edgewood West. In addition to the items noted above, the Applicant committed to a Memorandum of Understanding that outlines the terms under which public events can take place on the PUD green spaces; it modified its construction management plan to incorporate requested language from the community regarding provision of notice of construction; it committed to hosting a public meeting concerning the landscaping of the area adjacent to the MBT; it committed to an additional Capital Bikeshare station; and it committed to additional resources to be dedicated to the Edgewood Recreation Center. (Ex. 87.)

### **Persons and Organizations in Support or Opposition**

99. Suzanne Welch, a representative of the Community Preservation and Development Corporation (“CPDC”), the immediate neighbor to the north of the Project, testified at the public hearing in support of the application. CPDC included testimony and documentation in the record requesting that the Applicant commit to an enhanced affordable housing program; that it combine the entrance to the Project with the entrance to Edgewood Commons at 4<sup>th</sup> Street and Channing Street and provide a light; that it relocate the eastern stair proposed for the Property; that it provide a gate on the stairs to be coordinated with the hours of Metro; and that it Applicant provide additional buffering between the properties. (5/25/2016 Tr. at pp. 15-19.)
100. As noted above, the Applicant modified its affordable program to address comments from the community regarding the proffered AMI levels. With respect to CPDC’s other concerns, the Applicant committed to the intersection improvements requested by CPDC at 4<sup>th</sup> Street and Channing Street and these improvements are reflected in the PUD plans. (Ex. 87D.) Subsequent to the hearing, the Applicant modified the location of the stair location on CPDC’s property in coordination with CPDC. (Ex. 87D.) The stair will provide a gate, the location and operation of which will be determined in coordination with CPDC. Finally, the Applicant committed to providing additional buffering between the two properties, as noted on the plans submitted in the record as Exhibit 87D.
101. Claire Jaffe, a representative of the Coalition for Smarter Growth, testified in support of the application at the public hearing. She noted that the Project was a transit-oriented development that improved connections within the community. She strongly supported the proposal and cited numerous attributes of the proposal, including the pedestrian and bicycling networks it would establish. (5/25/2016 Tr.at pp. 19-24.)
102. Patricia Williams, the Single Member District representative for ANC 5E02, testified in opposition to the application at the public hearing. She noted that despite her opposition, she was “coming around” to a position of support. She testified that her primary basis of

opposition was the level of affordability being proffered for the residential units. As noted, the Applicant modified this proposal subsequent to the public hearing. (May 25 Transcript, p. 68)

### CONCLUSIONS OF LAW

1. Pursuant to Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD Project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, welfare, and convenience.” (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider the applicant as a consolidated PUD for Phase I and a one- stage PUD for the remaining phases. The Commission may impose development guidelines, conditions, and standards that may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, loading, yards, or courts.
3. The Property meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
4. Proper notice of the proposed PUD was provided in accordance with the requirements of the Zoning Regulations and as approved by the Zoning Commission.
5. The development of the PUD will implement the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right standards. Here, the height, character, scale, massing, mix of uses, and design of the proposed PUD are appropriate. The proposed redevelopment of the Property, with a mix of residential and commercial uses, capitalizes on the Property’s transit-oriented location and is compatible with citywide and area plans of the District of Columbia, including strategic development plans such as Diamond in the District.
6. The Commission has judged, balanced, and reconciled the relative value of the Project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects, and concludes approval is warranted for the reasons detailed below.
7. The PUD complies with the applicable height and bulk standards of the Zoning Regulations and will not cause a significant adverse effect on any nearby properties. In fact, the PUD is proposing significantly less density than would otherwise be permitted on-site as a matter-of-right. The residential, retail, and office uses for this PUD are appropriate for the Property’s location. The PUD’s height, bulk, and uses are consistent with the District’s planning goals for the surrounding neighborhood.

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8. The PUD provides superior features that benefit the surrounding neighborhood to a significantly greater extent than the matter-of-right development on the Property provides. The Commission finds that the urban design, site planning, creation of the road, bicycling and pedestrian networks, efficient and safe transportation features and measures, housing and affordable housing, ground-floor retail uses, and uses of special value are all significant public benefits. The impact of the PUD is acceptable given the exceptional quality of the public benefits of the PUD. The level of benefits and amenities proffered in this application are truly exceptional given the limited level of flexibility sought in this PUD.
9. The impact of the PUD on the surrounding area and the operation of city services is not unacceptable. The Commission agrees with the conclusions of the Applicant's traffic expert and DDOT that the proposed PUD will not create adverse traffic, parking, loading or pedestrian impacts on the surrounding community. The application will be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
10. Approval of the PUD is not inconsistent with the Comprehensive Plan. The Commission agrees with the determination of OP and finds that the proposed PUD is consistent with the Property's Moderate-Density Commercial and Medium-Density Residential designation on the Future Land Use Map and furthers numerous goals and policies of the written elements of the Comprehensive Plan as well as other District planning goals for the immediate area.
11. The Commission concludes that the proposed PUD is appropriate given the superior features of the PUD, the benefits and amenities provided through the PUD, the goals and policies of the Comprehensive Plan, and other District of Columbia policies and objectives.
12. The PUD will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.
13. The Applicant proposed improvements for the public space immediately abutting its property and while the Commission does not have jurisdiction over the development of public space, it supports the proposed improvements. It understands the Applicant will work with DDOT regarding the specific improvements to the public space.
14. 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.

15. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give “great weight” to the issues and concerns raised in the written report of the affected ANC. The Commission carefully considered ANC 5E’s reports. ANC 5E’s initial report stated the ANC was opposed to the Project, and raised the following issues and concerns: (a) the affordable housing proffer was insufficient, (b) the effect the Project would have on the views of neighboring residential properties, (c) that two of the provisions of the community benefits agreement were potentially unenforceable, and (d) that the ANC had not had enough time to fully consider the community benefits agreement. ANC 5E’s second report stated that it supported the Project, but stated that such support was conditioned upon the Applicant modifying its affordable housing proffer so that the Applicant was providing 14% of the residential gross floor area at the 60% of AMI level. We address each below:

- (a) Sufficiency of the affordable housing proffer, and ANC 5E’s conditional support unless the Applicant provided 14% of the residential gross floor area at the 60% of AMI level.

In response to ANC 5E’s first report, the Applicant enhanced its affordable housing proffer by providing a greater percentage of the affordable housing at a deeper level of affordability. The Commission believes the affordable housing proffered by the Applicant, in combination with the other benefits of the Project, are sufficient to justify approval.

With respect to ANC 5E’s second report, the Commission notes that the Applicant provided affordable housing at the 50% and 80% of AMI levels, which are compatible with the District’s IZ program. ANC 5E’s report recommended that the housing should be provided at the 60% of AMI level, which is not compatible with the District’s IZ program. The Commission believes it is advantageous to the District that the Applicant is providing its affordable housing in a manner compatible with the IZ program.

With respect to the advice that the Applicant should provide 14% of the residential gross floor area, the Commission concludes that it may not compel an applicant to add to proffered public benefits, but shall deny a PUD application if the proffered benefits do not justify the degree of development incentives requested. Here, it believes the benefits are sufficient.

The Commission therefore believes it is appropriate to approve the Project even though the affordable housing component does not comply with the threshold stated in ANC 5E’s second report;

- (b) Effect on views of neighboring properties.

The PUD does not include a change of the underlying zoning, and the existing matter-of-right zoning of the property permits buildings that would have a similar impact on the views of neighboring properties as the development approved in this PUD. In response to the comments made by the Commission and Edgewood West, the Applicant modified its design of the buildings fronting on 4<sup>th</sup> Street to minimize their impact on the views of neighboring properties. The Applicant also modified the design to add open space on the west side of the Project. The Commission believes that these changes were adequate to address the issue raised by ANC 5E; and

- (c) Community benefits agreement, and (d) Time for ANC consideration.

In ANC 5E's first report, it had concerns about the enforceability of "at least two" of the terms of the community benefits agreement, and that it did not have enough time to thoroughly assess the community benefits the Applicant was proposing. After the hearing, the Applicant continued to work with the ANC, and modified the terms of the agreement. ANC 5E then had additional time to consider the revised terms before submitting a supplemental report to the Commission. In its supplemental report, the ANC did not indicate that it had any remaining concerns about the community benefits agreement, or that it did not have enough time to evaluate them. The Commission therefore believes the issues were addressed by the modifications to the agreement.

16. The Applicant is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

### **DECISION**

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for the review and approval of a Consolidated and First-Stage Planned Unit Development for the Property for the mixed-use development described herein, subject to the following conditions:

#### **A. Project Development**

1. The Project shall be developed in accordance with the architectural drawings submitted into the record on June 28, 2016, as Exhibit 87D, as modified by the drawings submitted as Exhibit 93B and 95B, as modified by the drawings submitted as Exhibit 96A, and as modified by the guidelines, conditions, and standards herein (collectively, the "Plans"), except that to the extent the Plans show any signage, no signage is approved.



2. The buildings on Blocks 1A, 1B, 2A, 2B, 3, 4, 5A, 5B, and 6 shall have a maximum height of 90 feet. Penthouses are permitted above the maximum height of 90 feet. The buildings on Blocks 3 and 4 shall step down to a maximum height of 60 feet along 4<sup>th</sup> Street. The buildings on Blocks 3 and 4 shall set back one foot for every foot of height above 60 feet up to the maximum height of 90 feet.
3. The maximum density approved for each block shall be as follows:

Block	Residential FAR	Commercial FAR	Parking FAR	Total FAR
1A	2.15 - 2.31	.09 - .29	NA	2.24 - 2.6
1B	2.6	.96	NA	3.56
2A	3.79	.19 - .4	.41 - .62	4.39 – 4.8
2B	NA	1.87 - 1.97	.32	2.19 - 2.29
3	2.52 - 2.73	.72	.06	3.3 - 3.51
4	3.4 - 3.47	.53	.1	4.03 – 4.10
5A	3.6 - 3.99	.55	NA	4.15 – 4.54
5B	2.93 - 3.55	.15 - .84	.43	3.51 – 4.8
6	2.3 - 2.59	.27	NA	2.57 – 2.86

4. The Applicant shall not install any signage until the Applicant has submitted, and the Commission approves, a signage plan as a modification of this Order. **The Applicant shall submit its signage plan prior to the issuance of a building permit for Block 1A.**
5. The Project will have flexibility from the parking, loading, and lot requirements as noted herein.
6. The Applicant will have flexibility with the design of the PUD in the following areas:
  - a. To vary the location and design of all interior components, including but not limited to partitions, structural slabs, doors, hallways, columns, signage, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure;
  - b. To vary final selection of the exterior materials within the same color palette as the color approved and the same material type as the material approved, based on availability at ‘the time of construction’;
  - c. To vary the number of parking levels in the garages for Buildings 1A, 1B, and 5B so long as the final number of parking spaces is within the range reflected in Exhibit 87D;

- d. To modify the floor to ceiling heights of the retail space so long as the height of the buildings does not exceed 90 feet;
  - e. To vary the location of the affordable units so long as their location is generally consistent with the locations noted in Exhibits 74 and 93 in that they must remain consistent with the requirements of § 2605.6. The proffered levels of affordable housing not be modified;
  - f. To make minor refinements to exterior details, dimensions, and locations, including belt courses, sills, bases, cornices, railings, balconies, trim, frames, mullions, spandrels, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit, or are needed to address the structural, mechanical, or operational needs of the building uses or systems;
  - g. To vary the size, location and design features of the retail spaces to accommodate the needs of specific retail tenants;
  - h. To modify the size and location of the MPD space so long as it is located on the ground floor of Building 1A, and is at least 500 square feet in size; and
  - i. To modify the total unit count in each building by five percent.
7. The Applicant will have flexibility with the programming of the PUD in the following areas:
- a. To modify the mix of uses in Buildings 1A and 1B to incorporate additional retail space as depicted in the plans submitted as Exhibit 87D should market conditions allow;
  - b. To modify the mix of uses in Building 5B to incorporate office use as depicted in the plans submitted as Exhibit 87D should market conditions allow;
  - c. To modify the location of the residential lobbies in Buildings 1A, 1B, and 5B;
  - d. To incorporate temporary retail kiosks along the eastern edge of the site so long as the uses are not permanently affixed to the ground and that no single kiosk is greater than 500 square feet in size. The kiosks shall be permitted to rotate as necessary; and

- e. To continue existing retail uses on-site and to incorporate new interim uses on the site of the Phase I PUD so long as the new interim uses are permitted as a matter of right under the C-3-A Zone District. The new interim uses shall not be located in permanent structures. The interim uses shall be permitted until the expiration of the stage-one PUD approval for Blocks 2, 3, 4, 5A, and 6.

**B. Transportation Mitigations**

1. Transportation Mitigations. The Applicant shall provide the following transportation mitigations:
  - a. The Applicant shall reconfigure the traffic signal at Bryant Street and Fourth Street. **The Applicant shall submit its timeline for the completion of this work with the second-stage PUD application for Block 3.** The Applicant will discuss appropriate signage for Bryant Street with DDOT during the second-stage application for Block 3;
  - b. Applicant shall reconfigure the entrance of Edgewood Commons and install a traffic signal to align with Channing Street, N.E. **The Applicant shall submit its plans for this work with the second-stage application for Block 3;**
  - c. **For the life of the Project,** the Applicant shall install a CCTV camera at the intersection of 4<sup>th</sup> Street, N.E. and Rhode Island Avenue, N.E. to help DDOT better monitor and react to traffic flows along the Rhode Island corridor adjacent to the Project;
  - d. The Applicant will provide pedestrian and intersection improvements in coordination with input from DDOT at the intersection of 5<sup>th</sup> Street and Rhode Island Avenue. The details of this work shall be coordinated with DDOT but shall include modification of the traffic signal. **Plans for these improvements shall be provided with the second-stage application for Block 4;**
  - e. **The Applicant shall submit with each second-stage application** details of its loading facilities for each building, and maneuvering analysis of trucks to and from loading facilities, and shall coordinate this information and analysis with DDOT during its second-stage PUD applications;
  - f. The Applicant shall create a new bicycle route through the Property along Bryant Street connecting the Metropolitan Branch Trail and the 4<sup>th</sup> Street bicycle facilities. **The Applicant shall submit its timeline for the**

**completion of this work with its second-stage PUD application for Block 3;**

- g. The Applicant shall purchase, install, and fund the operation and maintenance of a Capital Bikeshare station along the MBT for a period of one year. **The installation of this station shall occur prior to the issuance of the certificate of occupancy for the last building in Phase I;**
- h. The Applicant shall purchase, install, and fund the operation and maintenance of a second Capital Bikeshare station on 4<sup>th</sup> Street between Bryant Street and Franklin Street. **The Applicant shall submit its plans to install and fund this station with its second-stage application for Block 3;**
- i. The Applicant shall construct two pedestrian staircases between the Property and Edgewood Commons. The location of the staircases may be refined in coordination with the neighboring property owner, DDOT, and OP. The staircases shall integrate benches and solid-backed 6.5-inch risers and 11-inch treads to accommodate those with limited mobility. The eastern staircase shall also incorporate a bicycle trough. Applicant shall provide a gate on both stair connections. The gates shall be closed between 1:00 a.m. and 4:30 a.m. Monday through Friday and between 3:00 a.m. and 6:30 a.m. Saturday and Sunday. Signage shall be provided to notify pedestrians and bikers of the stair hours. The gates may be removed at any point in the future without modification of this Order with the approval of Edgewood Commons. **Prior to the issuance of a certificate of occupancy for Building 1A, the Applicant shall complete construction of the eastern staircase. The Applicant shall submit its plans for the western staircase with its second-stage application for Block 2A;**
- j. **Prior to the issuance of a certificate of occupancy for Building 1A,** the Applicant shall improve the MBT including realignment, signage, wayfinding, landscaping, and lighting, including security lighting underneath the staircase to the Metro pedestrian bridge. These improvements shall be completed in accordance with the Construction Management Plan in Exhibit 87A, and in consultation with DDOT;
- k. The Applicant shall contribute \$10,000 towards pedestrian/sidewalk improvements between the MBT and Franklin Street. **The Applicant shall submit plans for these improvements with the second-stage application for Block 2A;** and

1. **Prior to the issuance of a certificate of occupancy for Building 1A**, the Applicant shall contribute \$60,000 towards the traffic signal design and installation Project for the signal at the intersection of Rhode Island Avenue and 3<sup>rd</sup> Street.
2. **Transportation Demand Management. For the life of the Project (unless otherwise noted)**, the Applicant shall provide the following TDM measures:
  - a. The Applicant shall unbundle the cost of residential parking from the cost of lease or purchase and set the pricing at the average market rate within one-quarter mile of the site;
  - b. The Applicant shall identify TDM Leaders (for planning, construction, and operations) at the residential and office buildings. The TDM Leaders will work with residents and employees in the building to distribute and market various transportation alternatives and options;
  - c. The Applicant shall provide TDM materials to new residents in the Residential Welcome Package materials. The residential property management company or person in charge of TDM for the new development needs to register with goDCgo, DDOT's free TDM services provider;
  - d. All TDM commitments will be posted to the Project's website;
  - e. The Applicant shall install Transportation Information Center Displays (kiosks or screens) within the lobbies of the residential multi-family and office buildings and one in the urban plaza on the east end of the property, containing information related to local transportation alternatives. There is expected to be 10 displays in all, with one allocated to each of the eight residential lobbies, one in the office lobby, and one proposed for the plaza on the eastern end of the development;
  - f. The Applicant shall provide \$225 per residential unit in alternative transportation incentives that can be used as an annual membership for Capital Bikeshare, an annual car-share membership, a car-share driving credit, or for bicycle repair/maintenance. These funds, currently anticipated to be a total of \$330,075, will be pooled during each phase of the Project into a fund that would make incentives available to residents until it is exhausted. This benefit shall be codified in rental/condominium documents for all of the residential units planned within the Project, both in Phase 1 and future phases. This fund must be exhausted within five years of the issuance of a certificate of occupancy of each phase, otherwise it will be disbursed to a TDM-related entity or organization at

DDOT direction. Though this item is listed as a TDM commitment, the amount proffered is above and beyond what would otherwise be required for this Project; accordingly, this is also a considered a benefit and amenity of the Project;

- g. The Applicant shall provide at least 502 secure indoor bicycle parking spaces and 59 outdoor bicycle racks (accommodating 118 bicycles) in the Project. This exceeds the ZR2016 required bicycle parking of 313 long-term (secure) bicycle spaces and 100 short-term (outdoor) bicycle spaces by 189 and 18 spaces, respectively;
- h. The Applicant shall provide bicycle repair stations within the eight bicycle rooms proposed in the development;
- i. The Applicant shall make available a cargo bicycle for residents to rent or borrow and use for errands for each of the eight residential buildings;
- j. The Applicant shall make available two grocery carts with wheels per building for residents in each of the eight residential buildings to use for grocery shopping purposes; and
- k. The Applicant shall write retail leases such that tenants should encourage alternative modes for retail employees.

**C. Construction**

- 1. **Prior to the issuance of a certificate of occupancy for each Building in Phase I**, the Applicant shall provide evidence of its compliance with the terms of the construction management plan submitted as Exhibit 87A.

**D. Benefits and Amenities**

- 1. **Housing and affordable housing.** The Applicant shall provide the following housing and affordable housing:
  - a. **Consolidated PUD:**
    - i. Phase One shall include 393,621-427,821 square feet of gross floor area of residential use. Up to 362,132-403,195 square feet of gross floor area will be market-rate housing and approximately 31,490-34,226 square feet will be affordable housing;
    - ii. The affordable housing shall be provided in accordance with the following chart:

<b>Block 1A</b>				
<b>Residential Unit Type</b>	<b>Residential GFA / Percentage of Total</b>	<b>Income Type</b>	<b>Affordable Control Period</b>	<b>Affordable Unit Type*</b>
Total	171,956-185,252 sf/100%		Life of Project	TBD
Market Rate	158,200-170,432 sf/92%	Market	Life of Project	TBD
IZ	6,878-7,410 sf/4%	80% AMI	Life of Project	TBD
IZ	6,878-7,410 sf/4%	50% AMI	Life of Project	TBD
<b>Block 1B</b>				
<b>Residential Unit Type</b>	<b>Residential GFA / Percentage of Total</b>	<b>Income Type</b>	<b>Affordable Control Period</b>	<b>Affordable Unit Type*</b>
Total	122,572 sf/100%		Life of Project	TBD
Market Rate	112,766 sf/92%	Market	Life of Project	TBD
IZ	4,903 sf/4%	80% AMI	Life of Project	TBD
IZ	4,903 sf/4%	50% AMI	Life of Project	TBD
<b>Block 5B</b>				
<b>Residential Unit Type</b>	<b>Residential GFA / Percentage of Total</b>	<b>Income Type</b>	<b>Affordable Control Period</b>	<b>Affordable Unit Type*</b>
Total	99,093-119,997 sf/100%		Life of Project	TBD
Market Rate	91,166-110,397 sf/92%	Market	Life of Project	TBD
IZ	3,964-4,800 sf/4%	80% AMI	Life of Project	TBD
IZ	3,964-4,800 sf/4%	50% AMI	Life of Project	TBD

- iii. The affordable housing units shall be distributed generally in accordance with the matrix and plans marked as Exhibit 93A of the record, subject to the flexibility noted on the plans; and
- iv. The monitoring and enforcement documents required by 11 DCMR § 2409.10 shall include a provision requiring compliance with Conditions D(1)(a)(ii). and D(1)(a)(iii).

**b. First-Stage PUD:**

- i. For all remaining residential phases of the PUD (2A, 3, 4, 5A, and 6), the Applicant shall set aside eight percent of the residential gross floor area for affordable housing: five percent of the residential gross floor area shall be reserved for households with an annual income no greater than 50% AMI and three percent of the residential gross floor area shall be reserved for households with an

annual income no greater than 80% AMI. **The Applicant shall submit with each second-stage application a chart setting forth the amount of residential square footage provided at market rates, at the 50% AMI level and at the 80% AMI level.**

2. **Security.** Applicant shall implement the Security Plan outlined in Exhibit 31A of the Record up to a cost of \$300,000 per year for a period of no less than five years from the date of issuance of the certificate of occupancy for Building 1A. **Evidence of implementing this security plan shall be provided prior to issuance of a certificate of occupancy for Building 1A.** The security plan shall include:
  - a. **Private Security.** The Applicant shall retain a private security firm to provide security on-site 24 hours per day, seven days per week;
  - b. **Security Call Boxes.** The Applicant shall provide two security call-boxes. One call-box shall be located at the base of the stairs leading to the pedestrian bridge for the Metrorail Station and the second call-box shall be located at 8<sup>th</sup> Street and Edgewood Street;
  - c. **Metropolitan Police Department.** The Applicant shall reserve at least 500 square feet in Building 1A, as defined in the Record, for use by the Metropolitan Police Department; and
  - d. **Lighting.** The Security Plan shall incorporate the lighting depicted in Exhibit 31A as well as lighting along the MBT below the staircase leading to the pedestrian bridge to the Metrorail Station.
3. **Seabury Transportation for Seniors. Prior to issuance of a certificate of occupancy for Building 1A,** the Applicant shall provide evidence of its partnership with Seabury Transportation for Seniors and the District Department on Aging to provide services, at a cost up to \$30,000 per year, to transport seniors at the Edgewood Commons community to the Site, or to an alternative shopping location at their request, at least once a week for a maximum of four hours, for a period of five years. These services shall begin upon the issuance of building permit for Building 1A and at the request of Edgewood Commons. If Edgewood Commons does not request such service, the letter should state as much.
4. **Green Area Ratio. Prior to the issuance of a building permit for each building in Phase I,** the Applicant shall provide evidence of providing a GAR greater than .25.



5. **Murals.**
  - a. The Applicant shall retain, restore, or replace in-kind the mosaic on 4<sup>th</sup> Street exterior wall of Forman Mills up to a cost of \$50,000. **The Applicant shall submit its plan for the proposed work with its second-stage application for Block 3;** and
  - b. The Applicant shall retain, restore, or replace in-kind the mural wall along the rear of the property up to a cost of \$100,000. The Applicant will work with Peter Krsko, the original artist, to recreate the mural in its original likeness through the Open Walls DC Program. Similar to the painting of the original mural, its re-creation will involve the work of District of Columbia students. **The Applicant shall submit its plan for the proposed work with its second-stage application for Block 2B. The Applicant may complete this work in connection with Phase One, if so, it shall include evidence of its completion with its second-stage application for Block 2B.**
6. **Sculptures. Prior to the issuance of a certificate of occupancy for Building 1A,** the Applicant shall preserve and relocate the existing sculptures along the MBT. The sculptures shall be relocated along the MBT.
7. **Community Meeting Room. For the life of the Project,** the Applicant shall allow the ANC 5E, Single Member District representative, and the Edgewood Civic Association to use the common area in a Phase I building, or another mutually agreeable building, for public meetings once a month on a mutually agreeable date, for a total of 12 meetings per year. The space shall be provided at no cost to ANC 5E or the Edgewood Civic Association. The organization shall reserve the meeting space with building management on an ongoing basis. **Evidence of compliance with this condition shall be provided to the Zoning Administrator prior to issuance of a certificate of occupancy for Building 1A.**
8. **ANC Office. Prior to the issuance of a certificate of occupancy for Building 5B,** the Applicant shall reserve space in the Development for use by ANC 5E, at no cost of ANC 5E. This requirement may be satisfied by setting aside space in either Building 1A, 1B, or 5B or by providing a standard membership to the co-working space proposed for Building 5B.
9. **D.C. Workforce Investment Council. Prior to the issuance of a certificate of occupancy for Building 1A,** the Applicant shall partner with the D.C. Workforce Investment Council to create and fund an employment and training program targeting Ward 5 residents at a cost of \$200,000. The Applicant shall enter into a Memorandum of Understanding with the Workforce Investment Council outlining

the terms of the partnership the objective of which will be to train and employ Ward 5 residents.

10. **Local Businesses.** Prior to the issuance of a certificate of occupancy for Building 1A, the Applicant will partner with Bald Cypress, a Ward 5 company, to publicize opportunities to engage small and local businesses in this Project up to a cost of \$10,000. Prior to the issuance of a certificate of occupancy for Building 1A, the Applicant shall submit evidence to the Zoning Administrator in the form of a letter, confirming that the services have been funded or are being provided.
11. **Edgewood Adult Reading Program.** The Applicant shall contribute \$5,000 to the Edgewood Adult Reading Program for materials. Prior to the issuance of a certificate of occupancy for Building 1A, the Applicant shall submit evidence to the Zoning Administrator in the form of a letter, confirming that the services funded have been or are being provided.
12. **Beacon House.** The Applicant shall contribute \$10,000 to Beacon House in support of existing programming. Prior to the issuance of a certificate of occupancy for Building 1A, the Applicant shall submit evidence to the Zoning Administrator in the form of a letter, confirming that the services have been funded or are being provided.
13. **Community Preservation and Development Corporation Food Pantry Program.** The Applicant shall contribute \$15,000 to the CPDC Food Pantry Program in support of existing programming. Prior to the issuance of a certificate of occupancy for Building 1A, the Applicant shall submit evidence to the Zoning Administrator in the form of a letter, confirming that the services have been funded or are being provided.
14. **McKinley Technology Education Campus.** The Applicant shall contribute \$10,000 to the McKinley Technology Education Campus's greenhouse program to be used for growing accessories or systems maintenance, including greenhouse hardware and components, covering systems or systems control, prior to issuance of a certificate of occupancy for Building 1A. Prior to the issuance of a certificate of occupancy for Building 1A, the Applicant shall submit evidence to the Zoning Administrator in the form of a letter, confirming that the services have been funded or are being provided.
15. **Edgewood Recreation Summer Camp.** The Applicant shall contribute \$10,000 to the Edgewood Recreation Summer Camp prior to issuance of a certificate of occupancy for Building 1A. Prior to the issuance of a certificate of occupancy for Building 1A, the Applicant shall submit evidence to the Zoning

**Administrator in the form of a letter, confirming that the services have been funded or are being provided.**

16. **Edgewood Recreation Center Equipment.** The Applicant shall contribute \$10,000 to the Department of Parks and Recreation to be designated for equipment for the Edgewood Recreation Center. **Prior to the issuance of a certificate of occupancy for Building 1A, the Applicant shall submit evidence to the Zoning Administrator in the form of a letter, confirming that the services have been funded or are being provided.**
17. **Scholarship Funding.** The Applicant shall contribute \$16,000 to the Community Foundation of the National Capital Region for local scholarships to be administered by the Foundation. **Prior to the issuance of a certificate of occupancy for Building 1A, the Applicant shall submit evidence to the Zoning Administrator in the form of a letter, confirming that the services have been funded or are being provided.**
18. **Transportation Welcome Package.** As noted above, the Applicant shall provide \$225 per residential unit in alternative transportation incentives that can be used as an annual membership for Capital Bikeshare, an annual car-share membership, a car-share driving credit, or for bicycle repair/maintenance. These funds, currently anticipated to be a total of \$330,075, shall be pooled during each phase of the Project into a fund that shall make incentives available to residents until it is exhausted. This benefit shall be codified in rental/condominium documents for all of the residential units planned within the Project, both in Phase 1 and future phases. This fund must be exhausted within five years of certificate of occupancy of each phase, otherwise it will be disbursed to a TDM-related entity or organization at DDOT direction. **The Applicant shall provide an update of the fund with all future second-stage applications.**
19. **Electric Charging Stations.** The Applicant shall provide a total of nine 240-volt electric car charging stations: at least six spaces shall be provided in the residential building garages, two in the grocery store garage and one on the street. **Plans and progress updates on the installation of these charging stations shall be provided with all future second-stage applications.**
20. **Tree Boxes and Banners.** The Applicant shall assist in beautifying 4<sup>th</sup> Street between Rhode Island Avenue and Channing Street, by providing tree boxes and Edgewood lamp post banners up to a cost of \$50,000. **Plans for this work shall be provided with the second-stage application for Block 4.**
21. **Memorandum of Understanding.** The Applicant shall abide by the terms of the attached Memorandum of Understanding in Exhibit 87B. Events shall take place on a mutually agreeable date and the calendar of events will be finalized at the

Applicant's sole discretion, to be exercised in good faith. **Evidence of compliance with such Memorandum of Understanding shall be provided prior to the issuance of a certificate of occupancy for the later of Buildings 1A or 1B.**

22. **Landscaping.** The Applicant shall host a public meeting, with notice provided to the ANC, in a good faith effort to discuss the final landscape plan for Bryant Park. The details of the landscape plan will be finalized at the Applicant's sole discretion. The final plan will include a bike "fix-it" station, a drinking water fountain, a public message board, trash and recycling receptacles, relocating the existing "little free library" and the existing tulips, unless otherwise agreed upon by the community. **The landscape work will be performed by the Applicant prior to the issuance of a certificate of occupancy for the later of Buildings 1A or 1B.**
23. **LEED-Gold.** **Prior to the issuance of a certificate of occupancy for each building,** the Applicant shall demonstrate that it has been designed to achieve the minimum number of points required to meet the LEED-Gold level (LEED for Homes Mid-Rise).

**E. Miscellaneous**

1. No building permit shall be issued for Phase I until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs (DCRA). Such covenant shall bind the Applicant and all successors in title to construct and use the Phase I property in accordance with this order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
2. The second-stage PUD approved by the Zoning Commission for Block 1A 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 Block 1A Building. Construction of the Block 1A building must begin within three years of the effective date of this Order.
3. The second-stage PUD approved by the Zoning Commission for Blocks 1B and 5B shall be valid for a period of four years from the effective date of this Order. Within such time, an application must be filed for a building permit for each the Block 1B and Block 5B buildings. Construction of the Block 1B and 5B buildings must begin within six years of the effective date of this Order.

4. The first-stage PUD approved by the Commission for Blocks 2, 3, 4, 5A, and 6 shall be valid for a period of 10 years. A second-stage application for each Block must be filed within 10 years of the effective date of this Order.
5. The Applicant shall file with the Zoning Administrator a letter identifying how it is in compliance with the conditions of this Order at such time as the Zoning Administrator requests and shall simultaneously file that letter with the Office of Zoning.
6. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

For the reasons stated above, the Commission concludes that the Applicant has met its burden, and it is hereby **ORDERED** that the application be **GRANTED**.

On July 11, 2016, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On September 26, 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, and Peter G. May to approve; Michael G. Turnbull to approve by absentee ballot; Third Mayoral appointee position, vacant, not voting).

In accordance with the provisions of § 3028.8 of the Zoning Regulations, this Order shall become final and effective upon publication in the *D.C. Register* on December 9, 2016.

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