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District of Columbia REGISTER

HIGHLIGHTS

- D.C. Council enacts Act 22-436, Initiative No. 77 -- Minimum Wage Amendment Act of 2018
- Board of Elections proposes polling place relocations
- Department of Energy and Environment solicits comments on the DCA Airplane Noise Assessment Study
- Department of Employment Services proposes a new transit benefit program for covered employers
- Department of Health establishes regulations for collaborative practice agreements between physicians and pharmacists
- D.C. Public Service Commission establishes telecommunications service outage reporting requirements for service providers
- Office of Risk Management proposes regulations to update procedures and standards for administering the Public Sector Workers' Compensation Program
- Department of Small and Local Business Development announces funding availability for the Made in DC program

DISTRICT OF COLUMBIA REGISTER

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DISTRICT OF COLUMBIA
OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

ROOM 520S – 441 4th STREET, ONE JUDICIARY SQUARE - WASHINGTON, D.C. 20001 - (202) 727-5090

MURIEL E. BOWSER
MAYOR

VICTOR L. REID, ESQ.
ADMINISTRATOR

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ENROLLED ORIGINAL

D.C. ACT 22-436

JUNE 29, 2018

INITIATIVE MEASURE

NO. 77

SHORT TITLE

"INITIATIVE NO. 77 -- MINIMUM WAGE AMENDMENT ACT OF 2018"

SUMMARY STATEMENT

This Initiative will:

· Gradually increase the minimum wage in the District of Columbia to $15.00 hourly by 2020;
· Gradually increase the minimum wage for tipped employees so that they receive the same minimum wage directly from their employer as other employees by 2026;
· Beginning in 2021, require the minimum wage to increase yearly in proportion to increases in the Consumer Price Index.

The minimum wage increases under the initiative will not apply to District of Columbia government employees or employees of District of Columbia government contractors.

LEGISLATIVE TEXT

BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Initiative No. 77 -- Minimum Wage Amendment Act of 2018".

Sec. 2. Section 4 of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1003), is amended as follows:
(a) Subsection (a) is amended as follows:
(1) Paragraph (5) is amended to read as follows:
"(5) Except as provided in subsection (h) of this section, as of July 1, 2016, the minimum wage required to be paid to any employee by any employer in the District of Columbia

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shall be $11.50 an hour, or the minimum wage set by the United States government pursuant to the Fair Labor Standards Act, plus $1, whichever is greater.".

(2) Paragraph (6) is amended to read as follows:

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

(3) New paragraphs (7), (8), (9), and (10) are added to read as follows:

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

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

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

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

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

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

"(f)(1) As of January 1, 2005, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be $2.77 an hour; provided, that the employee actually receives gratuities in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

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

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

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hourly wage paid and the minimum wage as set by subsection (a) of this section.

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

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

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

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

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

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

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

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

"(i) The provisions of subsection (a)(6), (7), (8), (9) and (10) of this section and subsection (f)(2), (3), (4), (5), (6), (7), (8), (9) and (10) of this section shall not apply to employees of the District of Columbia, or to employees employed to perform services provided under contracts with the District of Columbia. Those employees shall continue to be subject to the minimum wage requirements of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1001 *et seq.*), as amended by the

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Enhanced Professional Security Amendment Act of 2008, effective March 20, 2008 (D.C. Law 17-114; 55 DCR 1276), as amended by the Minimum Wage Amendment Act of 2013, effective March 11, 2014 (D.C. Law 20-91; 61 DCR 778), as they existed before the effective date of the Initiative No. 77 -- Minimum Wage Amendment Act of 2018, enacted on June 29, 2018 (D.C. Act 22-396) , and to the requirements of all other applicable laws, regulations, or policies relating to wages or benefits, including the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code § 2-220.01 *et seq.*).".

Sec. 3. Nothing in this act shall be construed as preventing the Council of the District of Columbia from increasing minimum wages or benefits to levels in excess of those provided for in this act for any category of employees, including those employees described in section 4(i) of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1003(i)).

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

Sec. 5. This act shall supersede any amendments to section 4 of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1003), enacted on or after June 1, 2016, but before the effective date of this act.

Sec. 6. This act shall take effect after a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)).

ENROLLED ORIGINAL

A RESOLUTION

22-399

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 6, 2018

To confirm the appointment of Mr. Chris Geldart to the Board of Directors of the Washington Metrorail Safety Commission.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Directors of the Washington Metrorail Safety Commission Chris Geldart Confirmation Resolution of 2018".

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

Mr. Chris Geldart
7001 Oak Ridge Road
Falls Church, Virginia 22042

as an alternate member of the Board of Directors of the Washington Metrorail Safety Commission ("Board"), pursuant to Article III.B of section 2 of the Washington Metrorail Safety Commission Establishment Act of 2016, effective April 7, 2017 (D.C. Law 21-250; D.C. Official Code § 9-1109.11), and the Washington Metrorail Safety Commission Board of Directors Appointment Emergency Amendment Act of 2018, effective January 27, 2018 (D.C. Act 22-238; 65 DCR 819), to serve a 3-year term that shall commence on February 9, 2018.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-400

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 6, 2018

To confirm the appointment of Mr. Robert Bobb to the Board of Directors of the Washington Metrorail Safety Commission.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Directors of the Washington Metrorail Safety Commission Robert Bobb Confirmation Resolution of 2018".

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

Mr. Robert Bobb
1737 Taylor Street, N.W.
Washington, D.C. 20011
(Ward 4)

as a member of the Board of Directors of the Washington Metrorail Safety Commission ("Board"), pursuant to Article III.B of section 2 of the Washington Metrorail Safety Commission Establishment Act of 2016, effective April 7, 2017 (D.C. Law 21-250; D.C. Official Code § 9-1109.11), and the Washington Metrorail Safety Commission Board of Directors Appointment Emergency Amendment Act of 2018, effective January 27, 2018 (D.C. Act 22-238; 65 DCR 819), to serve a 2-year term that shall commence on February 9, 2018.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-459

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 10, 2018

To confirm the reappointment of Mr. Anthony Hood to the Zoning Commission for the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Zoning Commission for the District of Columbia Anthony Hood Confirmation Resolution of 2018".

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

Mr. Anthony Hood
1859 Channing Street, N.E.
Washington, D.C. 20018
(Ward 5)

as a member of the Zoning Commission for the District of Columbia, established by section 1 of An Act To regulate the height, area, and use of buildings in the District of Columbia and to create a Zoning Commission, and for other purposes, approved March 1, 1920 (41 Stat. 500; D.C. Official Code § 6-621.01), for a term to end February 3, 2022.

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

22-555

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 10, 2018

To confirm the reappointment of Judge Marc D. Loud, Sr. as a member and Chairperson of the Contract Appeals Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract Appeals Board Marc D. Loud, Sr. Confirmation Resolution of 2018".

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

Judge Marc D. Loud, Sr.
1439 Holly Street, N.W.
Washington, D.C. 20012
(Ward 4)

as a member and Chairperson of the Contract Appeals Board, established by section 1001 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-360.01), for a term to end July 28, 2022.

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.

COUNCIL OF THE DISTRICT OF COLUMBIA
EXCEPTED SERVICE APPOINTMENTS AS OF JULY 31, 2018

NOTICE OF EXCEPTED SERVICE EMPLOYEES

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

COUNCIL OF THE DISTRICT OF COLUMBIA			
NAME	POSITION TITLE	GRADE	TYPE OF APPOINTMENT
McKenzie, Natasha	Communications Specialist	2	Excepted Service - Reg Appt

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
8/17/2018

Notice is hereby given that:
License Number: ABRA-060423 **License Class/Type: A Retail - Liquor Store**
Applicant: J. S. & W. C. Incorporated
Trade Name: Capitol City Wine & Spirits
ANC: 6E05

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

500 K ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
10/1/2018

A HEARING WILL BE HELD ON:
10/15/2018

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	7 am - 12 am	7 am - 12 am
Monday:	7 am - 12 am	7 am - 12 am
Tuesday:	7 am - 12 am	7 am - 12 am
Wednesday:	7 am - 12 am	7 am - 12 am
Thursday:	7 am - 12 am	7 am - 12 am
Friday:	7 am - 12 am	7 am - 12 am
Saturday:	7 am - 12 am	7 am - 12 am

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: August 17, 2018
Protest Petition Deadline: October 1, 2018
Roll Call Hearing Date: October 15, 2018

License No.: ABRA-107079
Licensee: Senart's, LLC
Trade Name: Orchid
License Class: Retailer's Class "C" Restaurant
Address: 520 8th Street, S.E.
Contact: William Sport: (202) 846-7728

WARD 6 ANC 6B SMD 6B04

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 October 15, 2018 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
Class Change from C Restaurant to C Tavern.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES
Sunday 10am – 2am
Monday through Thursday 8am – 2am
Friday and Saturday 8am – 3am

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR SIDEWALK CAFE
Sunday 10am – 11pm
Monday through Thursday 8am – 11pm
Friday and Saturday 8am – 1am

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF PUBLIC HEARING

Air Quality Permit for Roubin & Janeiro, Inc.

Notice is hereby given that, pursuant to 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, 5th Floor, Washington, DC, is announcing its intention to hold a public hearing on the subject of a draft air quality permit (No. 7193) proposed for issuance to Roubin & Janeiro, Inc., to operate a McCloskey R155 High Energy Screener with up to three integral conveyors, powered by a 129 hp Caterpillar C4.4 diesel-fired engine, at 4901 Shepherd Parkway SW, Washington DC 20032.

Public comment was previously taken from March 23, 2018 through April 23, 2018. During that comment period a request for a public hearing was submitted. DOEE is granting this public hearing request and is scheduling a public hearing on this matter.

Information on the draft permit and the original public comment period can be found at: https://doee.dc.gov/node/1318596.

The public hearing at which interested parties may present comments to be included in the record will be held as follows:

Public Hearing: Monday, September 17, 2018

HEARING DATE: **Monday, September 17, 2018**
TIME: **5:00 pm**
PLACE: **Department of Energy and Environment**
1200 First Street NE, 5th Floor
Washington DC 20002

NoMa-Gallaudet University (Red Line) Metro Stop

All persons present at the hearing who wish to be heard may testify in person. All presentations shall be limited to five minutes. Persons are urged to submit paper or electronic copies of any written statements.

All relevant comments will be considered before taking final action on the permit application.

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

BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, OCTOBER 10, 2018
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001

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

TIME: 9:30 A.M.

WARD SEVEN

19795
ANC 7E

Application of Modern 4953 LLC, pursuant to 11 DCMR Subtitle X, Chapter 10, for a variance from the lot width requirements of Subtitle D § 302.1, to construct two new principal dwelling units in the R-2 Zone at premises 11-13 53rd Street S.E. (Square 5286, Lot 81).

WARD FOUR

19820
ANC 4C

Application of Cambridge Holdings LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the residential conversion requirements of Subtitle U § 320.2, to convert an existing principal dwelling unit to a three-unit apartment house in the RF-1 Zone at premises 1128 Buchanan Street N.W. (Square 2918, Lot 113).

WARD FOUR

19821
ANC 4C

Application of 1322 Randolph ST NW LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the residential conversion requirements of Subtitle U § 320.2, to construct a third story and a three-story rear addition to the existing principal dwelling unit and convert it to a three-unit apartment house in the RF-1 Zone at premises 1322 Randolph Street N.W. (Square 2825, Lot 127).

WARD THREE

19823
ANC 3E

Application of Wisconsin Avenue Baptist Church, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under the use requirements of Subtitle U § 203.1(f), and under Subtitle C § 1402 from the retaining wall requirements of Subtitle C § 1401.3(c), and pursuant to Subtitle X, Chapter 10, for variances from the height limitations of Subtitle D § 303.1, from the lot occupancy requirements of Subtitle D § 304.1, and from the side yard requirements of Subtitle D § 307.1, to construct a new four-story church and continuing care retirement facility in the R-1-B Zone at premises 3920 Alton Place N.W. (Square 1779, Lot 14).

WARD ONE

19825
ANC 1C

Appeal of ANC 1C, pursuant to 11 DCMR Subtitle Y § 302, from the decision made on March 27, 2018 by the Zoning Administrator, Department of Consumer and Regulatory Affairs, to issue building permit B1804901, to convert an existing one-story commercial building to a four-story, five-unit apartment house in the RA-2 Zone at premises 1795 Lanier Place N.W. (Square 2583, Lot 358).

PLEASE NOTE:

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

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial. The public hearing in these cases will be conducted in accordance with the provisions of Subtitles X and Y of the District of Columbia Municipal Regulations, Title 11. Pursuant to Subtitle Y, Chapter 2 of the Regulations, the Board will impose time limits on the testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.
Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. **Persons seeking party status shall file with the Board, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application Form**.* This form may be obtained from the Office of Zoning at the address stated below or downloaded from the Office of Zoning's website at: www.dcoz.dc.gov. All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4th Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

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

Do you need assistance to participate?

Amharic
ለመሳተፍ ዕርዳታ ያስፈልግዎታል?
የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጎም) ካስፈለገዎት እባክዎን ከስብሰባው አምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኤሜል Zelalem.Hill@dc.gov ይገናኙ። እነኝህ አገልግሎቶች የሚሰጡት በነጻ ነው።

Chinese
您需要有人帮助参加活动吗？

如果您需要特殊便利设施或语言协助服务（翻译或口译），请在见面之前提前五天与 Zee Hill 联系，电话号码 (202) 727-0312，电子邮件 Zelalem.Hill@dc.gov。这些是免费提供的服务。

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

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

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

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

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

FREDERICK L. HILL, CHAIRPERSON
LESYLLEÉ M. WHITE, MEMBER
LORNA L. JOHN, MEMBER
CARLTON HART, VICE-CHAIRPERSON,
NATIONAL CAPITAL PLANNING COMMISSION
A PARTICIPATING MEMBER OF THE ZONING COMMISSION
CLIFFORD W. MOY, SECRETARY TO THE BZA
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The District of Columbia Boards of Pharmacy and Medicine (the "Boards") jointly, pursuant to the authority set forth under Section 2(b) of the Collaborative Care Expansion Amendment Act of 2012, effective October 22, 2012 (D.C. Law 19-0185; D.C. Official Code § 3-1202.08(h)(2) (2016 Repl.)) (the "Act"), hereby give notice of the adoption of the following new Chapter 100, entitled "Collaborative Practice Agreements Between Physicians and Pharmacists" of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

The adoption of Chapter 100, which had until now been reserved, is necessary to implement the Act, which permits physicians and pharmacists licensed in the District of Columbia to enter into collaborative practice agreements.

The first Notice of Proposed Rulemaking was published in the *D.C. Register* on October 9, 2015 at 62 DCR 13295. The Department received comments from the following commenters: CVS Health; The National Association of Chain Drug Stores; The Washington DC Pharmacy Association and several of its members in support of the comments submitted by the Washington DC Pharmacy Association; Kaiser Permanente; Michael Kim of Grubbs Care Pharmacy; and Christopher Keeys of the Drug Utilization Review Board, DC Medicaid and of Clinical Pharmacy Associates and MedNovations, Inc. The Boards received numerous comments which included a request for the Boards to provide guidance to hospitals, skilled nursing facilities, and other institutions regarding the use of collaborative practice agreements in institutional facility settings. As a result of the comments, the Board of Pharmacy held a public hearing on May 5, 2016, to receive further insight from pharmacists employed in institutional facility settings. Based upon the review of the public comments and the comments received at the public hearing, the Boards amended the following sections:

- § 10002.6(l) - to clarify the notification period to pharmacists when a physician overrides a collaborative practice agreement;

- § 10002.7 - to clarify that the collaborative practice agreement may include treatment protocols that include a physician's delegation of authority to the pharmacist(s) to obtain laboratory tests provided the tests relate directly to the drug therapy management under the protocol;

- § 10002.9 - to clarify that pharmacists engaging in collaborative practice shall not delegate any collaborative practice activities to any other staff;

- § 10005.2 - to clarify notification periods to pharmacists when a physician may override the collaborative practice agreement to twenty-four hours (24) or one (1) business day;

- § 10005.3 - to clarify parties who should be notified when there is a change in either the physician or pharmacists location, employer, or ownership;

- Added a new § 10009 entitled, "Collaborative Practice in Institutional Facilities", with provisions regulating collaborative practice agreements between pharmacists and physicians in institutional facility settings;

- § 10099.1 - to add definitions for the terms Institutional facility and Institutional facility practice protocol.

Therefore, a Notice of Second Proposed Rulemaking was published in the *D.C. Register* on September 29, 2017 at 64 DCR 9618. The Boards received a total of thirty (30) written comments in response to the notice. The following commenters wrote in support of the rulemaking as written and did not request any changes:

- Terri Smith Moore, Ph.D., R.Ph., Washington DC Pharmacy Assoc., Executive Director.
- Dale N. Morton, Washington DC Pharmacy Assoc.
- Emmanuel O. Akala, R.Ph., Ph.D., Professor of Pharmaceutics, Howard University College of Pharmacy.
- Abiy Getahun, Pharm.D., Transitions of Care Pharmacist, The George Washington University Hospital.
- Gelanie Regasa, Washington, DC Pharmacy Assoc.
- Andrew Gentles, Pharm.D., BCPS AQ-ID, Clinical Pharmacist.
- Obieze Eze, President-Elect, Adam Hussain, Vice-President, and Dzifa Avalime, Secretary of the American College of Clinical Pharmacy, Student Chapter, Howard University College of Pharmacy.
- Ashley Trieu, President, and Casey Walker, President-Elect of the Howard University Drug Information Association Student Chapter.
- Tara Boyle, Pharm.D., Harris Teeter.
- Heather Free, Pharm.D., AAHIVP, Clinical Pharmacist.
- Festus Opara, Pharm.D., MBA, Nations Care Pharmacy.
- Samrawit Hagos, Pharmacy Manager, Harris Teeter.
- Janis Hill-Jackson, Pharm.D., R.Ph.
- William Fadel, R.Ph., President & CEO, Grubb's Pharmacy, SE, Inc.
- Erika Romeus, Pharm.D.
- Manjula Chitkula, R.Ph., President & CEO, Kalorama Pharmacy, Inc.
- Michael Wysong, Chief Executive Officer, CARE Pharmacies Cooperative, Inc.
- Mohammed A. Mussie, Pharm.D., Super Pharmacy LLC.
- Yolanda McKoy-Beach, Pharm.D., CDE.
- Christopher Keeys, Pharm.D., BCPS, R.Ph., President, and Kim Bullock, MD, MPH, Vice-President of the Government of the District of Columbia Department of Health Care Finance Drug Utilization Board.

The following commenters wrote in support of the rulemaking as written. However, they also advocated for compensation of pharmacists by DC Medicaid for the direct patient care services that pharmacists will provide through collaborative practice agreements. The Boards did not make any changes in response to this request, because pharmacist compensation and reimbursement rates are not under the Boards' purview.

- Iman Ahmed, Pharm.D. Candidate, Howard University College of Pharmacy, on behalf of the American Pharmacists Association- Academy of Student Pharmacists.
- Erika Romeus, Pharm.D., Erica Howard, P4 Pharmacy Student, Howard University, Joshua Bailey, Pharm.D., Gbessay Bockai, Pharm.D., Eilzabeth Smith, Pharm.D., Kaylin Quach, P4 Pharmacy Student, Howard University, Tekalign Wondimu, Pharm.D., Jacqueise Unonu, Pharm.D., Christyn Mullen-Lee, Pharm.D., Abraham Bedada, R.Ph., Laly Havern, Pharm.D., Akintunde Zubair, Pharm.D., Linda Eligwe Nwaobasi, Pharm.D., Jewel Johnson, Pharm.D., Micah Johnson, Pharm.D.
- Erika Romeus, Pharm.D., Clinical Pharmacist, Alvaro Guzman, MD, Director, Maria Martin, MD, Primary Care Physician, and Ana Gomez, Office Manager, of Andromeda Transcultural Health.
- Shanice Anderson, Editor-in-chief, The Black Apothecary Newsletter, Howard University College of Pharmacy.
- Andrew Gentles, Pharm.D., Clinical Pharmacist, Community of Hope along with: Kelly Sweeny McShane, CEO, Carla Henke, MD, CMO, Roxana Trejo, RN, Director of Nursing, Amanda Rhoads, FNP, Megan Hollis, MD, Medical Director, Megan Murphy, FNP, Medical Director, Family Health and Birth Center, Aaron Gerstenmaier, MD, Andrea Boyle, NP, Shanique Lankford, FNP-C, Lilay Gebreselassie, FNP-C.
- Pawlose Ketema, Howard University College of Pharmacy Student Council President on behalf of the Classes of 2019, 2020, and 2021.
- Michael Kim, Pharm.D., President, Grubb's Care Pharmacy.

The following comments were received from Monet Stanford, Pharm.D., on behalf of Kaiser Permanente and are addressed by the Boards as follows:

- **Regarding Subsections 10001.3 and 10003.2, to provide specific requirements for telemedicine practice.** The Boards did not accept this recommendation because the Board of Medicine has adopted detailed regulations on the telemedicine which, for consistency and continuity, will govern telemedicine practice in collaborative practice agreements.

- **Regarding Subsection 10001.7, to remove completion of a certification program approved by the Board from the educational requirements.** The Boards did not accept this recommendation because they do not share Kaiser's stated concerns. The Board of Pharmacy will approve only those programs it deems appropriate. These requirements are a floor not a ceiling. If Kaiser, or any organization, wishes to set a higher standard for its employees, it is not prohibited from doing so by this rulemaking.

- **Regarding Subsection 10001.8, to allow a medical director to serve as the primary signatory for the physicians participating in a collaborative practice agreement.** The Boards did not accept this recommendation at this time. However, the Boards will revisit this recommendation after the use of collaborative practice agreements has been implemented and the Boards have an opportunity to see how it is working and where improvement may be needed. The Boards gave great consideration in creating the current requirements and find this to be the appropriate process at this time.

- **Regarding Subsection 10002.10, to clarify the "intention of documentation of allowed activities," and to limit the documentation this is required to be maintained.** The Boards did not accept this recommendation, because Subsections 10002.4 and 10002.6 already clarify how the determination is made of the activities that a pharmacist is allowed to engage in under a collaborative practice agreement, and the documentation that must be maintained. Therefore, the Boards find that the requirement in Subsection 10002.10 to maintain documentation of the allowed activities in the record is sufficiently clear to trained healthcare professionals. Further, the Boards reject that recommendation to limit the documentation that must be maintained. Maintaining a complete record is consistent with the practices of the health professions.

- **Regarding Subsection 10002.14, to require the review of collaborative practice agreements by the parties to the agreement biennially instead of yearly.** The Boards did not accept this recommendation. The current rulemaking, in Subsection 10002.15, requires an annual review. The Boards gave great consideration in creating the current requirements and find this to be the appropriate timeframe and process at this time.

- **Regarding Subsection 10004.2, to allow documented informed consent to be made in writing or verbally.** The Boards did not accept this recommendation at this time. However, the Boards will revisit this recommendation after the use of collaborative practice agreements has been implemented and the Boards have an opportunity to see how it is working and where improvement may be needed. The Boards gave great consideration in creating the current requirements and find this to be the appropriate process at this time.

- **Regarding Subsection 10004.4(c), to remove these informed consent provisions as not necessary information to be given to the patient.** The Boards did not accept this recommendation. The Boards gave great consideration in creating the current requirements and find this requirement to be consistent with other states.

- **Regarding Subsection 10005.1, to remove the language regarding termination of the collaborative practice agreement upon written notice by a pharmacist, physician, or patient.** The Boards did not accept this recommendation. Although patients are not a signatory to the collaborative practice agreement, they are a party, and their rights should be clear.

- **Regarding Subsection 10099.1, to permit electronic means of transmitting required information by defining the terms "written" and "writing."** The Boards did not

accept this recommendation because it was unnecessary. Subsection 10007.6 of the rulemaking already clearly states that documentation can be maintained in written or electronic format.

The following comments were received from Jill McCormack, Regional Director, National Association of Chain Drug Stores and are addressed by the Boards as follows:

- **Regarding Subsections 10001.2, 10000.5, and 10002.2, to allow for collaborative practice Agreements to address population-level patient care, and to extend the physician notification time period when a pharmacist initiates a patient into collaborative practice from one day to two days.** The Boards did not accept this recommendation at this time. However, the Boards will revisit this recommendation after the use of collaborative practice agreements has been implemented and the Boards have an opportunity to see how it is working and where improvement may be needed. The Boards gave great consideration in creating the current requirements and find this to be the appropriate scope and process at this time.

- **Regarding Subsection 10001.7, to lower the pharmacist eligibility requirements**. The Boards did not accept this recommendation. The Boards gave great consideration in creating the current requirements and find this to be the appropriate standard at this time.

- **Regarding Subsection 10002.10, to define permanent record and allowed activities**. The Boards did not accept this recommendation, because Subsections 10002.4 and 10002.6 already clarify how the determination is made of the activities that a pharmacist is allowed to engage in under a collaborative practice agreement, and the documentation that must be maintained. Therefore, the Boards find that the requirement in Subsection 10002.10 to maintain documentation of the allowed activities in the record is sufficiently clear to trained healthcare professionals. Further the Boards reject that recommendation to limit the documentation that must be maintained. Maintaining a complete record is consistent with the practices of the health professions.

- **Regarding Subsection 10002.14, to eliminate the requirement that the Boards approve collaborative practice agreements containing approved protocols outside the generally accepted clinical standard of care.** The Boards did not accept this recommendation. The commenter appears to misunderstand the proposed rule. The approval requirement is limited to those collaborative practice agreement containing approved protocols outside the generally accepted clinical standards of care. All other collaborative practice agreements do not require preapproval by the Boards. The Boards will not eliminate this requirement as it is necessary for the safety and protection of the public.

- **Regarding Subsections 10003.2, and 10002.6(a), to allow multiple physicians and pharmacists to provide care at multiple locations, to eliminate the requirement that all participants be named in the agreement, and to eliminate the requirement that all participants sign the agreement.** The Boards did not accept this recommendation.

The Boards gave great consideration in creating the current requirements and find this to be the appropriate standard at this time.

- **Regarding Subsection 10005.1, to eliminate the patient notification requirements.** The Boards did not accept this recommendation. The Boards find that patients should be notified when their physicians or pharmacists terminate the agreement. The patients are a party to the agreement and have a right to know when it is terminated. The Boards trust that with modern day technology, parties will be able to transmit this information to patients in an electronic format without suffering undue burden.

- **Regarding Subsection 10006.1, to define whether a condition or disease state has a generally accepted clinical standard of care, and to detail how the Board will review these agreements.** The Boards did not accept this recommendation. The rulemaking provides a definition of for the term "standard of care." The Boards gave great consideration in creating the current requirements and find these requirements to be consistent with other jurisdictions. Practitioners using a collaborative practice agreement should query the Board if unsure as to whether their agreement may contain a protocol that is not generally accepted as the clinical standard of care.

- **Regarding Subsection 10007.2, to provide a time limit for how long a pharmacist must maintain a record of a physician's authorizing referral.** The Boards did not accept this recommendation. This information will be maintained in the pharmacy records and should be treated the same as all of pharmacy records in compliance with the pharmacy recordkeeping regulations.

The following comment was received from Bonnie Levin, Pharm.D., MBA, FASHP, Medstar Health and are addressed by the Boards as follows:

- **To exclude inpatient activities from the scope of the proposed rulemaking, noting that each hospital has medical staff oversight through its P&T Committee, which approves protocols and guidelines for pharmacist activity**. The Boards did not accept this recommendation. First, in response to the first The first Notice of Proposed Rulemaking that was published in the *D.C. Register* on October 9, 2015, the Boards received a request from the institutional facilities to provide guidance to hospitals, skilled nursing facilities, and other institutions regarding the use of collaborative practice agreements in institutional facility settings. As a result of this request, the Board of Pharmacy held a public hearing on May 5, 2016, to receive further insight from pharmacists employed in institutional facility settings, and Section 10009 was added to the proposed rulemaking. Second, Subsections 10009.3 and 10009.4 already state that pharmacist who practice in institutional facilities shall participate in collaborative practice agreements approved by the facility's P &T Committee, medical staff executive committee, or the facility's medical director. Therefore the Boards find that the regulations are consistent with institutional practice and already address the commenter's concerns.

After careful consideration of all of the comments, the Boards did not find that any further changes to the rulemaking were needed at this time. Therefore, no changes have been made to the rulemaking that was published in the D.C. *Register* on September 29, 2017.

These rules were adopted as final on March 29, 2018 and will be effective upon publication of this notice in the *D.C. Register*.

Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended by adding a new Chapter 100 to read as follows:

CHAPTER 100 COLLABORATIVE PRACTICE AGREEMENTS BETWEEN PHYSICIANS AND PHARMACISTS

10000 General Provisions
10001 Requirements for Participation in a Collaborative Practice Agreement
10002 Use of a Collaborative Practice Agreement and Required Content
10003 Signed Authorization
10004 Informed Patient Consent and Withdrawal of Participation
10005 Termination or Alteration of the Collaborative Practice Agreement
10006 Approval of Protocols Outside the Standard of Care
10007 Recordkeeping
10008 Disapproval and Revocation of Collaborative Practice Agreements
10009 Collaborative Practice in Institutional Facilities
10099 Definitions

10000 GENERAL PROVISIONS

10000.1 Participation in a collaborative practice agreement shall be voluntary, and no licensed physician, pharmacist or institution shall be required to participate.

10000.2 Neither a pharmacist nor physician shall provide economic incentives to the other for the purpose of entering into a collaborative practice agreement.

10000.3 A physician shall not be employed by any pharmacist or pharmacy for the sole purpose of collaborative practice.

10000.4 Patient entry into a collaborative practice arrangement shall be initiated by an authorizing protocol that includes coverage of the patient(s), or a written referral from the licensed physician to the pharmacist for a specific patient.

10000.5 When patient entry is initiated by the pharmacist, the pharmacist shall:

(a) Instruct the patient to follow up with the authorizing physician within the time period established in the collaborative practice agreement;

(b) Notify the authorizing physician of the encounter in writing within twenty-four (24) hours or one (1) business day; and

(c) Obtain a referral from the authorizing physician before providing further collaborative practice services to the patient.

10000.6 A pharmacist who is a party to a collaborative practice agreement shall utilize an area for in person, telephonic or other approved electronic consultations relating to the management of drug therapy that ensures the confidentiality of the patient information being discussed.

10000.7 Nothing in these regulations shall be construed or interpreted to allow a pharmacist to accept delegation of a physician's authority outside of or beyond the scope of the pharmacist's practice.

10001 REQUIREMENTS FOR PARTICIPATION IN A COLLABORATIVE PRACTICE AGREEMENT

10001.1 A pharmacist shall only participate in a collaborative practice agreement in accordance with this chapter.

10001.2 A licensed physician shall have a valid patient-physician relationship with a patient that he or she refers to a pharmacist for participation in a collaborative practice agreement under this chapter.

10001.3 For purposes of this chapter, an internet based or telephone consultation or questionnaire evaluation is not adequate to establish a valid patient-physician relationship unless and except as otherwise specifically permitted by District law.

10001.4 The licensed physician and pharmacist who are parties to a collaborative practice agreement shall hold an active license in good standing in the District of Columbia.

10001.5 The Boards may deny approval of a physician or pharmacist to participate in a collaborative practice agreement if the physician or pharmacist has:

(a) A final order by the governing Board disciplining the physician or pharmacist's license for a practice issue within the five (5) years immediately preceding the formation of the agreement; or

(b) Limitations placed on the physician or pharmacist's license by the governing board.

10001.6 The collaborative practice agreement shall be within the scope of the licensed physician's current practice.

10001.7 To be eligible to participate in a collaborative practice agreement, a pharmacist:

(a) Shall possess relevant advanced training as indicated by one of the following:

(1) Certification as a specialist by:

(A) The Board of Pharmaceutical Specialties;

(B) The Commission for Certification in Geriatric Pharmacy; or

(C) Another credentialing body approved by the Board of Pharmacy; or

(2) Successful completion of:

(A) A residency accredited by the American Society of Health-Systems Pharmacists, a body approved by the Board of Pharmacy or offered by a body accredited by the Accreditation Council for Pharmacy Education; or

(B) A certificate program approved by the Board of Pharmacy; and

(b) Shall have successfully completed:

(1) A minimum of three (3) years of relevant clinical experience, if the pharmacist holds an academic degree of Doctor of Pharmacy; or

(2) A minimum of five (5) years of relevant clinical experience, if the pharmacist holds an academic degree of Bachelor of Science in Pharmacy; and

(c) Shall have documented training related to the area of practice covered by the collaborative practice agreement.

10002 USE OF A COLLABORATIVE PRACTICE AGREEMENT AND REQUIRED CONTENT

10002.1 The management of drug therapy pursuant to a collaborative practice agreement shall be initiated by an authorizing protocol that includes coverage of the patient(s) or a written referral from the licensed physician to the pharmacist for a specific patient.

10002.2 When a patient encounter is initiated through an authorizing protocol, the pharmacist shall notify the authorizing physician in writing within twenty-four (24) hours or one (1) business day.

10002.3 The authority granted by the physician to the pharmacist must be within the scope of the physician's practice.

10002.4 The collaborative practice agreement may allow the pharmacist, within the pharmacist's scope of practice, to conduct activities approved by the physician pursuant to the agreement and within the authority established by the law and regulations.

10002.5 The collaborative practice agreement shall not prohibit the pharmacist from providing other pharmaceutical services that are within the pharmacist's scope of practice.

10002.6 A collaborative practice agreement shall be based upon treatment protocols that are generally accepted as the clinical standard of care within the medical and pharmacy professions, or approved by the Boards of Medicine and Pharmacy in accordance with § 10006 of this chapter, and shall include:

(a) Identification of the physicians(s) and pharmacist(s) who are parties to the agreement;

(b) The location(s) where the pharmacist(s) and physician(s) may provide services under the collaborative practice agreement;

(c) The name, address, and telephone number of the person(s) who are to receive correspondence from the Boards related to the collaborative practice agreement;

(d) A detailed description of the disease state or condition, drugs or drug categories, drug therapies, devices, and any necessary incidental tests, authorized by the physician, and the activities allowed in each case;

(e) A detailed description of the methods, procedures, decision criteria, and plan the pharmacist is to follow when conducting allowed activities;

(f) A detailed description of the activities and procedures that the pharmacist is to follow, including documentation of decisions made, and a plan or appropriate mechanism for communication, feedback, and reporting to the physician activities and results concerning specific decisions made;

(g) The conditions under which the pharmacist may initiate, modify, or discontinue a drug therapy;

(h) Directions concerning the monitoring of a drug therapy, including the conditions that would warrant a modification to the dose, dosage regime, or dosage form of the drug therapy;

(i) The frequency and the manner in which the pharmacist conducts the management of drug therapy;

(j) A method for the physician to monitor compliance with the agreement and clinical outcomes and to intercede where necessary;

(k) A description of the continuous quality improvement efforts used to evaluate effectiveness of patient care and ensure positive patient outcomes;

(l) A provision that allows the physician to override a collaborative practice decision made by the pharmacist whenever he or she deems it necessary or appropriate, with notification to the pharmacist of the override within twenty-four (24) hours or one (1) business day, or as noted in the collaborative practice agreement;

(m) A provision that allows either party to cancel the collaborative practice agreement by written notification;

(n) An effective date; and

(o) The signatures of all collaborating pharmacists and physicians who are party to the collaborative practice agreement, as well as dates of signing.

10002.7 The collaborative practice agreement may include treatment protocols that include a physician(s) delegation of authority to the pharmacist(s) to obtain laboratory tests provided the tests relate directly to the drug therapy management under the protocol.

10002.8 In addition to the requirements set forth in the collaborative practice agreement, documentation of each intervention, including changes in dose, duration or frequency of medication prescribed, shall be recorded in the pharmacist's prescription record, patient profile, a separate log book, or in some other appropriate system.

10002.9 Pharmacists engaging in collaborative practice shall not delegate any collaborative practice activities to any other staff.

10002.10 Documentation of allowed activities must be kept as part of the patient's permanent record and be readily available to other health care professionals providing care to that patient and who are authorized to receive it.

Documentation of allowed activities shall be considered protected health information.

10002.11 Oral communications between the physician and pharmacist shall be summarized in the documentation maintained by the pharmacist and forwarded to the physician.

10002.12 Unless an alternative time period is stated in the collaborative practice agreement, the pharmacist shall inform the physician within forty-eight (48) hours if the pharmacist modifies the drug dose or agent.

10002.13 Unless an alternative time period is stated in the collaborative practice agreement, the pharmacist shall inform the physician within twenty-four (24) hours if the pharmacist detects an abnormal result from an assessment activity.

10002.14 Amendments to a collaborative practice agreement must be documented, signed, and dated, and for collaborative practice agreements containing approved protocols outside the generally accepted clinical standard of care, the amendments must be approved by the Boards before they are implemented.

10002.15 At a minimum, the collaborative practice agreement shall have a documented review and, if necessary, be revised every year.

10003 SIGNED AUTHORIZATION

10003.1 The signatories to a collaborative practice agreement shall be a District of Columbia licensed physician involved directly in patient care where patients receive services and a District of Columbia licensed pharmacist involved directly in patient care where patients receive services.

10003.2 The physician may designate alternate physicians, and the pharmacist may designate alternate pharmacists, provided that the alternates are signatories to the agreement, meet the educational, licensure, and training requirements of this Chapter, and are involved directly in patient care where patients receive services. Nothing in this Section shall be construed as prohibiting the practice of telemedicine if it is otherwise permitted by District law.

10004 INFORMED PATIENT CONSENT AND WITHDRAWAL OF PARTICIPATION

10004.1 Documented informed consent from the patient shall be obtained by the physician who authorizes the patient to participate in the collaborative practice agreement or by the pharmacist who is also a party to the collaborative practice agreement.

10004.2 For purposes of this section, documented informed consent shall mean either written consent signed by a patient, or its electronic equivalent, maintained in a patient's record.

10004.3 The patient may decline to participate or withdraw from participation at any time.

10004.4 Prior to obtaining a patient's consent to participate in a collaborative practice agreement, the physician or pharmacist, or both, shall inform a patient:

(a) Of the procedures that will be utilized for drug therapy management under the collaborative practice agreement, and such discussion shall be documented in the patient record;

(b) That the patient may decline to participate or withdraw from participating in the drug therapy management at any time; and

(c) That neither the physician nor the pharmacist has been coerced, given economic incentives, excluding normal reimbursement for services rendered, or involuntarily required to participate.

10005 TERMINATION OR ALTERATION OF THE COLLABORATIVE PRACTICE AGREEMENT

10005.1 The collaborative practice agreement may be terminated at any time upon written notice by the pharmacist, physician, or the patient. Notice of termination shall be provided to all parties to the collaborative practice agreement and the patient within fourteen (14) days of termination.

10005.2 A physician may override the collaborative practice agreement whenever he or she deems such action necessary or appropriate for a specific patient, and shall notify the pharmacist of the override within twenty-four (24) hours or one (1) business day.

10005.3 If either the physician or the pharmacist who is a party to the collaborative practice agreement has a change of practice location, employer, or ownership, that person shall notify the other party and all of the physician's or pharmacist's patients who are participants in the collaborative practice agreement.

10006 APPROVAL OF PROTOCOLS OUTSIDE THE STANDARD OF CARE

10006.1 If a physician and a pharmacist intend to manage or treat a condition or disease state for which there is not a protocol that is generally accepted as the clinical standard of care, the physician and pharmacist shall apply for approval. The Boards shall receive and review the proposed treatment protocol and jointly approve or disapprove.

10006.2 Any procedure outside generally accepted clinical practice shall be approved by the Boards, and any changes to a protocol for procedures outside the generally accepted clinical practice shall be approved by the Boards before they are implemented.

10006.3 Application and approval are not needed for treatment of conditions for which there is a generally accepted clinical standard of care, but for which the physician wants to increase the monitoring and oversight of the condition over what the protocol recommends.

10006.4 In order to apply for approval of a protocol outside the generally accepted clinical standard of care, the physician and the pharmacist shall jointly submit:

(a) An application on the required form and the required fee;

(b) A copy of the proposed protocol; and

(c) Supporting documentation that the protocol is safe and effective for the particular condition or disease state for which the physician and the pharmacist intend to manage or treat through a collaborative practice agreement.

10006.5 To apply for approval to make changes to an approved protocol outside of the generally accepted clinical standard of care, the physician and the pharmacist shall jointly submit:

(a) An application on the required form and the required fee;

(b) A copy of the proposed changes to the protocol; and

(c) Supporting documentation that the change(s) to the protocol is safe and effective for the particular condition or disease state for which the physician and the pharmacist intend to manage or treat through a collaborative practice agreement.

10007 RECORDKEEPING

10007.1 Signatories to a collaborative practice agreement shall keep a copy of the agreement on file at their primary places of practice.

10007.2 The referral of a patient from the physician authorizing the implementation of drug therapy management pursuant to the collaborative practice agreement shall be noted in the patient's medical record and kept on file by the pharmacist.

10007.3 The patient's documented informed consent shall be retained by the parties to the collaborative practice agreement.

10007.4 A copy of the collaborative practice agreement, any amendments to the agreement, and the subsequent termination of any such agreement, if applicable, shall be available as follows:

(a) At the practice site of any physician who is a party to the collaborative practice agreement;

(b) At the practice site of any pharmacist who is a party to the collaborative practice agreement;

(c) At the institution or facility where a collaborative practice agreement is in place;

(d) To any patient who is being managed under the collaborative practice agreement, upon request; and

(e) Upon request, to representatives of the Boards of Pharmacy and Medicine.

10007.5 Documentation of activities performed under a collaborative practice agreement or the physician's specific instructions shall be maintained in such a manner that it is accessible to the:

(a) Physician;

(b) Pharmacist; and

(c) The Boards of Pharmacy and Medicine upon request.

10007.6 Documentation may be maintained in written or electronic form.

10007.7 A pharmacist or physician who is a party to the collaborative practice agreement shall have access to the records of the patient who is the recipient of the management of drug therapy.

10007.8 A patient's records related to the management of drug therapy under a collaborative practice agreement may be maintained in a computerized recordkeeping system which meets all requirements for Federal and State certified electronic health care records.

10007.9 The handling of all patient records by the pharmacist providing the management of drug therapy must comply with the Health Insurance Portability and Accountability Act of 1996 (Pub.L. 104-191, 110 Stat. 1936).

10007.10 The Boards may conduct random audits to ensure compliance with the provisions of the Act and this chapter.

10008 DISAPPROVAL AND REVOCATION OF COLLABORATIVE PRACTICE AGREEMENTS

10008.1 The Board of Pharmacy and the Board of Medicine may disapprove or revoke a collaborative practice agreement if the Boards find:

(a) Inadequate training, experience, or education of the physician(s) or pharmacist(s) to implement the protocol or protocols specified in the physician-pharmacist agreement;

(b) The collaborative practice agreement fails to comply with the requirements of this chapter or the Act;

(c) The collaborative practice agreement is intended to manage or treat a condition or disease state for which there is not a protocol that is generally accepted as the clinical standard of care, or which is not approved by the Boards; or

(d) Either party to the agreement has been formally disciplined by any health professional licensing board in any jurisdiction, or is otherwise no longer licensed in good standing in the District of Columbia.

10009 COLLABORATIVE PRACTICE IN INSTITUTIONAL FACILITIES

10009.1 The provisions of this subchapter shall apply to collaborative practice arrangements between pharmacists and physicians in institutional facility settings.

10009.2 To the extent that there is any conflict between this subchapter and any other section of this chapter, the provisions of this subchapter shall prevail with respect to collaborative practice arrangements between pharmacists and physicians in institutional facility settings.

10009.3 Nothing in this chapter shall be construed to prohibit pharmacists who practice in institutional facility settings from participating in collaborative practice arrangements pursuant to an institutional facility practice protocol approved by the institutional facility's Pharmacy and Therapeutics Committee ("P and T Committee"), the institutional facility's medical staff executive committee, or the institutional facility's medical director.

10009.4 Pharmacists who practice in institutional facility settings shall only participate in collaborative practice arrangements pursuant to an institutional facility practice protocol approved by the institutional facility's P and T Committee, the institutional facility's medical staff executive committee, or the institutional facility's medical director.

10009.5 Nothing in this subchapter shall be construed or interpreted to allow a pharmacist to accept delegation of a physician's authority outside of or beyond the scope of the pharmacist's practice.

10009.6 The licensed physician and pharmacist who are parties to an institutional facility practice protocol shall hold an active license in good standing in the District of Columbia.

10009.7 The Boards may deny approval of a physician or pharmacist to participate in collaborative practice under an institutional facility practice protocol if the physician or pharmacist has:

(a) A final order by the governing Board disciplining the physician or pharmacist's license for a practice issue within the five (5) years immediately preceding the formation of the agreement; or

(b) Limitations placed on the physician or pharmacist's license by the governing board.

10009.8 The collaborative practice services under an institutional facility practice protocol shall be within the scope of the licensed physician(s)'s current practice.

10009.9 To be eligible to participate in an institutional facility practice protocol, a pharmacist:

(a) Shall possess relevant advanced training as indicated by one of the following:

(1) Certification as a specialist by:

(A) The Board of Pharmaceutical Specialties;

(B) The Commission for Certification in Geriatric Pharmacy; or

(C) Another credentialing body approved by the Board of Pharmacy; or

(2) Successful completion of:

(A) A residency accredited by the American Society of Health-Systems Pharmacists, a body approved by the Board of Pharmacy or offered by a body accredited by the Accreditation Council for Pharmacy Education; or

(B) A certificate program approved by the Board of Pharmacy; and

(b) Shall have successfully completed:

(1) A minimum of three (3) years of relevant clinical experience, if the pharmacist holds an academic degree of Doctor of Pharmacy; or

(2) A minimum of five (5) years of relevant clinical experience, if the pharmacist holds an academic degree of Bachelor of Science in Pharmacy; and

(c) Shall have documented training related to the area of practice covered by the institutional facility practice protocol.

10009.10 Prior to providing collaborative practice services, pharmacists who practice in institutional facility settings shall review the following information in the patient's chart:

(a) Patient's name, gender, date of birth, height, and weight;

(b) Patient's diagnosis or diagnoses from the treating physician;

(c) Patient's medication history;

(d) Patient's prior lab values;

(e) Patient's vital signs; and

(f) Patient's known allergies.

10009.11 The institutional facility shall create an institutional facility practice protocol identifying where the information required in § 10009.10 will be located, and how it will be accessed throughout the facility by the participating pharmacists and physicians.

10009.12 The institutional facility practice protocol shall serve as the collaborative practice agreement in these settings, and the institutional facility practice protocol shall identify which physicians and pharmacists are authorized and have agreed to provide collaborative practice services.

10009.13 The institutional facility practice protocol shall contain a plan for development, training, administration, and quality assurance of the protocol.

10009.14 An institutional facility practice protocol based upon treatment protocols that are generally accepted as the clinical standard of care within the medical and

pharmacy professions, and that complies with the applicable requirements of this subchapter is deemed approved by the Boards.

10009.15 An institutional facility practice protocol approved by the Boards of Medicine and Pharmacy in accordance with §10006 or § 10009.14 of this subchapter shall contain the following information:

(a) Identification of the physicians(s) and pharmacist(s) who are parties to the institutional facility practice protocol;

(b) The location(s) where the pharmacist(s) and physician(s) may provide services under the institutional facility practice protocol;

(c) The name, address, and telephone number of the person(s) who are to receive correspondence from the Boards related to the institutional facility practice protocol;

(d) A detailed description of the disease state or condition, drugs or drug categories, drug therapies, devices, and any necessary incidental tests, authorized by the physician, and the activities allowed in each case;

(e) A detailed description of the methods, procedures, decision criteria, and plan the pharmacist is to follow when conducting allowed activities;

(f) A detailed description of the activities and procedures that the pharmacist is to follow, including documentation of decisions made, and a plan or appropriate mechanism for communication, feedback, and reporting to the physician activities and results concerning specific decisions made;

(g) The conditions under which the pharmacist may initiate, modify, or discontinue a drug therapy;

(h) Directions concerning the monitoring of a drug therapy, including the conditions that would warrant a modification to the dose, dosage regime, or dosage form of the drug therapy;

(i) The manner in which pharmacist's drug therapy management will be monitored by the prescriber, including method and frequency;

(j) A specified time within which the pharmacist must notify the prescriber of any modifications of drug therapy;

(k) A description of the continuous quality improvement efforts used to evaluate effectiveness of patient care and ensure positive patient outcomes;

(l) A provision that allows the prescriber to override any action taken by the pharmacist when the prescriber deems it to be necessary;

(m) The effective date; and

(n) A provision addressing how drug therapy management will be handled when the patient has more than one prescriber involved in evaluating or treating the medical condition which is the subject of the protocol. All prescribers who are actively involved in the management of the relevant conditions shall be parties to the protocol.

10009.16 The institutional facility practice protocol may include a physician(s) delegation of authority to the pharmacist(s) to obtain laboratory tests provided the tests relate directly to the drug therapy management under the protocol.

10009.17 Unless an alternative time period is stated in the institutional facility practice protocol, the pharmacist shall inform the physician within forty-eight (48) hours if the pharmacist modifies the drug dose or agent.

10009.18 Unless an alternative time period is stated in the institutional facility practice protocol, the pharmacist shall inform the physician within twenty-four (24) hours if the pharmacist detects an abnormal result from an assessment activity.

10009.19 Amendments to an institutional facility practice protocol must be documented, signed, and dated, and for institutional facility practice protocols containing approved protocols outside the generally accepted clinical standard of care, the amendments must be approved by the Boards before they are implemented.

10009.20 At a minimum, the institutional facility practice protocol shall have a documented review and, if necessary, be revised every year.

10009.21 The institutional facility's P and T Committee, medical staff executive committee, or medical director shall serve as the authorizing agent for the organization's medical staff, identifying which physicians or physician groups are authorized to participate under the institutional facility practice protocol, may restrict authorization for certain protocols to specific physicians, physician groups, or specialties, and shall ensure that the participating physicians are informed of the protocol and consent to participation.

10009.22 A pharmacist engaging in collaborative practice under an institutional facility's practice protocol shall read, sign, and date the protocol.

10009.23 The institutional pharmacy manager, or other designated person set forth in the institutional facility practice protocol, shall ensure that the institutional facility practice protocol is maintained current, that changes to the protocol are updated timely including the identification of the persons authorized to participate under

the protocol, that copies of the protocol shall be maintained onsite where collaborative practice services take place, and that the protocol is revised as medically necessary.

10009.24 Pharmacists engaging in collaborative practice shall not delegate any collaborative practice activities to any other staff.

10009.25 All activity by the pharmacist, including changes in dose, duration or frequency of medication prescribed, shall be recorded in the pharmacist's prescription record, patient profile, a separate log book, or in some other appropriate system.

10009.26 A copy of the institutional facility practice protocol, any amendments to the protocol, and the subsequent termination of any such protocol, if applicable, shall be available to:

(a) Any physician who is a party to the institutional facility practice protocol;

(b) Any pharmacist who is a party to the institutional facility practice protocol;

(c) Any patient who is being managed under the institutional facility practice protocol, upon request; and

(d) Representatives of the Boards of Pharmacy and Medicine, upon request.

10009.27 Documentation of activities performed under an institutional facility practice protocol or the physician's specific instructions shall be maintained in such a manner that it is accessible to the:

(a) Physician;

(b) Pharmacist; and

(c) The Boards of Pharmacy and Medicine upon request.

10009.28 Documentation may be maintained in written or electronic form.

10009.29 The Board of Pharmacy and the Board of Medicine may disapprove or revoke an institutional facility practice protocol if the Boards find:

(a) Inadequate training, experience, or education of the physician(s) or pharmacist(s) to implement the protocol or protocols;

(b) The institutional facility practice protocol fails to comply with the requirements of this subchapter or the Act;

(c) The institutional facility practice protocol is intended to manage or treat a condition or disease state for which there is not a protocol that is generally accepted as the clinical standard of care, or which is not approved by the Boards; or

(d) Any party to the protocol has been formally disciplined by any health professional licensing board in any jurisdiction, or is otherwise no longer licensed in good standing in the District of Columbia.

10009.30 The Boards may conduct random audits to ensure compliance with the provisions of the Act and this subchapter.

10099 DEFINITIONS

10099.1 As used in this chapter, the following terms have the meanings ascribed:

Act - the Collaborative Care Expansion Amendment Act of 2012, effective October 22, 2012 (D.C. Law 19-0185; 60 DCR 7591 (May 31, 2013)).

Collaborative practice agreement- means a voluntary written agreement between a licensed pharmacist and a licensed physician that has been approved by the Board of Pharmacy and the Board of Medicine, or between a licensed pharmacist and another health practitioner with independent prescriptive authority licensed by a District health occupation board, that defines the scope of practice between the licensed pharmacist and licensed physician, or other health practitioner, for the initiation, modification, or discontinuation of a drug therapy regimen.

Institutional facility- means any organization whose primary purpose is to provide a physical environment for patients to obtain health care services, including a(n):

(1) Hospital;
(2) Convalescent home;
(3) Nursing home;
(4) Extended care facility;
(5) Mental health facility;
(6) Rehabilitation center;
(7) Psychiatric center;
(8) Developmental disability center;
(9) Substance use disorder treatment center;
(10) Family planning clinic;
(11) Correctional institution;
(12) Hospice;
(13) Public health facility.

Institutional facility practice protocol – means a written plan, policy, procedure, or agreement that authorizes drug therapy management between pharmacists and physicians within an institutional facility setting as developed and determined by the institutional facility's P and T Committee, the institutional facility's medical staff executive committee, or the institutional facility's medical director.

Physician- a person holding a degree in medicine (MD) or osteopathy (DO).

Standard of Care- the course of action that other prudent and well-trained health professionals in the same field of practice would customarily take under the same or similar circumstances.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

RM27-2017-01, IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO THE RULES GOVERNING LOCAL EXCHANGE CARRIER QUALITY OF SERVICE STANDARDS FOR THE DISTRICT,

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice pursuant to Sections 34-802, 2-505, and 34-401(a) of the District of Columbia Code[1] of its approval of amendments to Chapter 27 (Regulation of Telecommunications Service Providers) of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations ("DCMR"). The proposed amendments require telecommunications service providers reporting telecommunications service outages to identify the most specific location of the service outage and the geographic area affected by the service outage that the telecommunications service provider has available when the initial report is filed and the actual location of the service outage in the telecommunications service provider's network and the geographic area affected in the final report.

2. Previous notices of proposed rulemaking seeking to amend these rules were published on January 20, 2017,[2] September 15, 2017,[3] and March 16, 2018.[4] The Commission approved the amendments as proposed in a vote at the August 8, 2018 Open Meeting, with the rule becoming effective upon publication in the *D.C. Register.* The full text of the amendments is published below.

Chapter 27, REGULATION OF TELECOMMUNICATIONS SERVICE PROVIDERS, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is amended as follows:

Section 2740, REPORTING REQUIREMENTS FOR SERVICE OUTAGES AND INCIDENTS RESULTING IN PERSONAL INJURY OR DEATH, is amended as follows:

2740.4 Each telephone or email communication rendered by the telecommunications service provider subsequent to a service outage shall, at a minimum, state clearly the following information:

(a) The date and time the telecommunications service provider determines that the service outage has occurred;

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1 D.C. Official Code §§ 34-802; 34-401(a) (2012 Repl.); and 2-505 (2016 Repl.).

2 64 DCR 548-549 (January 20, 2017).

3 64 DCR 9109-9110 (September 15, 2017).

4 65 DCR.2722-2723 (March 16, 2018).

(b) The most specific location in the telecommunications service provider's network of the service outage(s) that is available when the report is filed;

(c) The geographic area affected by the outage, including street names and neighborhoods, if available;

(d) The estimated total number of customers out of service;

(e) A preliminary assessment as to the cause of the service outage(s); and

(f) The estimated repair and/or restoration time.

…

2740.11 The telecommunications service provider shall file a written report concerning all service outages with the Public Service Commission and the Office of the People's Counsel within five (5) days following the end of a service outage. Each written report shall, at a minimum, state clearly the following information:

(a) A description of the service outage(s) and/or incident(s) and information as to the cause of the event(s);

(b) The actual location of the outage(s) in the telecommunications service provider's network;

(c) The geographic area affected by the outage, including street names and neighborhoods, if available;

(d) The actual repair and restoration times of the service outage(s) and/or incident(s);

(e) A description of the restoration effort;

(f) The total number of customers affected by the service outage;

(g) A self-assessment of the telecommunications service provider's restoration efforts in the District of Columbia; and

(h) A description of the steps that the telecommunications service providers will undertake to prevent such outages in the future or improve repair times and processes.

DISTRICT DEPARTMENT OF TRANSPORTATION

NOTICE OF FINAL RULEMAKING

The Director of the District Department of Transportation (DDOT), pursuant to the authority set forth in Sections 3(b), 5(a)(3)(E), 6(b), and 7 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.02(b), 50-921.04(a)(3)(E), 50-921.05(b), and 50-921.06 (2014 Repl. & 2017 Supp.)), and Sections 6(a)(1), 6(a)(6) and 6(b) of the District of Columbia Traffic Act, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code §§ 50-2201.03(a)(1), (a)(6), and (b) (2014 Repl.)), hereby gives notice of the adoption of amendments to Chapter 24 (Stopping, Standing, Parking, and Other Non-Moving Violations) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (DCMR).

The rulemaking amends Title 18 to exempt Farmers' Markets participating in both the Farmers' Market Nutrition Program (FMNP) and the Supplemental Nutrition Assistance Program (SNAP) from any parking meter fees incurred as a result of temporary parking restrictions caused by their occupancy of public space.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on May 4, 2018 at 65 DCR 4907. The emergency and proposed rule was adopted on April 26, 2018, and became effective immediately. DDOT has not received any comments on the rule and did not modify the rulemaking as a result. The final proposed rulemaking does not include any substantive changes from the notice of emergency and proposed rulemaking.

The Director adopted these rules as final on July 21, 2018, and they shall become effective upon publication of this notice in the *D.C. Register.*

Chapter 24, STOPPING, STANDING, PARKING, AND OTHER NON-MOVING VIOLATIONS, of Title 18 DCMR, VEHICLES AND TRAFFIC, is amended as follows:

Section 2407, TEMPORARY AND EMERGENCY PARKING RESTRICTIONS, is amended by inserting three new Subsections 2407.28 through 2407.30, to read as follows:

2407.28 Parking shall be prohibited on streets for which Farmers' Market permits have been issued by the Director.

2407.29 The District shall not charge a fee under this section to any non-government organization operating a Farmers' Market; provided, that the Farmers' Market participates in the Farmers Market Nutrition Program as defined in 42 USC § 1786(m)(1) ("FMNP"), and the Supplemental Nutrition Assistance Program as defined in 7 USC § 2012(t) ("SNAP").

2407.30 The District shall charge a fee equal to the fee established in Subsection 2407.20 to a Farmers' Market operated by a District Government agency or Federal Government agency regardless of participation in FMNP and SNAP.

Section 2499, DEFINITIONS, Subsection 2499.1, is amended by inserting two new definitions to read as follows:

For the purposes of this chapter, a **Farmers' Market** is defined as a public market where at least seventy five percent (75%) of the vendors are selling agricultural produce.

For the purposes of this chapter, a **public market** is defined as a vending operation which takes place in an area of public space set aside and permitted on a regular basis for the sale of goods, merchandise, and services provided on site.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING
AND
ZONING COMMISSION ORDER NO. 17-18
Z.C. Case No. 17-18
(Office of Planning –Text Amendments to Subtitles A, B, D, E, F, J, and K regarding the Measurement of Height and Floor Area Ratio)

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2012 Rep1.)), hereby gives notice of amendments to Subtitles A (Authority and Applicability), B (Definitions, Rules of Measurement, and Use Categories), D (Residential House (R) Zones), E (Residential Flat (RF) Zones), F (Residential Apartment (RA) Zones, J (Production, Distribution, and Repair (PDR) Zones), and K (Special Purpose Zones), of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR).

The adopted rules amend Subtitle B to revise the definitions in Chapter 1 and the rules of measurement in Chapter 3 pertaining to building height and floor area ratio (FAR). Among other things, the amendments revise the definitions of "basement" and "cellar" to change the measuring surface from ceiling to the "finished floor of the ground floor." This change will help avoid the use of artificially dropped ceilings. A similar change is made to §§ 304.4 and 304.5, which respectively identify when the "perimeter wall" method or the "grade plane" method is used to calculate the gross floor area (GFA) of a partially below-grade building. Certain window wells and areaways are identified as exceptions to finished grade and natural grade through a new definition. Conforming amendments are proposed for Subtitles D, E, F, J, and K. The proposed rules also include a new vesting provision to protect foundation to grade permit applications that are currently in process.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on June 29, 2018, at 65 DCR 007065. In response the Commission received comments, from Advisory Neighborhood Commission ("ANC") 6C, the law firm of Goulston Storrs, Hickok Cole Architects, Kalorama Citizens Association joined by the Dupont Circle Citizens Association, and three individuals. The ANC's comments recommended clarifying language to the exceptions to grade definition applicable to finished grade and natural grade; to the definition of areaway; and to the vesting provision. The other comments expressed concerns about the exceptions to grade definition not allowing for areaways to project more than the proposed five feet (5 ft.); the proposed exclusion of habitable cellar space from counting towards GFA or counting as a story; the proposed areaway definition removing the five foot (5 ft.) limit to the width of an areaway; the proposed use of the "grade plane" method instead of the "perimeter wall" method to calculate GFA for partially attached buildings; and the proposed five foot (5 ft.). measuring point for cellar/basement determinations not adequately accounting for typical slab thickness.

The Commission took final rulemaking action to adopt these amendments at a public meeting on July 30, 2018 and made changes to the text as recommended by ANC 6C for clarification purposes. The Commission did not make any other changes based on comments to the record.

The amendments shall become effective upon publication of this notice in the *D.C. Register*.

The following amendments to Title 11 DCMR are adopted.

Chapter 3, ADMINISTRATION AND ENFORCEMENT, of Title 11-A DCMR, AUTHORITY AND APPLICABILITY, is amended as follows:

Subsection 301.4 of § 301, BUILDING PERMITS, is amended, and a new § 301.15 is added to read as follows:

301.4 Except as provided in Subtitle A §§ 301.9 through ~~301.13~~ **301.15**, any construction authorized by a permit may be carried to completion pursuant to the provisions of this title in effect on the date that the permit is issued, subject to the following conditions:

(a) The permit holder shall begin construction work within two (2) years of the date on which the permit is issued; and

(b) Any amendment of the permit shall comply with the provisions of this title in effect on the date the permit is amended.

. . . [1]

301.15 **Notwithstanding Subtitle A § 301.4, any building permit application including a foundation-to-grade permit application (the Permit Application), shall be processed, and any work authorized by the permit may be carried to completion pursuant to the rules for measuring floor area ratio, height, and stories[2] as existed on August 17, 2018 if the Permit Application was legally filed with, and accepted as complete by the Department of Consumer and Regulatory Affairs on or before that date and not substantially changed after filing.**

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

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

100.2 When used in this title, the following terms and phrases shall have the meanings ascribed:

. . .

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[1] The use of this and other ellipses indicate that other provisions exist in the subsection being amended and that the omission of the provisions does not signify an intent to repeal.

[2] ANC 6C had recommended a reference to "rules for measuring … **grade.**" However, no such rules exist and therefore the Office of the Attorney General removed the referenced from the final rule.

Areaway: A subsurface space adjacent to a building **that is** open at the top or protected at the top by a grating or guard ~~that includes window wells~~ and **that provides a** passageway~~s~~ accessing **a** basement/cellar door~~s~~.

. . .

Basement: That portion of a story partly below grade **where the finished floor of the ground floor**~~, the ceiling of which is four feet (4 ft.)~~ **is five feet (5 ft.)** or more above the adjacent **natural or** finished grade**, whichever is the lower in elevation**.

. . .

Building Area: The maximum horizontal projected area of a principal building and its accessory buildings. Except for outside balconies, this term shall not include any projections into open spaces authorized elsewhere in this title~~, nor shall it include portions of a building that do not extend above the level of the main floor of the main building, if placed so as not to obstruct light and ventilation of the main building or of buildings on adjoining property~~**.**

Building area shall not include: Building components or appurtenances dedicated to the environmental sustainability of the building; cornices and eaves; sills, leaders, belt courses, and similar ornamental or structural features; awnings, serving a window, porch, deck or door; uncovered stairs, landings, and wheelchair ramps that serve the main floor; and chimneys, smokestacks, or flues.

. . .

Building, Height of: ~~In other than R, RF, RA, RC-1, CG-1, and D-1 zones, the vertical distance measured from the level of the curb, opposite the middle of the front of the building to the highest point of the roof or parapet or a point designated by a specific zone district; in Residential (R) zones the vertical distance measured at the existing grade at the midpoint of the building façade of the principal building that is closest to a street lot line to a point designated in the zone district. Berms or other forms of artificial landscaping shall not be included in measuring building height.~~

~~The term "curb" shall refer to a curb at grade. When the curb grade has been artificially changed by a bridge, viaduct, embankment, ramp, abutment, excavation, tunnel, or other type of artificial elevation or depression, the height of a building shall be measured using Rules of Measurement for Height (Subtitle B § 308).~~ **The vertical distance measured from the Building Height Measuring Point to a point designated in a zone district, subject to limitations in the regulations.**

Building Height Measuring Point (BHMP): ~~The point used to measure building heights in R, RF, and RA zones.~~ **The point used in measuring building heights**

in a zone in accordance with §§ 307 or 308 of this subtitle except as may be stated elsewhere in this title, as applicable, and subject to limitations in the regulations.

. . .

Cellar: That portion of a story **partly below grade where the finished floor of the ground floor**~~, the ceiling of which~~ is less than ~~four feet (4 ft.)~~ **five feet (5 ft.)** above the adjacent **natural or** finished grade**, whichever is the lower elevation**.

. . .

Floor Area Ratio (FAR): The ratio of the total gross floor area of a building to the area of its lot **measured in accordance with § 303 of this subtitle, except as may be stated elsewhere in this title.** ~~determined by dividing the gross floor area of all buildings on a lot by the area of that lot~~. ~~See Also: Subtitle B §§ 304 and 305~~

…

Grade, Exceptions to: The following are exceptions to "Finished Grade" and "Natural Grade" as those terms are defined below:

(a) A window well that projects no more than four feet (4 ft.) from the building face; and

(b) An areaway that provides direct access to an entrance and, excluding associated stairs or ramps, projects no more than five feet (5 ft.) from the building face.

Grade, Finished: The elevation of the ground directly abutting the perimeter of a building or structure **or directly abutting an exception to finished grade. Exceptions to Finished Grade are set forth in the definition of "Grade, Exceptions to."**

Grade, Natural: The undisturbed elevation of the ground of a lot prior to human intervention; or where there are existing improvements on a lot, the established elevation of the ground, exclusive of the improvements or adjustments to the grade made in the ~~two (2)~~ **five (5)** years prior to applying for a building permit~~;~~**.** ~~natural grade may not include manually constructed berms or other forms of artificial landscaping.~~ **Exceptions to Natural Grade are set forth in the definition of "Grade, Exceptions to."**

...

Gross Floor Area (GFA): **Unless otherwise specified,** ~~The~~ **the** sum of the gross horizontal areas of ~~the several~~ **all** floors of all buildings on a lot, measured from the exterior faces of exterior walls and from the center line of walls separating two (2) buildings **as measured in accordance with § 304 of this subtitle**, **except as may be stated elsewhere in this title.** ~~See Also: Subtitle B §§ 304 and 305~~

~~GFA shall include basements, elevator shafts, and stairwells at each story; floor space used for mechanical equipment (with structural headroom of six feet, six inches (6 ft., 6 in.), or more); penthouses; attic space (whether or not a floor has actually been laid, providing structural headroom of six feet, six inches (6 ft., 6 in.), or more); interior balconies; and mezzanines.~~

~~GFA shall not include cellars, exterior balconies that do not exceed a projection of six feet (6 ft.) beyond the exterior walls of the building, all projections beyond the lot line that may be allowed by other Municipal codes, vent shafts, and pipe chase shafts above the ground floor, atriums above the ground floor, ramps on the ground floor leading down to areas of parking on a lower level; and in residential zones, the first floor or basement area designed and used for parking or recreation spaces provided that not more than fifty percent (50%) of the perimeter of that space may be comprised of columns, piers, walls, or windows, or similarly enclosed.~~

. . .

Habitable Room: An undivided enclosed space used for living, sleeping, or kitchen facilities. ~~The term "habitable room" shall not include attics, cellars, corridors, hallways, laundries, serving or storage pantries, bathrooms, or similar space; neither shall it include mechanically ventilated interior kitchens less than one hundred square feet (100 sq. ft.) in area, nor kitchens in commercial establishments.~~

. . .

Story: The space between the surface of two (2) successive floors in a building or between the top floor and the ceiling or underside of the roof framing **as measured in accordance with § 310 of this subtitle**. ~~The number of stories shall be counted at the point from which the height of the building is measured.~~

~~For the purpose of determining the maximum number of permitted stories, the term "story" shall not include cellars or penthouses.~~

. . .

Window well: A subsurface space adjacent to a building open at the top or protected by a grating or guard that affords access, air, light, or emergency egress to a window.

. . .

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

Subsections 304.4 and 304.5 of § 304, RULES OF MEASUREMENT FOR GROSS FLOOR AREA (GFA), are amended, and new Subsections 304.6, 304.7, and 304.8 are added as follows:

. . .

304.4 For a building entirely detached from any other building, ~~calculation of~~ GFA for the portion of a story located **below the finished floor of the ground floor and partly above** ~~partially below~~ **adjacent natural or** finished grade shall be **calculated by the perimeter-wall method, which is** as follows:

(a) Measure the portions of the perimeter of the story ~~located partially~~ below **the finished floor of the ground floor that are five feet (5 ft.) or more above the adjacent natural or finished grade, whichever is the lower elevation** ~~finished grade that have a height greater than or equal to four (4) feet, when measured between the finished grade and the ground floor of the story above~~;

(b) Measure the total perimeter of the story located **below the finished floor of the ground floor** ~~partially below finished grade~~;

(c) Divide the distance of the result of paragraph (a) by the distance of the result of paragraph (b); and

(d) Multiply ~~this~~ ~~**the**~~ **result** **from paragraph (c)** by the total floor area of the story located ~~partially below finished grade~~ **below the finished floor of the ground floor**.

304.5 For a ~~building attached at any point to a neighboring building~~ **semi-detached or attached building**, GFA ~~of~~ **for** the portion of a story **below the finished floor of the ground floor** ~~located partially below~~ **and partly above adjacent natural** or finished grade shall be calculated **by the grade-plane method, which is** as follows:

(a) **For the purposes of this measurement, a building's "front façade" is the façade facing the nearest street and a building's "opposite face" is the portion of the building that faces the opposite direction of the front façade;**

(b) ~~Establish a line between the midpoint of a building façade facing the nearest street at finished grade and the midpoint of the opposite building façade at finished grade~~**;** **Establish a line between the midpoint of a building's front façade at the adjacent natural or finished grade, whichever is the lower elevation, and the midpoint of the building's opposite face at the adjacent natural or finished grade, whichever is the lower in elevation, subject to paragraph (c);**

(c) **If excavations project from the building's front façade or opposite face that are not an exception to grade, as defined at 11-B DCMR § 100.2, the elevation of the midpoint of the building front façade shall be the equivalent of the lowest such elevation; excluding existing driveways adjacent to the midpoint(s) directly connecting a garage and public right of way**;

(d) Determine the portion of this line **that is five feet (5 ft.) or more below** ~~where the distance between it, and~~ the ~~ground~~ **the finished floor of the ground** floor ~~of the story directly above, is greater than or equal to six (6) feet~~;

(e) Project a perpendicular line from the point along the line described in paragraph (d) to the exterior walls of the building; and

(f) Measure the floor area that is between the projected perpendicular line and the ~~other~~ portion~~s~~ of the story **five feet (5 ft.) or more below the finished floor of the ground floor** ~~with a height greater than or equal to six (6) feet when measured from the perpendicular line to the ground floor of the story above~~.

…

…

304.7 **GFA shall include basements, elevator shafts, and stairwells at each story; floor space used for mechanical equipment (with structural headroom of six feet, six inches (6 ft., 6 in.), or more); penthouses (unless otherwise specified); attic space (whether or not a floor has actually been laid, providing structural headroom of six feet, six inches (6ft., 6 in.), or more); interior balconies; and mezzanines.**

304.8 **GFA shall not include cellars, exterior balconies that do not exceed a projection of six feet (6 ft.) beyond the exterior walls of the building, all projections beyond the lot line that may be allowed by other Municipal codes, vent shafts, and pipe chase shafts above the ground floor, atriums above the ground floor, ramps on the ground floor leading down to areas of parking on a lower level; and in residential zones, the first floor or basement area designed and used for parking or recreation spaces provided that not more than fifty percent (50%) of the perimeter of that space may be comprised of columns, piers, walls, or windows, or similarly enclosed.**

Subsections 307.1, 307.2, and 307.4 of § 307, RULES OF MEASUREMENT FOR BUILDING HEIGHT: NON-RESIDENTIAL ZONES, are amended and a new § 307.8 is added as follows:

307.1 In other than ~~R, RF, RA, RC-1, CG-1 and D-1~~ **residential** zones**, as defined in Subtitle A § 101.9, and except as permitted elsewhere in this section and the regulations, the building height measuring point (BHMP) shall be established at the at the level of the curb, opposite the middle of the front of the building, and** the building height shall be the vertical distance measured from **the** **BHMP** ~~the level of the curb, opposite the middle of the front of the building~~ to the highest point of the roof or parapet or a point designated by a specific zone district.

307.2 Unless otherwise restricted or permitted in this title, in those zones in which the height of the building is limited to forty feet (40 ft.), ~~the height of the building may be measured from~~ **the BHMP may be established at** the **adjacent natural or** finished grade**, whichever is the lower in elevation,** ~~level~~ at the middle of the front of the building **and building height shall be measured from the BHMP** to the ceiling of the top story.

. . .

307.4 Except as provided in Subtitle B § 307.6, where a building is removed from all lot lines by a distance equal to its proposed height above grade, ~~the height of building shall be measured from~~ the **BHMP shall be established at the adjacent** natural **or finished** grade**, whichever is the lower in elevation,** at the middle of the front of the building to the highest point of the roof or parapet.

…

307.7 **The term "curb" shall refer to a curb at grade.** When the curb grade has been artificially changed by a bridge, viaduct, embankment, ramp, abutment, excavation, tunnel, or other type of artificial elevation or depression, **the BHMP shall be established** ~~height of a building shall be measured~~ using the first of the following four (4) methods that is applicable to the site:

(a) An elevation or means of determination established for a specific zone elsewhere in this title;

(b) An elevation for the site that was determined prior to the effective date of this section by the Zoning Administrator, or the Redevelopment Land Agency, its predecessors or successors;

(c) A street frontage of the building not affected by the artificial elevation; or

(d) A level determined by the Zoning Administrator to represent the logical continuation of the surrounding street grid where height is not affected by the discontinuation of the natural elevation.

The title of Section 308, RULES OF MEASUREMENT FOR BUILDING HEIGHT: R, RF, RA, RC-1, CG-1, AND D-1 ZONES, is amended to read as follows:

RULES OF MEASUREMENT FOR BUILDING HEIGHT: ~~R, RF, RA, RC-1, CG-1, AND D-1~~ **RESIDENTIAL** ZONES **AS DEFINED IN SUBTITLE A § 101.9**

Subsections 308.1 and 308.2 of § 308, RULES OF MEASUREMENT FOR BUILDING HEIGHT: RESIDENTIAL ZONES AS DEFINED IN SUBTITLE A § 101.9, are amended to read as follows:

308.1 The height of buildings, not including a penthouse, in ~~R, RF, RA, RC-1, CG-1, and D-1~~ **residential** zones**, as defined in Subtitle A § 101.9,** shall be measured in accordance with the rules provided in this section. If more than one (1) of these subsections applies to a building, the rule permitting the greater height shall apply.

308.2 The building height measuring point (BHMP) shall be established at the ~~existing~~ **adjacent natural or finished** grade**, whichever is the lower in elevation,** at the mid-point of the building façade of the principal building that is closest to a street lot line. **For any excavations projecting from the building's façade other than an exception to grade as defined at 11-B DCMR § 100.2 the elevation of the midpoint of a building façade shall be the equivalent of the lowest such elevation; excluding existing driveways adjacent to the midpoint(s) directly connecting a garage and public right of way.**

Section 310, RULES OF MEASUREMENT FOR NUMBER OF STORIES, is amended by adding new Subsections 310.5 and 310.6 as follows:

310.5 Where there are multiple elevations for the finished floor of the ground floor, the height used for counting the number of stories shall be determined by the highest elevation of the finished floor.

310.6 For a building where the finished floor of the ground floor is removed or altered in height in association with a renovation where a raze of the building has not occurred, the higher of the previously existing or new finished floor of the ground floor shall be used for counting the number of stories.

Chapter 2, GENERAL DEVELOPMENT STANDARDS (R), of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is amended as follows:

Subsection 207.4 of § 207, HEIGHT, is amended as follows:

207.4 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.); provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the

adjacent natural **or finished** grade**, whichever is the lower in elevation**.

Chapter 3, RESIDENTIAL FLAT ZONE - RF-1, of Subtitle E, RESIDENTIAL FLAT (RF) ZONES, is amended as follows:

Subsection 303.5 of § 303, HEIGHT, is amended as follows:

303.5 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse; provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the **adjacent** natural **or finished** grade**, whichever is the lower in elevation**.

Subsection 403.5 of § 403, HEIGHT, of Chapter 4, DUPONT CIRCLE RESIDENTIAL FLAT ZONE-RF-2, is amended as follows:

403.5 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse; provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the **adjacent** natural **or finished** grade**, whichever is the lower in elevation**.

Subsection 603.4 of § 603, HEIGHT of Chapter 6, RESIDENTIAL FLAT ZONE-RF-4 AND RF-5, is amended as follows:

603.4 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided, that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the **adjacent** natural **or finished** grade**, whichever is the lower in elevation**.

Chapter 2, GENERAL DEVELOPMENT STANDARDS (RA), of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is amended as follows:

Subsection 203.4 of § 203, HEIGHT, is amended as follows: is amended as follows:

203.4 Except as provided in Subtitle F §§ 203.2 and 203.3, a building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the **adjacent** natural **or finished** grade**, whichever is the lower in elevation**.

Chapter 2, DEVELOPMENT STANDARDS, of Subtitle J, PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, is amended as follows:

Subsection 203.3 of § 203, HEIGHT, is amended as follows:

203.3 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.) not including the penthouse, provided that the building or structure shall

be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the **adjacent** natural **or finished** grade**, whichever is the lower in elevation**.

Chapter 3, UNION STATION NORTH ZONE-USN, of Subtitle K, SPECIAL PURPOSE ZONES, is amended as follows:

Subsection 305.2 of § 305, HEIGHT (USN), is amended as follows:

305.2 The measurement of building height shall be taken from the elevation of the sidewalk on H Street at the middle of the front of the building, to the highest point of the roof or parapet rather than from grade as would otherwise be required by ~~Subtitle C, Chapter 5~~ **Subtitle B § 307.1**.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING
Z.C. Case No. 18-01
(Community Three Development – Zoning Map Amendment @ Square 361, Lot 827 – 1925 Vermont Avenue, N.W.)

The Zoning Commission for the District of Columbia, (Commission) pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2012 Rep1.)), hereby gives notice of final rulemaking action to rezone Square 361, Lot 827 from the RF-1 zone to the ARTS-2 zone.

The Property that is the subject of this petition consists of approximately 37,927 square feet of land area. The Property is generally bounded by residential properties and a public alley on the north, residential properties and a public alley to the south, a public alley (known as 9½ Street) to the east, and Vermont Avenue to the west. The Property is located in the RF-1 zone and is designated as Mixed-Use Moderate-Density Residential/Moderate-Density Commercial on the Future Land Use Map ("FLUM") of the District of Columbia Comprehensive Plan. The petition proposed to rezone the Property to the ARTS-2 zone to make it consistent with the Property's mixed-use designation on the FLUM. The ARTS-2 zone is intended to permit medium-density, compact mixed-use development, with an emphasis on residential development.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on June 29, 2018, at 65 DCR 007075. In response the Commission received comments in support of the map amendment from both ANC 1B, which indicated it had no issues or concerns/.

The Commission took final action at a public meeting on July 30, 2018 to adopt the map amendment as proposed.

The map amendment rezoning Square 361, Lot 827 from the RF-1 zone to the ARTS-2 zone shall become effective upon publication of this notice in the *D.C. Register*.

DEPARTMENT OF EMPLOYMENT SERVICES

NOTICE OF SECOND PROPOSED RULEMAKING

The Director of the Department of Employment Services, pursuant to the authority in section 303 of Title III-A of the Sustainable DC Omnibus Amendment Act of 2014 (Act), effective December 17, 2014 (D.C. Law 20-142; D.C. Official Code § 32-153 (2012 Repl.)) and Mayor's Order 2016-004, dated January 15, 2016, gives notice of the intent to adopt the following rules to add a new Chapter 33 entitled "Transit Benefit Programs" to Title 7 (Employment Benefits) of the District of Columbia Municipal Regulations (DCMR).

The new chapter will establish a transit benefit program for covered employers. The purpose of the Act is to reduce single occupancy vehicle use by encouraging employers to provide transit benefits to their employees, and to establish policies and procedures to ensure that covered employers provide commuter benefits to their employees consistent with the requirements established under the Act.

Under Section 302 of the Act, covered employers, *i.e.*, those with twenty (20) or more employees, are required to provide one (1) of three (3) transit benefit options to their employees. The rulemaking provides penalties, pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, D.C. Official Code §§ 2-1801.01 *et seq*., for covered employers who fail to offer at least one (1) transportation benefit program. The penalties will go into effect when the rulemaking becomes effective.

A previous version of these rules was published in a Notice of Proposed Rulemaking in the *D.C. Register* on September 15, 2017, at 64 DCR 009083. Comments were received regarding those proposed rules; DOES considered the comments and has revised the proposed rules in this Second Notice of Proposed Rulemaking to address issues raised in those comments. The major changes implemented in response to the comments include eliminating the previously proposed Section 3305 (Collective Bargaining Agreements); incorporating references to Section 132(f) of the Internal Revenue Code for clarifying definitions; eliminating bicycle benefits inconsistent with Section 132(f)(8) of the Internal Revenue Code; and revising offense penalty amounts.

The Director gives notice of intent to take final rulemaking action to adopt these rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 33, TRANSIT BENEFIT PROGRAMS, of Title 7 DCMR, EMPLOYMENT BENEFITS, is added to read as follows:

3300 PURPOSE AND SCOPE
3301 TRANSIT BENEFIT PROGRAMS
3302 PENALTIES AND FINES
3303 NOTICE REQUIREMENTS
3304 CALCULATION OF NUMBER OF EMPLOYEES
3305 RECORDKEEPING REQUIREMENTS

3306 COMPLAINT PROCEDURES
3399 DEFINITIONS

3300 PURPOSE AND SCOPE

3300.1 The purpose of this chapter is to establish standards and procedures for the implementation of Title III-A of the Sustainable DC Omnibus Amendment Act of 2014, effective December 17, 2014 (D.C. Law 20-142; D.C. Official Code § 32-152) (the "Act").

3300.2 Unless otherwise required by law, all matters concerning the implementation and enforcement of the Act shall be determined in accordance with these regulations.

3301 TRANSIT BENEFIT PROGRAMS

3301.1 Every covered employer must provide at least one (1) of the transportation benefit programs listed in paragraph (a), (b), or (c) of this subsection, in compliance with Section 132(f) of Internal Revenue Service (IRS) Code (26 USC § 132(f)), to each of its covered employees within ninety (90) calendar days after the publication of this rulemaking or for new employees thereafter.

(a) An employee pre-tax election transportation fringe benefits program that provides employees the option of pre-tax payment for:

(1) Transportation in a commuter highway vehicle in connection with travel between the employee's residence and place of employment, at a benefit level equal to the maximum amount of such a fringe benefit that may be deducted from an employee's gross income under the Internal Revenue Code (26 USC § 132(f));

(2) A transit pass, at a benefit level equal to the maximum amount of such a fringe benefit that may be deducted from an employee's gross income in compliance with Section 132(f) of the Internal Revenue Code (26 USC § 132(f)); or

(3) Starting in 2026, bicycling benefits at a benefit level equal to the maximum amount of such a fringe benefit that may be deducted from an employee's gross income in compliance with Section 132(f) of the Internal Revenue Code (26 USC § 132(f)).

(b) An employer-paid benefit program whereby the employer supplies, at the election of the employee, either a transit pass for the public transit system requested by the covered employee or reimbursement of vanpool or bicycling costs in an amount at least equal to the purchase price of a a transit pass for an equivalent trip on a public transit system; or

(c) Employer-provided commuter transportation at no cost to covered employees in a shuttle, vanpool, or bus operated by or for the employer.

3301.2 Employer may provide both employer-paid benefit(s) and employee pre-tax election(s), but the total combined tax benefit shall not exceed the maximum benefit permitted under Section 132(f)(2) and (6) of the Internal Revenue Code (26 USC §§ 132(f)(2) and (6)).

3301.3 Benefits provided under this section shall be provided in a manner consistent with the requirements of Section 132(f) of the Internal Revenue Code (26 USC § 132(f)) and its implementing regulations.

3302 PENALTIES AND FINES

3302.1 Covered employers who fail to offer at least one (1) transportation benefit program as required by Subsection 3301.1 shall be subject to civil fines and penalties, pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, D.C. Official Code §§ 2-1801.01 *et seq*.

3302.2 The failure to offer at least one (1) transportation benefit program option is a Class 4 infraction pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, D.C. Official Code §§ 2-1801.01 *et seq.* The fines under Class 4 infractions are as follows:

(a) For the first offense, $100;

(b) For the second offense, $200;

(c) For the third offense, $400; and

(d) For the fourth and subsequent offenses, $800.

3303 NOTICE REQUIREMENTS

3303.1 The Department shall post an electronic notification on its website that explains the requirements of the Act**.**

3303.2 Covered employers shall notify covered employees of the available transit benefit program using commercially appropriate means, such as email, internal documents (such as memos, newsletters, or bulletins), or conventional or electronic bulletin boards.

3303.3 Covered employers shall provide information to covered employees as to how they may apply for and receive the transit benefit and how to submit a complaint to the Department.

3303.4 Covered employers shall provide a point of contact for covered employees to obtain further information about the transit benefit.

3303.5 Covered employers shall provide commuter benefits documents to each covered employee as part of the employee benefits package or with the Notice of Hire form required by the Wage Theft Amendment Act of 2014, approved September 19, 2014 (D.C. Law 20-0157; D.C. Official Code §§ 32-1301 *et seq*.).

3304 CALCULATION OF NUMBER OF EMPLOYEES

3304.1 In determining whether it is a covered employer under this chapter, an employer shall use the greater of (1) the number of full-time and part-time employees as of December 31st of the previous year or (2) the average number of employees during the previous calendar year, to determine its number of employees.

3305 RECORDKEEPING REQUIREMENTS

3305.1 Covered employers shall maintain any documentation necessary to establish compliance with the requirements of the Act for a minimum of three (3) years.

3305.2 Covered employers shall be responsible for providing any documentation necessary to prove compliance with the Act to the Department.

3306 COMPLAINT PROCEDURES

3306.1 Covered employees may file complaints alleging violations of the Act with the Department.

3306.2

(a) A complaint shall include:

(1) A sworn allegation of a covered employer’s failure to provide a compliant transit benefit program;

(2) The complainant’s name, address, email, and telephone number;

(3) Pay stubs or relevant documents that demonstrate the violation; and

(4) Sufficient information to enable the Department to identify the covered employer through District records, such as the employer’s name, business address, telephone number, and email.

3306.3 Enforcement and adjudication of a failure to provide a transit benefit program shall be pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, D.C. Official Code §§ 2-1801.01 *et seq*.

3399 DEFINITIONS

3399.1

Act means Title III-A of the Sustainable DC Omnibus Amendment Act of 2014, effective December 17, 2014 (D.C. Law 20-142; D.C. Official Code § 32-152).

Commuter highway vehicle has the meaning set forth in Section 132(f)(5)(B) of the Internal Revenue Code (26 USC § 132(f)(5)(B)).

Covered employee means a full-time or part-time employee of a covered employer:

(a) Who performs at least fifty percent (50%) of his or her working time in the District of Columbia; or

(b) Whose employment is based in the District of Columbia and the employee performs a substantial amount of his or her work in the District of Columbia and less than fifty percent (50%) in any other state.

Covered employer means an employer with twenty (20) or more covered employees.

Department means the Department of Employment Services.

Employee includes any individual employed by an employer, except that this term shall not include:

(a) Any individual who, without payment and without expectation of any gain, directly or indirectly, volunteers to engage in the activities of an educational, charitable, religious, or nonprofit organization;

(b) Any lay member elected or appointed to office within the discipline of any religious organization and engaged in religious functions; or

(c) Any individual employed as a casual babysitter, in or about the residence of the employer.

(d) An independent contractor.

Employer includes the District of Columbia government, any individual, partnership, general contractor, subcontractor, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee, but shall not include the United States Government.

Full-time employees include individuals who work thirty (30) hours or more per week, unless established otherwise by law.

Part-time employees include individuals who work less than thirty (30) hours per week, unless established otherwise by law.

Transit Pass has the meaning set forth in Section 132(f)(5)(A) of the Internal Revenue Code (26 USC § 132(f)(5)(A)).

Vanpool means a commuter highway vehicle.

Comments on this proposed rulemaking should be submitted, in writing, within thirty (30) days of the date of the publication of this notice in the *D.C. Register* to the Department of Employment Services, 4058 Minnesota Avenue NE, Washington, DC, 20019, or via email to does.opfl@dc.gov. Additional copies of these proposed rules are available at the above address.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING
Z.C. Case No. 17-11
(3200 Penn Ave PJV, LLC -- Map Amendment @ Square 5539, Lots 835 and 840)

The Zoning Commission for the District of Columbia, pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 (2012 Repl.)), hereby gives notice of its intent to amend the Zoning Map of the District of Columbia to rezone Square 5539, Lots 835 and 840, known as 3200 Pennsylvania Ave, S.E., from the **R-1-B** zone to the proposed **MU-3B** zone, if that zone is adopted. A notice of proposed rulemaking containing the text amendments that would create the MU-3B zone is being published concurrently with this notice.

Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register* and no rulemaking action will occur if the MU-3B zone is not adopted.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, through the Interactive Zoning Information System (IZIS) at https://app.dcoz.dc.gov/Login.aspx; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Ms. Schellin may be contacted by telephone at (202) 727-6311 or by email at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

Z.C. Case No. 18-06

(Office of Planning – Text Amendment to Subtitle G creating a new MU-3B Zone and to amend the Zoning Map to change all existing references to from MU-3 to MU-3A)

The Zoning Commission for the District of Columbia, pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2012 Rep1.)), hereby gives notice of its intent to amend Subtitle G (Mixed-Use (MU) Zones), of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR), and to amend the Zoning Map to change all existing references from "MU-3" to "MU-3A," in order to establish a new MU-3B zone.

The proposed MU-3B zone would permit a maximum Floor Area Ratio of 2.4 and a maximum height of fifty feet (50 ft.) and four (4) stories, which is more density and height than permitted in the existing M-3 zone, but less than allowed in MU-4. The proposed zone would include setback and buffer requirements and impose a sixty percent (60%) lot occupancy for non-residential uses in Square 5539, for which there is presently no lot occupancy limit.

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

The following rulemaking actions are proposed:

The Zoning Map is amended to change all existing references to "MU-3" to "MU-3A".

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

Chapter 4, MIXED-USE ZONES – MU-3, MU-4, MU-5, MU-6, MU-7, MU-8, MU-9, MU-10, AND MU-30, of Title 11-G DCMR, MIXED-USE (MU) ZONES, is amended as follows:

Subsection 400.2, of § 400, PURPOSE AND INTENT, is amended as follows:

400.2 The MU-3 zone**s** **are**~~is~~ intended to:

(a) Permit low-density mixed-use development; and

(b) Provide convenient retail and personal service establishments for the day-to-day needs of a local neighborhood, as well as residential and limited community facilities with a minimum impact upon surrounding residential development.

Subsection 402.1, of § 402, DENSITY - FLOOR AREA RATIO (FAR), is amended as follows:

402.1 The maximum permitted FAR in the MU-3 through MU-10 zones shall be as set forth in the following table:

TABLE G § 402.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Zone	**Maximum FAR**	
	Total Permitted	**Maximum Non-Residential Use**
MU-3**A**	1.0 1.2 (IZ)	1.0
MU-3B	**2.0** **2.4 (IZ)**	**1.5**
MU-4	2.5 3.0 (IZ)	1.5
MU-5-A MU-5-B	3.5 4.2 (IZ)	1.5
MU-6	6.0 7.2 (IZ)	2.0
MU-7	4.0 4.8 (IZ)	2.5
MU-8	5.0 6.0 (IZ)	4.0
MU-9	6.5 7.8 (IZ)	6.5
MU-10	6.0 7.2 (IZ)	3.0

Subsections 403.1 and 403.3, of § 403, HEIGHT, are amended as follows:

403.1 The maximum permitted building height and number of stories, not including the penthouse, in the MU-3 through MU-10 zones and the MU-30 zone shall be as set forth in the following table, except as provided in Subtitle G § 403.2:

TABLE G § 403.1: MAXIMUM PERMITTED HEIGHT/STORIES

Zone	**Maximum Height (Feet)**	**Maximum Stories**
MU-3**A**	40	3
MU-3B	**50**	**4**
MU-4	50	N/A
MU-5-A	65 70 (IZ)	N/A

Zone	Maximum Height (Feet)	Maximum Stories
MU-5-B	75	N/A
MU-6	90	N/A
MU-7	65	N/A
MU-8	70	N/A
MU-9	90	N/A
MU-10	90	N/A
	100 (IZ)	
MU-30	110	NA

…

403.3 The maximum permitted height of a penthouse, except as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be as set forth in the following table:

TABLE G § 403.3: MAXIMUM PERMITTED PENTHOUSE HEIGHT AND STORIES

Zone	Maximum Penthouse Height	Maximum Penthouse Stories
MU-3A **MU-3B** MU-4	12 ft. except 15 ft. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
MU-5-A MU-7	12 ft., except 18 ft. 6 in. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
MU-5B MU-8	20 ft.	1; Second story permitted for penthouse mechanical space
MU-6 MU-9 MU-10 MU-30	20 ft.	1 plus mezzanine; Second story permitted for penthouse mechanical space

Section 404, LOT OCCUPANCY is amended as follows:

Subsections 404.1 is amended as follows:

404.1 The maximum permitted lot occupancy for residential use in the MU-3 through MU-10 zones and the MU-30 zone shall be as set forth in the following table:

TABLE G § 404.1: MAXIMUM PERMITTED LOT OCCUPANCY

Zone	Maximum Lot Occupancy for Residential Use
MU-3A	60%
	60% (IZ)
MU-3B	**60%**
	75% (IZ)
MU-4	60%
	75% (IZ)
MU-5-A MU-5-B	80%
	80% (IZ)
MU-6	80%
	90% (IZ)
MU-7	75%
	80% (IZ)
MU-8	N/A
MU-9	N/A
MU-10	75%
	N/A (IZ)
MU-30	N/A

A new 404.2 is added to read as follows:

404.2 Notwithstanding Subtitle G § 404.1, lots 835 and 840 located on Square 5539 shall not exceed a sixty percent (60%) maximum lot occupancy for all residential and non-residential uses.

A new § 411, TRANSITION SETBACK REQUIREMENTS, is added to read as follows:

411 TRANSITION SETBACK REQUIREMENTS

411.1 In the MU-3B zone the following transition setback requirements shall apply to any building or portion of a building within thirty feet (30 ft.) of a lot line directly abutting an R zone district:

(a) A twenty-foot (20 ft.) minimum transition setback shall be provided from any lot line directly abutting an R zone district extended as a vertical plane parallel to each abutting lot line. No building or portion of a building may be constructed within the 20-foot transition setback; and

(b) An additional upper-story transition setback of ten feet (10 ft.) minimum shall be provided above a building height of forty feet (40 ft.), or top of third story.

411.2 Any required transition setback area shall not be used for loading.

411.3 A minimum of six feet (6 ft.) of the transition setback area, measured in from the abutting residential lot line, shall be landscaped with evergreen trees subject to the following conditions:

(a) The trees shall be maintained in a healthy growing condition;

(b) The trees shall be a minimum of eight feet (8 ft.) high when planted; and

(c) Planting locations and soil preparation techniques shall be shown on a landscape plan submitted with the building permit application to the Department of Consumer and Regulatory Affairs for review and approval according to standards maintained by the Department's Soil Erosion and Storm Management Branch, which may require replacement of heavy or compacted soils with top and drainage mechanisms as necessary.

411.4 A required transition setback may be inclusive of a required side or rear yard provided all conditions of each section are met.

411.5 No residential communal outdoor recreation space shall be located within 50 feet of any lot line directly abutting an R zone district extended as a vertical plane parallel to each abutting lot line.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, through the Interactive Zoning Information System (IZIS) at https://app.dcoz.dc.gov/Login.aspx; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Ms. Schellin may be contacted by telephone at (202) 727-6311 or by email at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

OFFICE OF RISK MANAGEMENT

NOTICE OF EMERGENCY RULEMAKING

The Chief Risk Officer of the Office of Risk Management (ORM), Executive Office of the Mayor, pursuant to the authority set forth in Section 2344 of the District of Columbia Government Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-623.44 (2016 Repl.)); the Office of Administrative Hearings Establishment Act of 2001 (OAH Act), effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code §§ 1-1831.01 *et seq.* (2016 Repl.)); Section 7 of Reorganization Plan No. 1 of 2003 for the Office of Risk Management, December 15, 2003; and Mayor's Order 2004-198, dated December 14, 2004, hereby gives notice of the adoption, on an emergency basis, of the following amendments to Chapter 1 (Public Sector Workers' Compensation Benefits) of Title 7 (Employment Benefits) of the District of Columbia Municipal Regulations (DCMR).

The purpose of these rules is to amend portions of the existing rules, effective August 2, 2018. The need for these rules to take effect as of that date is for the immediate preservation and promotion of the health, safety, and welfare of the residents of the District by supporting the Program's transition from third-party administration to self-administration of the Public Sector Workers' Compensation Program (Program). The adoption of emergency rules is necessary to support the transition to self-administration by way of establishing: (1) new hearing procedures and standards to be employed by the Chief Risk Officer to resolve disputes between a medical care provider, employee, or the District of Columbia government on the issue of necessity, character, or sufficiency of the medical care or service furnished, or scheduled to be furnished, or the fees charged by the medical care provider under Sections 2323(a-2)(4) of the CMPA; (2) to clarify the type of hearings to be conducted by the Office of Administrative Hearings (OAH) under Sections 2324(b)(1) and (2) and D.C. Official Code § 2-1831.03(b)(1) (2016 Repl.); (3) uniform procedures for electronic claim filing and clarification of benefit calculations to allow for implementation of the Program's electronic system for managing claims and integration of the Program's new claims management system with the District's payroll system, both of which are integral to self-administration of the Program; (4) procedures and rules governing the creation, operation, and oversight of the PSWCP's Healthcare Provider Panel under Section 2303(d)(1) of the CMPA; (5) rules concerning the provision of medical care to injured workers by the Program's Healthcare Provider Panel under Section 2303(d)(1) and 2324 of the CMPA; and (6) rules and procedures to adjudicate bills for medical and other services afforded injured District employees under Subchapter 23 of the CMPA and to develop and maintain Provider Agreements for the provision of such services.

The emergency rules were adopted August 2, 2018, became effective immediately, and will remain in effect for a period of one hundred twenty (120) days from adoption, until November 30, 2018, or until the publication of a Notice of Final Rulemaking, whichever occurs first.

Chapter 1, PUBLIC SECTOR WORKERS' COMPENSATION BENEFITS, of Title 7 DCMR, EMPLOYMENT BENEFITS, is amended as follows:

Section 104, NOTICE OF INJURY; EMPLOYEE OR REPRESENTATIVE ACTION, is amended as follows:

Subsections 104.1 – 104.4 are amended to read as follows:

104.1 An employee or an employee's representative shall give notice of an employee's death, to the employee's immediate supervisor or the Program within thirty (30) days of the injury, recurrence of disability, or death pursuant to Section 2319 of the Act and this chapter.

104.2 Notice shall be effected upon:

(a) Electronic submission of a workers' compensation incident report and completed Form 4 and IRS Form 4506-T, through the designated web portal found on the Office of Risk Management's Website; or

(b) The immediate supervisor's or Program's receipt of a completed Form 1, Form 4, and IRS Form 4506-T within thirty (30) days of the injury, recurrence of disability or death, or within such greater period permitted under Section 2319 of the Act or § 104.6 of this chapter.

104.3 The workers' compensation incident report and Form 1 shall be in writing and be signed by and contain the electronic mail and physical mailing address of the individual giving notice.

104.4 The employee or employee's representative shall designate an e-mail address to receive notices and correspondence from the Program. All employees and employee representatives will be responsible for checking the designated e-mail account for notices and correspondence from the Program. While correspondence may be mailed to the mailing address, unless returned, any notice or correspondence sent to the designated e-mail address will be presumed received for the purpose of any deadlines that arise from the notice or correspondence issued.

Section 105, NOTICE OF INJURY, DISEASE OR DEATH; EMPLOYING AGENCY ACTION, is amended as follows:

Subsections 105.1 – 105.5 are amended to read as follows:

105.1 In accordance with Section 2320 of the Act, the immediate supervisor, shall report any injury which results in an employee's death, bodily harm or probable disability to the Program by telephone or through the Program's online portal, as designated on Office of Risk Management's website.

105.2 The immediate supervisor shall make an initial report of injury to the Program through the designated online portal found on ORM's website within twenty-four (24) hours of learning of the incident, injury, death, or notice by employee, whichever occurs earlier, preferably before the shift's end.

105.3 No later than three (3) days after receipt of a grant access link requesting additional information from the Program, the immediate supervisor shall log onto the portal through the grant access link and complete and submit the requested information online. If an immediate supervisor receives Form 1 from the employee, the immediate supervisor shall immediately report the incident in accordance with §105.1 of this chapter.

105.4 The immediate supervisor shall supply all information requested by the Program and upload all available supporting documentation through the online portal at the time an incident/injury is submitted.

105.5 If an employee elects COP, the Employing Agency shall respond to the employee's request for COP in accordance with §109 of this chapter.

Section 106, NOTICE OF INJURY; PSWCP ACTION, is amended as follows:

Subsection 106.1 is amended to read as follows:

106.1 Upon notice of an employee's injury or death reported by the Employing Agency, the Program shall notify the employee that a report of injury has been received for the employee and provide the employee or employee's representative with instructions on how to file a claim for workers' compensation. The Program's failure to provide claimant with notification pursuant to this subsection shall not be prima facie evidence of good cause for a delay in submitting a claim.

Section 108, COP, EMPLOYEE'S RESPONSIBILITIES, is amended as follows:

Subsections 108.1 – 108.2 are amended to read as follows:

108.1 To file a claim for COP, the employee or employee's representative must comply with § 104 of this chapter and complete the indicated portion for COP as soon as possible, but no later than thirty (30) days after the traumatic injury and

(a) Submit notice of injury pursuant to § 104 of this chapter and submit Forms 3, 3A, 4, and IRS Form 4506-T to the Program or immediate supervisor through the Program's designated online portal or by mail or fax;

(b) Ensure that medical evidence supporting disability resulting from the claimed traumatic injury, including a statement as to when the employee can return to his or her date of injury job, is provided to the Employing

Agency workers' compensation coordinator and the Program within ten (10) calendar days after filing the claim for COP;

(c) Cooperate with the Program and workers' compensation coordinator in developing the claim;

(d) Ensure that the treating physician specifies work limitations and provides the information to the immediate supervisor, workers' compensation coordinator, and the Program within ten (10) calendar days after filing the claim for COP; and

108.2 An employee's COP status shall not be construed to preclude the employee from filing a claim for compensation pursuant to § 115 of this chapter. COP payments shall terminate upon acceptance or denial of a claim for workers' compensation.

Section 109, COP, EMPLOYING AGENCY'S RESPONSIBILITIES, is amended as follows:

Subsections 109.1 – 109.2 are amended to read as follows:

109.1 Once the employing agency learns of a traumatic injury sustained by an employee, it shall:

(a) Refer the employee to ORM's Pubic Sector Workers' Compensation Website;

(b) Advise the employee of the right to receive COP;

(c) Inform the employee of any decision to controvert COP, and the basis for doing so; and

(d) Review and respond to the employee's claim for COP by completing the COP determination section of the Program's online form and upload all relevant documents, and Forms, along with all other available pertinent information, (including the basis for any controversion), to the Program within three (3) business days after receiving a request for additional information through a grant access link or the employee's completed Form 1, Form 3, Form 3A, Form 4 and Form IRS 4506-T from the employee.

109.2 An employing agency that learns of a recurrent disability arising out an injury for which a claim for COP has already been accepted shall place the employee on COP status if:

(a) The employee has any time remaining from the last time the employee was on COP status for the same injury; and

(b) No claim for compensation has been accepted by the Program; and

(c) The employee submits evidence in support of the recurrence of disability and its causal relation to the original work injury.

Section 112, CALCULATION OF COP, is amended as follows:

Subsection 112.1 is amended to read as follows:

112.1 Once an employee makes a claim for COP, the first three (3) days of leave must be charged to leave without pay, unless the disability:

(a) Exceeds fourteen (14) calendar days; or

(b) Is followed by permanent disability.

Section 115, CLAIM FOR PSWCP BENEFITS; EMPLOYEE OR REPRESENTATIVE ACTION, is amended as follows:

Subsections 115.5 and 115.9 are repealed and §§ 115.2, 115.4, 115.7 – 115.8, 115.10 - 115.11, and 115.13 are amended to read as follows:

115.2 A claim for disability compensation is deemed filed only upon the filing of a claim for workers' compensation through the Program's online portal, as designated on the Office of Risk Management's website, or by filing Form CA7, Part A, and the Program's receipt of the following completed documents:

(a) [REPEALED].

(b) Form 3 – Physician's Report of Employee's Injury;

(c) Form 3A – Employee's Statement of Medical History;

(d) Form 4 – Employee Authorization for Release of Medical Records;

(e) IRS Form 4506 T – Request for Transcript of Tax Return

…

115.4 At the time the employee submits a claim, an e-mail and physical mailing address must be provided for the employee and if applicable the representative, for the purpose of receiving Program notices and correspondence. Any correspondence sent to the designated e-mail or physical mailing address will be presumed received, unless returned, and any applicable deadlines shall take effect based on the date of the electronic transmission or correspondence. In the case of the death

of an employee, the employee's representative shall also provide documentation establishing the relationship to the deceased. Documentation may include:

(a) A certified copy of a birth certificate;

(b) A certified copy of a marriage license;

(c) Documentation of the executor of the employee's estate; or

(d) Other documentation satisfactory to the Program.

115.5 [REPEALED].

…

115.7 The employee or employee's representative shall complete, sign, and return to the Program, Form 3A, Employee's Statement of Medical History, which shall:

(a) Describe any and all accidents the employee was involved in, or physical disability or illness the employee suffered, prior or subsequent to the reported injury;

(b) For each accident, illness or disability, identify the time, date, circumstance and location of the accident, the parties involved, the disposition of any subsequent trial or legal action(s), any injuries relating from the previous accident(s), and the hospital, medical facilities, doctors, physicians, dentists, or any other individual that treated any injury;

(c) Identify the physician who treated the employee and the approximate dates of such treatments, if employee alleges aggravation of a previous injury or condition;

(d) Describe in detail each instance during the past five (5) years that employee has been absent from employment due to illnesses or injuries, including the nature and dates of such injuries or illnesses. The employee or employee's representative shall specify the date and time for all absence from employment due to injury claimed; and

(e) Describe any similar condition, disability, injury that occurred prior to the alleged injury or any pre-existing condition that may be related to the condition or disability caused by the injury.

115.8 The employee or employee's representative shall submit proper medical documentation as requested by the Program to document the employee's ongoing injury and substantiate the employee's absence from work to justify continued

payment of wage loss compensation. These documents shall include, but are not limited to, the following:

(a) Statements and medical documentation regarding any similar condition, disability, injury that occurred prior to the alleged injury or any pre-existing condition that may be related to the injury;

(b) Statements and medical documentation regarding any other injury or accident of a similar character; and

(c) A written statement showing why there was a delay in seeking medical care, if applicable.

115.9 [REPEALED].

115.10 The employee or employee's representative shall file supplemental reports when required by the Program or when there is any change in information provided to the Program.

115.11 An employee seeking to supplement his or her original claim to add additional disabilities or conditions arising out of the same incident, but not already reported, shall:

(a) File a supplement to his or her claim;

(b) Include a signed statement under penalty of perjury explaining the cause for delay in reporting the additional disability or condition; and

(c) Report the additional disability or condition within two (2) years of the original injury. The Program may consider a supplemental claim reported over two (2) years from the date of injury provided that the employee shows good cause for why the supplemental claim should be allowed.

…

115.13 Claims for latent disability shall be filed pursuant to Section 2322 of the Act and §§ 115.1 through 115.10 of this chapter within two (2) years of the earlier of:

(a) The date on which the employee first sought medical attention for the employee's condition and was aware or, by the exercise of reasonable diligence should have been aware, of the causal relationship between the claimant's condition and employment, whether or not the employee ceased work; or

(b) The date on which the employee became disabled and was aware or, by the exercise of reasonable diligence should have been aware, of the causal relationship between the claimant's disability and employment.

Section 122, MEDICAL BENEFITS AND SERVICES; GENERAL, is amended as follows: Subsection 122.1 is amended and Subsection 122.2 is added to read as follows:

122.1 Pursuant to Section 2303(a) of the Act, the District government shall furnish to an employee who is injured while in the performance of duty the services, appliances, and supplies prescribed or recommended by a qualified healthcare provider, whom the Program has admitted into its Panel of Healthcare Providers.

122.2 Payment for medical benefits, services or supplies pursuant to Section 2303 of the Act shall only be made, where the medical benefits, services or supplies are:

(a) Rendered for treatment of a condition that has been accepted as compensable under the Act by the Program or necessary for the Program to issue a compensability determination, and

(b) Ordered by a District of Columbia government medical officer or hospital, or a member of the Program's Panel of Healthcare Providers pursuant to the rules prescribed at § 124, subject to utilization review.

Section 123, MEDICAL BENEFITS AND SERVICES; EMPLOYEE RESPONSIBILITY, is amended as follows:

Subsections 123.1 – 123.2, and 123.4 – 123.5 are amended to read as follows:

123.1 When a claimant is first injured and before a claim is filed or accepted, the claimant may select a non-panel healthcare provider to provide reasonably necessary emergency medical care for an injury sustained in the performance of duty, provided that notice of such medical treatment is given to the Program no later than thirty (30) days after the care is rendered. All non-emergency medical care must be pre-authorized by the Program.

123.2 In order for the Program to pay for the services provided by a healthcare provider, the provider must be a member of the Program's Panel of Healthcare Providers, except as provided in § 123.3. The Program's reimbursement for any medical expenses incurred for medical care or services provided pursuant to Section 2303 of the Act shall be limited by the fee schedule prescribed in this chapter.

…

123.4 Once an employee or claimant selects a healthcare provider from the Program's Panel of Healthcare Providers, he or she cannot receive care from another provider without authorization of the Program, except in an emergency.

123.5 An employee or claimant, who is not satisfied with medical services provided by the selected panel healthcare provider, must complete and return Form M3 to change the provider, with justification in support of the request to the Program. The Program shall permit a change where the Program finds the change to be in the best interest of the claimant.

Section 124, MEDICAL BENEFITS AND SERVICES; PROGRAM RESPONSIBILITY, is amended as follows:

Subsections 124.1 – 124.5 are amended and Subsections 124.6 – 124.13 are added to read as follows:

124.1 There shall be established a Program Panel of Healthcare Providers (hereinafter the “panel”) to furnish medical services, appliances, and supplies to District government employees or claimants who are injured while in the performance of duty, in accordance with the Act and rules and regulations of the Program.

124.2 The Program shall select members of the panel based on the physicians’ ability to cure, give relief, reduce the degree or length of injury, or aid in lessening the amount of the monthly compensation. The Program may add and remove physicians from the panel at its discretion.

124.3 If the Program decides to remove a healthcare provider from the Panel, the Program shall give all of the claimants currently being treated by that healthcare provider notice of the decision, as well as a list of up to three (3) alternative panel healthcare providers, thirty (30) days before the healthcare provider is removed from the panel.

124.4 The Program shall take appropriate steps to ensure that medical records are maintained in a confidential manner.

124.5 The Program may require an injured claimant to submit to physical examinations as frequently as may be reasonably required to investigate an employee’s initial and continued eligibility for benefits under the Act, as provided at § 136 of this chapter.

124.6 Any decision by the Program to remove a member from the panel shall be final.

124.7 Upon notification of an injury or acceptance of a claim for compensation, the Program shall provide the employee or claimant with a list of up to three (3) healthcare providers from the panel and inform the employee or claimant of the requirements in § 123 of this chapter.

124.8 Within thirty (30) days of receipt of a written request for prior authorization for any medical care, supply, or service, the Program shall provide the claimant and healthcare provider written notice approving, denying or disputing the request

124.9 When disputing or denying a request for prior authorization by a treating physician pursuant to § 124.9 because the Program believes the necessity, character, or sufficiency of medical care or service to be improper, the Program shall:

(a) Initiate utilization review;

(b) Request a hearing on the matter before the Chief Risk Officer; or

(c) Ensure that the written notice of denial is accompanied by information about the employee's rights to initiate utilization review and the employee and the treating physician's right to request a hearing before the Chief Risk Officer.

124.10 When denying a request for prior authorization for medical care or service pursuant to § 124.9 for any reason other than for a dispute as to the necessity, character or sufficiency of medical care, the Program's written notice of denial shall be accompanied by information about the employee's rights to appeal the decision to the Chief Risk Officer pursuant to § 156.

124.11 The Program shall not reimburse an employee or claimant for costs incurred for services rendered by a healthcare provider who is not on the Program's Panel of Healthcare Providers, unless otherwise authorized by law, regulation, or awarded on appeal. Reimbursement for costs incurred for services rendered by non-panel healthcare providers shall be subject to the fee schedule prescribed in this chapter and utilization review.

124.12 The Program's reimbursement to an employee or claimant for any medical expenses incurred for medical care or services shall be limited by the fee schedule prescribed in this chapter.

124.13 The Program may execute a Provider Agreement with a healthcare provider that sets forth the terms and conditions of this chapter and such additional terms and conditions relating to the provision of services to District government employees and claimants, as determined by the Program to be, reasonable and necessary to ensure appropriate care, including fee and payment guidelines.

Section 125, MEDICAL BENEFITS AND SERVICES; TREATING PHYSICIAN RESPONSIBILITY, is amended as follows:

The title to Section 125 is amended to read as follows:

125 MEDICAL BENEFITS AND SERVICES; HEALTHCARE PROVIDER RESPONSIBILITY

Subsections 125.1 – 125.8 are amended and Subsections 125.9 – 125.14 are added to read as follows:

125.1 Any healthcare provider who provides medical care, supply or service to an injured employee or claimant must comply with the provisions in this chapter.

125.2 Unless otherwise authorized by the Program, within seven (7) business days of an initial examination of the injured employee or claimant, healthcare providers shall transmit Form 3 or other Program approved medical report(s) containing information required under § 125.4 to the Program electronically or by fax to the e-mail or fax number designated on the Healthcare Provider Information Page of the Office of Risk Management Website.

125.3 Unless otherwise authorized by the Program, panel healthcare providers shall, within five (5) business days of any medical care or service provided after the initial examination of the injured employee or claimant, transmit Form 3S or other Program approved medical report(s) containing information required under § 125.4 to the Program electronically or by fax to the e-mail or fax number designated on the Healthcare Provider Information Page of the Office of Risk Management Website.

125.4 Unless otherwise directed or required by the Program, the following information shall be included in Form 3, Form 3S, Form 3RC or other Program approved medical report(s) submitted from healthcare providers:

(a) Date(s) of examination and treatment, if any;

(b) History given by the employee;

(c) Physical findings;

(d) Results of diagnostic tests;

(e) Medical records reviewed;

(f) Diagnosis;

(g) Nature of injury;

(h) Manner and mechanism of injury;

(i) Course of treatment, if any;

(j) Description of any other conditions found that are not due to the claimed injury, including indications of pre-existing conditions that may be the cause of or contribute to any alleged disabling condition;

(k) Treatment given, if any

(l) Treatment plan recommended for the claimed injury or recurrence of disability to bring about maximum medical improvement, if any;

(m) Physician's opinion, with medical reasons and bases, as to the probable cause and mechanism of injury;

(n) In the case of a claimed recurrence of disability, the physician's opinion, with medical reasons and bases, as to causal relationship between the diagnosed condition(s) and the original work-place injury and resulting condition(s);

(o) Nature, extent, and expected duration of disability affecting the employee's ability to work due to the injury;

(p) Prognosis for recovery, including an estimate regarding when the claimant will be able to return to work; and

(q) All other material findings.

125.5 Any healthcare provider who provides medical care, supplies or services to an injured employee or claimant shall, at no cost, provide medical reports and records pertaining to the care, supplies or services rendered no later than ten (10) days after receipt of the Program's request.

125.6 All healthcare providers shall include in each medical report for services rendered under the Act, the code, as published by the American Medical Association (AMA) in the most current edition of the Physicians Current Procedural Terminology (CPT Codes), for detailing the billing of all medical procedures and the codes established by the most recent edition of the International Classification of Diagnosis (ICD) code, as published by the U.S. Department of Health and Human Services, for diagnosing the conditions. For those where there are no standard CPT codes, refer to the Program's fee schedule as published on the ORM website.

125.7 Any healthcare provider who provides medical care, supplies or services to a employee or claimant, who is injured, while in the performance of duty must be a member of the Program's Panel of Healthcare Providers, unless:

(a) The procedure is needed for emergency care;

(b) The healthcare provider belongs to a network of healthcare providers to which the Program has secured access to care for claimants through license or similar agreement and such healthcare provider applies for admission to the Program's Panel of Healthcare Providers within one hundred twenty (120) days after first treating an injured District government employee or claimant as a healthcare provider participating within such network (and then only for so long as the application is pending); or

(c) Otherwise permitted by law.

125.8 Healthcare providers must apply to be members of the Program's Panel of Healthcare Providers to provide medical care, supplies or services to an employee or claimant, who is injured while in the performance of duty, except as provided in § 125.6.

125.9 Healthcare providers selected to be members of the Program's Panel of Healthcare Providers shall:

(a) Submit documentation pertaining to the jurisdiction in which the provider is licensed, license number, Board Name, the state in which it is certified, and any sanctions the provider may have received since certification upon the Program's request;

(b) Possess and maintain appropriate insurance as determined by the Program;

(c) Notify the Program of any changes to licensure, insurance coverage, staff who provide treatment to injured employees or claimants, or certification or history of sanctions or adverse action taken against the provider or staff within fourteen (14) days of a change;

(d) Comply with the payment guidelines prescribed by the District of Columbia Office of the Chief Financial Officer, published on the Healthcare Provider Information Page of the Office of Risk Management Website; and

(e) Comply with the terms and conditions of a Provider Agreement (if any) setting forth terms and conditions of payment and provision of services for injured employees and claimants.

125.10 Any healthcare provider who provides medical care, supplies or services to a District government employee or claimant, who is injured while in the performance of duty agrees to the medical billing rules prescribed at §126 of this chapter as a condition for payment of services rendered.

125.11 Unless the medical care, supplies or services are needed for emergency care or the service to be rendered is limited to an office or clinic visit, healthcare providers shall seek prior authorization from the Program.

125.12 To seek prior authorization, all healthcare providers shall complete and electronically submit Form 3PA to the Program in the manner prescribed on the Healthcare Provider Information page found at the ORM website.

125.13 The cost of physical examinations ordered by the Program shall be paid by the Program.

125.14 Any healthcare provider who provides medical care, supplies or services to a District government employee or claimant for a condition that is accepted by the Program as compensable under the Act shall not attempt to collect disputed payment for medical services from the employee or claimant.

Section 126, MEDICAL BILLS, is amended as follows:

Subsections 126.1 – 126.6 are amended and Subsections 126.7 – 126.13 are added to read as follows:

126.1 Medical care, supplies (including prescription drugs), or services shall be billed at a rate not to exceed the medical fee schedule adopted by the Program. This fee schedule shall be based on one hundred-thirteen percent (113%) of Medicare's reimbursement amounts or, for medical care, supplies or services (including prescription drugs) not scheduled for Medicare reimbursement, the Program's fee schedule as published on the Healthcare Provider Information Page of the Office of Risk Management Website. If not reflected in the Program's fee schedule, fees shall be limited to those that are reasonable and customary charges prevailing in the local medical community, as the Program determines. Dispensing fees shall not exceed five dollars ($5.00) per prescription.

126.2 Where a health care provider intends to bill for medical care, supplies or services where prior authorization is required, that provider must request such prior authorization from the Program before rendering service. All medical bills submitted to the Program lacking required prior authorization will be automatically denied.

126.3 All bills for medical care, supplies, or services rendered under the Act must:

(a) Include the code, as published by the American Medical Association (AMA) in the most current edition of the Physicians Current Procedural Terminology (CPT Codes) for detailing the billing of all medical procedures and the codes established by the most recent edition of the International Classification of Diagnosis (ICD) code, as published by the U.S. Department of Health and Human Services, for diagnosing the conditions. For those where there are no standard CPT codes, refer to the Program's fee schedule;

(b) Include the "From" and "Through" dates with the appropriate units for each CPT code billed when billing for services over a period of time;

(c) Include the name, address, telephone number, date and signature of the healthcare provider, who rendered service;

(d) Be generated and submitted by the healthcare provider; and

(e) Be supported by medical evidence as provided in § 125 or as requested by the Program.

126.4 The Program may withhold payment for services until bills are submitted in accordance with § 126.3 of this chapter.

126.5 All medical evidence or report submitted in support of a bill shall be typewritten on the medical provider's letterhead and signed and dated by the attending physician and include information required under § 125 or as requested by the Program.

126.6 Unless otherwise authorized by the Program, all bills shall be submitted by first-class U.S. mail or electronically to the e-mail address or fax number designated on the Healthcare Provider Information Page of the Office of Risk Management Website.

126.7 No bill will be paid for expenses incurred if the bill is submitted:

(a) More than one year beyond the end of the calendar year in which the expense was incurred or the medical care, service or supply was provided; or

(b) More than one year beyond the end of the calendar year in which the claim was first accepted as compensable by the Program, whichever is later.

126.8 Within thirty (30) days of receipt of a bill for medical care, supplies or services submitted pursuant to the requirements of this section, the Program shall provide the claimant and healthcare provider with written notice approving, denying, adjusting or disputing the bill. If the Program denies the bill because it disputes

the necessity, character or sufficiency of medical care or service furnished, or scheduled to be furnished, or fees charged by the medical provider, the notice shall be accompanied by an explanation of review and information regarding the healthcare provider and employee's right to seek reconsideration of the denial by the Program or request a hearing before the Chief Risk Officer, unless the Program has:

(a) Initiated utilization review;

(b) Requested a hearing on the matter before the Chief Risk Officer; or

(c) Denied the bill because the medical care or service was rendered for a condition that was not accepted by the Program as being compensable under the Act.

126.9 When denying a bill for any reason other than for a dispute as to the necessity, character or sufficiency of medical care furnished or to be furnished or fees charged by the medical provider, the Program's written notice of denial shall be accompanied by information about the healthcare provider and employee's rights to appeal the decision to the Chief Risk Officer pursuant to § 156.

126.10 If the Program fails to respond to a bill from a treating physician in accordance with Section 2303(f) of the Act, the Program shall be deemed to have authorized payment of the bill.

126.11 To seek reconsideration, all healthcare providers shall complete and electronically submit Form 9R to the e-mail address or fax number designated on the Healthcare Provider Information Page of the Office of Risk Management Website within thirty (30) days of the date of the denial.

126.12 Requests for hearings to the Chief Risk Officer pursuant to Section 2323 of the Act shall be submitted by filing Form 9H with the Office of Risk Management within thirty (30) days of the date of the denial or final decision on reconsideration, whichever is later.

126.13 Nothing in this section shall be construed to allow for payment on any medical care, supply or service rendered for a condition that is not accepted by the Program as being compensable under the Act.

Section 127, UTILIZATION REVIEW, is amended as follows:

Subsections 127.1, 127.3 – 127.13 are amended and Subsections 127.14 – 127.17 are added to read as follows:

127.1 Any medical care, supply, or service furnished or scheduled to be furnished under the Act shall be subject to utilization review. The review may be performed before, during, or after the medical care, supply or service is provided.

(a) Medical care, supplies, or services performed, where prior authorization is not required, shall be subject to utilization review.

…

127.3 The claimant, the Program, or Chief Risk Officer's Hearing Representative may initiate utilization review where it appears that the necessity, character, or sufficiency of medical care, supplies, or services is improper or clarification is needed on medical service that is scheduled to be provided.

127.4 The necessity, character or sufficiency of medical care, supplies, or services should only be reviewed for treatment of condition(s) that the Program has accepted as being compensable under the Act.

127.5 If a review of medical care, supplies, or services is initiated under this section, the utilization review organization or individual must make a decision no later than sixty (60) days after the utilization review is requested. If the utilization review is not completed within one hundred-twenty (120) days of the initiation, the care or service under review shall be deemed approved for medical care, supplies, or services for conditions that the Program has accepted as being compensable under the Act, subject to the following:

(a) Deemed approved medical services, appliances or supplies must be provided by a member of the Program's Panel of Healthcare Providers.

127.6 The report of the review shall specify the medical records considered and shall set forth rational medical evidence and standards to support each finding. The report shall be authenticated or attested to by the utilization review individual or by an officer of the utilization review organization. The report shall be provided to the claimant and the Program.

127.7 Any decision issued by the utilization review organization or individual under this section shall inform the claimant of his or her right to reconsideration before the utilization review organization or individual or to a hearing before the Chief Risk Officer.

127.8 A utilization review report which conforms to the provisions of this section shall be admissible in all proceedings with respect to any claim to determine whether medical care, supply, or service was, is, or may be necessary and appropriate to treat the condition that has been accepted by the Program as being compensable under the Act.

127.9 If the healthcare provider or claimant disagrees with the opinion of the utilization review organization or individual, the healthcare provider or claimant may submit a written request to the utilization review organization or individual for reconsideration of the opinion.

127.10 The request for reconsideration shall:

(a) Be in writing;

(b) Contain reasonable medical justification;

(c) Provide additional information, if the medical care or service was denied because insufficient information was initially provided to the utilization review organization or individual; and

(d) Be made within sixty (60) calendar days of the claimant's receipt of the utilization review report if the claimant is requesting reconsideration, or within sixty (60) calendar days of the healthcare provider's receipt of the utilization review report, if the healthcare provider is requesting reconsideration.

127.11 Disputes pursuant to Section 2323(a-2)(4) of the Act may be resolved upon an application for a hearing before the Chief Risk Officer pursuant to §157 within thirty (30) calendar days of the date of

(a) The Program's decision denying authorization for medical, supplies, or services,

(b) The utilization review report; or

(c) The reconsideration decision, whichever is later.

127.12 Requests for a hearing pursuant to § 127.12 of this chapter may be made by the Program, healthcare provider, or claimant.

127.13 The Superior Court of the District of Columbia may review the Chief Risk Officer's decision. The decision may be affirmed, modified, revised, or remanded at the discretion of the court. The decision shall be affirmed if supported by substantial competent evidence of the record, pursuant to the District of Columbia Superior Court Rules of Civil Procedure Agency Review.

127.14 The District of Columbia government shall pay the cost of a utilization review if the claimant seeks the review and is the prevailing party.

127.15 The Program may deny a request by a treating physician for authorization for medical care, supplies, or services furnished, or scheduled to be furnished, where insufficient information has been provided to initiate utilization review.

127.16 Where the Program makes payment for medical care, supplies, or services that are later denied pursuant to utilization review, the Program shall recoup such payment as an overpayment in accordance with Section 2329 of the Act.

127.17 The Program may enter into Provider Agreements with utilization review organizations or individuals authorized under this section to provide such services in order to ensure that the necessity, character and sufficiency of medical services afforded claimants is appropriate and effective. The Provider Agreement shall set forth terms and conditions as determined by the Program to be reasonable and necessary to ensure appropriate care, including fee and payment guidelines. Any bill for payment for utilization services shall be tendered and adjudicated in the same manner as a medical bill under § 126.

Section 130, COMPUTATION OF WAGE INDEMNITY; PARTIAL DISABILITY, is amended as follows:

Subsections 130.7 – 130.10 are repealed to read as follows:

130.7 [REPEALED].

130.8 [REPEALED].

130.9 [REPEALED].

130.10 [REPEALED].

Section 136, ADDITIONAL MEDICAL EXAMINATIONS, is amended as follows:

Subsection 136.14 is added to read as follows:

136.14 The Program may enter into Provider Agreements with AME physicians and organizations authorized under this section to provide AME services in order to ensure that the medical services afforded claimants is appropriate and effective. The Provider Agreement shall set forth terms and conditions as determined by the Program to be reasonable and necessary to ensure appropriate care, including fee and payment guidelines. Any bill for payment for AME services shall be tendered and adjudicated in the same manner as a medical bill under § 126.

Section 141, VOCATIONAL REHABILITATION, is amended as follows:

Subsection 141.7 is added to read as follows:

141.7 The Program may enter into Provider Agreements with vocational counselors and organizations to provide vocational rehabilitation services to claimants. The Provider Agreement shall set forth terms and conditions as determined by the Program to be reasonable and necessary to ensure appropriate service, including fee and payment guidelines. Any bill for payment for vocational rehabilitation services shall be tendered and adjudicated in the same manner as a medical bill under § 126.

Section 144, MODIFICATION, FORFEITURE, SUSPENSION OR TERMINATION OF BENEFITS, is amended as follows:

Subsection 144.11 is added to read as follows:

144.11 Resumption of compensation benefits that have been subject to suspension or forfeiture shall occur on a prospective basis. Benefits may be restored on a retroactive basis where a good cause determination has been made, pursuant to § 148, for reversal of the suspension or forfeiture decision. Periods of forfeiture shall be counted toward the five hundred (500)-week limitation in Section 2306a of the Act.

Section 145, ADJUSTMENTS AND CHANGES TO BENEFITS, is amended as follows:

Subsection 145.3 is repealed and Subsections 145.1 and 145.7 are amended to read as follows:

145.1 Except as provided in §§ 145.3, 145.4, and 145.5 of this chapter, the Program will provide the claimant with prior written notice of the proposed action and give the claimant thirty (30) days to submit relevant evidence or argument to support entitlement to continued payment of compensation prior to issuance of an Eligibility Determination (ED), where the Program has a reason to believe that compensation should be either modified or terminated due to a change of condition pursuant to Sections 2324(d)(1) and (4) of the Act. An ED shall be accompanied by information identifying the employee's appeal rights and, for termination of wage loss benefits, claimant's one hundred eighty (180)-day time limitation from the date of the notice to make a claim for permanent disability compensation.

(a) If a claimant timely files his or her response to the Program's prior written notice of proposed modification and identifies additional evidence the claimant wishes to submit, the Program shall allow the claimant additional

time to submit evidence, where claimant establishes good cause for the delay in acquiring the evidence.

…

145.3 [REPEALED].

…

145.7 The Program shall provide a written Notice of Benefits, where there are adjustments in wage loss benefits or corrections of technical errors that result in greater than five percent (5%) change to the claimant's monetary benefits, with rights of appeal to the Chief Risk Officer. Any changes to wage loss benefits that are five percent (5%) or less shall constitute de minimus changes and shall be documented in claimant's PSWCP file.

Section 149, COMPUTATION OF TIME, is amended as follows:

Subsection 149.4 is added to read as follows:

149.4 For purpose of the Act and this chapter, a form or required document is deemed timely filed, if received by the due date.

Section 153, REQUESTS FOR AUDIT OF INDEMNITY BENEFITS, is amended as follows:

Subsection 153.1 is amended to read as follows:

153.1 A claimant who believes that the Program has incorrectly calculated his or her wage loss benefit may request an audit of the Program's calculation by completing Form A-1 and submitting it to the Chief Risk Officer, provided that the claimant's wage loss compensation benefits were not terminated more than three (3) years prior to the date of the Form A-1 request.

Section 155, OFFICE OF ADMINISTRATIVE HEARINGS (OAH) AND OFFICE OF HEARINGS AND ADJUDICATION (OHA), JURISDICTION, is amended as follows:

The title to Section 155 is amended to read as follows:

155 OFFICE OF ADMINISTRATIVE HEARINGS (OAH), JURISDICTION

Subsection 155.1 is amended to read as follows

155.1 Beginning December 1, 2016, the following decisions shall be appealed to the Office of Administrative Hearings (OAH):

(a) Initial awards for or against compensation benefits pursuant to Section 2324(b) of the Act; and

(b) Modification of awarded benefits pursuant to Section 2324(d) of the Act.

Section 156, OFFICE OF RISK MANAGEMENT, JURISDICTION, is amended as follows:

Subsections 156.3 – 156.4 are amended and Subsections 156.6 – 156.7 are added to read as follows

156.3 The Chief Risk Officer shall affirm the Program's decision, if it is supported by substantial evidence in the record. Otherwise, at the discretion of the Chief Risk Officer, the claimant's appeal may be dismissed or the Program's decision may be affirmed, modified, revised or remanded to the Program with instructions.

156.4 The Chief Risk Officer shall notify the claimant in writing of his or her decision within thirty (30) days of the Program's receipt of the appeal. If no decision is issued within those thirty (30) days, the Program's decision shall be deemed the final decision of the agency for appeal to the Superior Court of the District of Columbia, unless the Chief Risk Officer issues a decision prior to the date on which the appeal to Superior Court is filed.

…

156.6 Disputes arising under Section 2323 of the Act between a healthcare provider, claimant, or the Program on the issue of necessity, character, or sufficiency of the medical care or service furnished, or scheduled to be furnished, decisions issued by utilization review organizations or individuals, or the fees charged by the healthcare provider shall be resolved by the Chief Risk Officer upon application for a hearing by the Program, claimant, or healthcare provider, in accordance to the applicable hearing rules provided at § 157 of this chapter.

156.7 The decision of the Chief Risk Officer pursuant to § 156.6 may be reviewed by the Superior Court of the District of Columbia. The decision may be affirmed, modified, revised, or remanded in the discretion of the court. The decision shall be affirmed if supported by substantial competent evidence on the record pursuant to the District of Columbia Superior Court Rules of Civil Procedure Agency Review.

Section 157, OAH AND OHA, HEARING RULES, is amended as follows:

The title to Section 157 is amended to read as follows:

157 HEARING RULES

Subsection 157.3 is amended and subsection 157.4 is added to read as follows:

157.3 The rules shall govern the conduct of hearing of cases filed pursuant to Section 2324 of the Act, unless the ALJ determines that their application impairs the ALJ's ability to ascertain the claimant's rights pursuant to Section 2324(b)(2) of the Act.

157.4 Hearings before the Chief Risk Officer requested pursuant to Section 2323 of the Act shall be conducted under the following rules:

(a) Employees, Claimants, healthcare providers, or the Program may request an oral hearing or a review of the written record and shall so indicate on Form 9H within fifteen (15) days of the Program's initial decision or decision on reconsideration, whichever is later.

(b) The party requesting the hearing shall submit, with his or her application for a hearing, all evidence or written argument that he or she wants to present to the hearing representative.

(c) If the Program is requesting the hearing pursuant to Section 2323 of the Act, the District shall mail a copy of the hearing request to all parties involved. The other parties shall have fifteen (15) days to file a written response with supporting evidence to the Program hearing request with the hearing representative.

(d) If requested by any party, the hearing representative shall schedule the oral hearing and determine, at his or her discretion, whether the oral hearing will be conducted in person, by teleconference, videoconference or other electronic means. The hearing representative retains complete discretion to set the time, place and method of the hearing. The notice shall provide reasonable notice of the date and time for the hearing.

(e) Once the oral hearing is scheduled and the hearing representative has transmitted appropriate written notice to the parties, the hearing representative may, upon submission of proper written documentation of unavoidable serious scheduling conflicts (such as court-ordered appearances/trials, jury duty or previously scheduled outpatient procedures), entertain requests from any party for rescheduling, as long as the hearing can be rescheduled in no more than thirty (30) days after the originally scheduled time. When a request to postpone a scheduled hearing

by the hearing proponent cannot be accommodated under this subsection, no further opportunity for an oral hearing will be provided. Instead, the hearing will take the form of a review of the written record and a decision issued accordingly.

(f) Where either party or its representative is hospitalized for a non-elective reason or where the death of the claimant's, healthcare provider's, or representative's parent, spouse, child or other immediate family prevents attendance at the hearing, the hearing representative will, upon submission of proper documentation, grant a postponement beyond the period prescribed at § 157.4(e).

(g) Decisions regarding rescheduling under paragraphs (c) through (e) of this subsection are within the sole discretion of the hearing representative.

(h) When the proponent of an oral hearing fails to appear at the scheduled hearing, the hearing shall take the form of a review of the written record and a decision issued accordingly.

(i) Prior to the date of the oral hearing, the hearing representative may change the format from an oral hearing to a review of the written record upon the hearing proponent's request. The decision to grant or deny a change of format from a hearing to a review of the written record is up to the discretion of the hearing representative.

(j) Requests for reasonable accommodations by individuals with disabilities shall be made through the procedure described in the initial acknowledgement letter.

(k) The hearing is an informal process, and the hearing representative is not bound by common law or statutory rules of evidence, by technical or formal rules of procedure or the Administrative Procedure Act.

(l) During the hearing, the party requesting the hearing will be given thirty (30) minutes to present argument in support of the relief sought; the responding party(ies) will be given thirty (30) minutes to present argument in support of its(their) position. The hearing representative may ask questions of those presenting information on behalf of any party.

(m) When conducting the hearing, the hearing representative may review the claim file and any additional evidence submitted by the parties that has already been exchanged between the parties in advance of the hearing.

(n) The hearing representative determines the conduct of the oral hearing. Oral hearings are limited to ninety (90) minutes. The hearing representative may extend this limitation at his or her discretion, or

terminate the hearing at any time he or she determines that all relevant evidence has been obtained, or because of misbehavior on the part of the claimant and/or representative. The hearing representative may stay the proceeding and direct the parties to address matters that come up during the hearing.

(o) Argument at oral hearings, including those conducted by teleconference, videoconference or other electronic means, is recorded, and placed in the record. The transcript of the hearing is the official record of the hearing.

(p) The Office of Risk Management shall file a transcript of the oral hearing with the Superior Court as a part of the Agency record, upon request for a review of the hearing representative's decision made pursuant to Section 2323 of the Act.

(q) The hearing shall be closed after the hearing is held, unless the hearing representative, in his or her discretion, grants an extension. Requests for extensions must be made orally at the hearing or submitted in writing no later than ten (10) days after the hearing is held. Only one such extension may be granted. A copy of the decision will be transmitted to all parties.

(r) When conducting written record reviews, the hearing representative shall issue a decision within forty-five (45) days of receipt of the hearing request.

(s) When conducting oral hearings, the hearing representative shall issue a decision within thirty (30) days of the date of the oral hearing.

(t) When conducting hearings regarding the necessity, character, or sufficiency of medical services or supplies furnisher, or scheduled to be furnished, the hearing representative may initiate utilization review pursuant to Section 2323 of the Act and issue notice to all parties to stay the decision, pending completion of utilization review (provided that utilization review has not already been undertaken).

(u) The proponent of the hearing may withdraw the hearing request at any time up to and including the day the hearing is held, or the decision issued.

Section 159, HEARINGS, BURDEN OF PROOF, is amended as follows:

Subsections 159.2 and 159.4 are amended and Subsections 159.5 – 159.6 are added to read as follows:

159.2 Burden of Proof, Termination or Modification of Award. If the Agency seeks to terminate or modify an award, it must present substantial evidence that the Program had reason to believe

(a) The claimant's medical condition has sufficiently changed to warrant modification or termination of benefits,

(b) The claimant has been convicted of fraud in connection with the claim, or

(c) The initial decision was in error.

Once the Agency presents such evidence, the claimant has the burden to prove, by a preponderance of the evidence, the entitlement to ongoing benefits, as well as the nature and extent of disability.

…

159.4 Burden of Proof, Permanent Disability. The claimant has the burden to prove, by a preponderance of the evidence that he or she is entitled to an award for permanent disability, when requesting a permanent disability award pursuant to Section 2306a of the Act.

159.5 Burden of Proof, Necessity, Character, Sufficiency of Medical Care or Service. The party that requests the hearing has the burden to prove, as applicable, by a preponderance of the evidence, that the medical care or service sought is:

(a) Proper to treat a condition that has been accepted by the Program as compensable under the Act,

(b) Improper to treat a condition that has been accepted by the Program as compensable under the Act, or

(c) Sought to treat a condition that has not been accepted by the Program as compensable under the Act.

159.6 Burden of Proof, Healthcare Provider Fees. The healthcare provider has the burden to prove, by a preponderance of the evidence, that the healthcare provider is entitled to the relief sought.

Section 160, HEARING DECISIONS, COMPLIANCE AND ENFORCEMENT, is amended as follows:

Subsections 160.2 and 160.4 are amended and Subsection 160.6 is added to read as follows:

160.2 Unless the OHA or OAH decision is stayed by a reviewing administrative or judicial forum, the Program shall comply with the decision within thirty (30) calendar days from the date the decision becomes final.

…

160.4 Claimants may dispute the Program's benefits calculations by appealing the Notice of Benefits or Program Certification of Compensation to the Chief Risk Officer pursuant to § 156.

…

160.6 Decisions issued on hearings filed pursuant to Section 2324 and 2328 of the Act shall be for or against the payment of compensation. The Program shall calculate and issue a Notice of Benefits in accordance with a compensation order which determines the type of compensation and period of award.

Section 199, DEFINITIONS, is amended as follows:

Subsection 199.1 is amended to read as follows:

199 DEFINITIONS

199.1 The definitions set forth in Section 2301 of Title 23 (Workers' Compensation) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-623.01 *et seq.* (2016 Repl. & 2017 Supp.)) shall apply to this chapter. In addition, for purposes of this chapter, the following definitions shall apply and have the meanings ascribed:

The Act -- the District of Columbia Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-623.01 *et seq*. (2016 Repl. & 2017 Supp.)), as amended and as it may be hereafter amended.

Administrative Law Judge or ALJ -- a hearing officer of the Office of Hearings and Adjudication in the Administrative Hearings Division of the Department of Employment Services or Administrative Law Judge in the Office of Administrative Hearings.

Aggravated injury -- The exacerbation, acceleration, or worsening of pre-existing disability or condition caused by a discrete event or occurrence and resulting in substantially greater disability or death.

Alive and well check -- an inquiry by the Program to confirm that a claimant who is receiving benefits still meets the eligibility requirements of the Program.

Beneficiary -- an individual who is entitled to receive death benefits under the Act.

Claim -- an assertion properly filed and otherwise made in accordance with the

provisions of this chapter that an individual is entitled to compensation benefits under the Act.

Claim file -- all program documents, materials, and information, written and electronic, pertaining to a claim, excluding that which is privileged or confidential under District of Columbia law.

Claimant -- an individual who receives or claims benefits under the Act.

Claimant's Representative -- means an individual or law firm properly authorized by a claimant of this chapter to act for the claimant in connection with a claim under the Act or this chapter.

Controversion -- means to dispute, challenge or deny the validity of a claim for Continuation of Pay.

Disability -- means the incapacity, because of an employment injury, to earn the wages the employee was receiving at the time of injury. It may be partial or total.

Earnings -- for the purposes of § 138, any cash, wages, or salary received from self-employment or from any other employment aside from the employment in which the worker was injured. It also includes commissions, bonuses, and cash value of all payments and benefits received in any form other than cash. Commissions and bonuses earned before disability but received during the time the employee is receiving workers' compensation benefits do not constitute earnings that must be reported.

Eligibility Determination (ED) -- a decision concerning, or that results in, the termination or modification of a claimant's existing Public Sector Workers' Compensation benefits that is brought about as a result of a change to the claimant's condition.

Employee – means

(a) A civil officer or employee in any branch of the District of Columbia government, including an officer or employee of an instrumentality wholly owned by the District of Columbia government, or of a subordinate or independent agency of the District of Columbia government;

(b) An individual rendering personal service to the District of Columbia government similar to the service of a civil officer or employee of the District of Columbia, without pay or for nominal pay, when a statute authorizes the acceptance or use of the service

or authorizes payment of travel or other expenses of the individual, but does not include a member of the Metropolitan Police Department or the Fire and Emergency Medical Services Department who has retired or is eligible for retirement pursuant to D.C. Official Code §§ 5-707 through 5-730 (2012 Repl. & 2016 Supp.)). The phrase "personal service to the District of Columbia government" as used for the definition of employee means working directly for a District government agency or instrumentality, having been hired directly by the agency or instrumentality; it does not mean working for a private organization or company that is providing services to the District government or its instrumentalities; and

(c) An individual selected pursuant to federal law and serving as a petit or grand juror and who is otherwise an employee for the purposes of this chapter as defined by paragraphs (a) and (b) above.

Employee's Representative -- means an individual or law firm properly authorized by an employee in writing of this chapter to act for the employee in connection with a request for continuation of pay under the Act or this chapter.

Employing agency -- the agency or instrumentality of the District of Columbia government which employs or employed an individual who is defined as an employee by the Act.

Good cause -- omissions caused by "excusable" neglect or circumstances beyond the control of the proponent. Inadvertence, ignorance or mistakes construing law, rules and regulations do not constitute "excusable" neglect.

Healthcare provider -- means a person who has graduated from an accredited program for physicians, advance practice nurses, physician assistants, clinical psychologist, physical therapy, and is licensed to practice in the jurisdiction where care is provided or an organization comprised of such persons.

Immediate supervisor -- the District government officer or employee having responsibility for the supervision, direction, or control of the claimant, or one acting on his or her behalf in such capacity.

Indemnity compensation -- the money allowance paid to a claimant by the Program to compensate for the wage loss experienced by the claimant as a result of a disability directly arising out of an injury sustained while in the performance of his or her duty, calculated pursuant to the provisions of

this chapter.

Initial Determination (ID) -- a decision regarding initial eligibility for benefits under the Act, including decisions to accept or deny new claims, pursuant to this chapter.

Latent disability -- a condition, disease or disability that arises out of an injury caused by the employee's work environment, over a period longer than one workday or shift and may result from systemic infection, repeated physical stress or strain, exposure to toxins, poisons, fumes or other continuing conditions of the work environment.

Mayor -- the Mayor of the District of Columbia or a person designated to perform his or her functions under the Act.

Medical opinion -- a statement from a physician, as defined in Section 2301 of the Act that reflects judgments about the nature and severity of impairment, including symptoms, diagnosis and prognosis, physical or mental restrictions, and what the employee or claimant is capable of doing despite his or her impairments.

Notice of Benefits -- a notice provided to a claimant that sets forth the Program's calculation of claimant's benefits as a result of an initial award or subsequent change in benefits.

Occupational disease or infection – a disease or infection contracted as a result of exposure to risk factors arising from work activity or environment, or that arise as a direct result of a traumatic work injury. See also latent disability.

Office of Administrative Hearings (OAH) -- the office where Administrative Law Judges adjudicate public sector workers' compensation claims under Sections 2323(a-2)(4), 2324(b)(1), and (d)(2) of the Act, pursuant to jurisdiction under D.C. Official Code § 2-1831.03(b)(1) (2016 Repl.), Section 2306a of the Act, and rules set forth in this chapter.

Office of Hearings and Adjudication (OHA) -- the office in the Administrative Hearings Division of the Department of Employment Services where Administrative Law Judges adjudicate workers' compensation claims, including public sector workers' compensation claims under Sections 2323(a-2)(4), 2324(b)(1), and (d)(2) of the Act , and rules set forth in this chapter.

Office of Risk Management (ORM) -- the agency within the Government of the District of Columbia that is responsible for the District of Columbia's Public Sector Workers' Compensation Program (PSWCP).

Panel physician – means a physician approved by the Program pursuant to § 124.2 of this chapter to provide medical treatment to persons covered by the Act.

Pay rate for compensation purposes -- means the employee's pay, as determined under Section 2314 of the Act, at the time of injury, the time disability begins, or the time compensable disability recurs if the recurrence begins more than six months after the injured employee resumes regular full-time employment with the District of Columbia government, whichever is greater, except as otherwise determined under Section 2313 of the Act with respect to any period. Consideration of additional remuneration in kind for services shall be limited to those expressly authorized under Section 2314(e) of the Act.

Permanent Disability -- schedule award compensation payable, when a qualified physician has determined that a claimant has reached maximum medical improvement and has full or partial loss of use of the body or disfigurement pursuant to Section 2307 of the Act and § 139.3 of this chapter.

Permanent total disability payment (PTD) -- schedule award indemnity compensation payable to a completely disabled claimant, when a qualified physician has determined that a claimant has reached maximum medical improvement and is unable to work on a permanent basis. PTD has been repealed since February 26, 2015. However, claimants who were awarded PTD prior to the repeal may continue to receive PTD benefits.

Program -- the Public Sector Workers' Compensation Program of the Office of Risk Management, including a third party administrator thereof.

Provider Agreement – a working agreement developed by the Program in accordance with Section 2302b of the Act with healthcare provider(s) or other public and private organizations to facilitate the provision to claimants of medical and other services authorized under the Act,

Qualified health professional or qualified physician -- includes a surgeon, podiatrist, dentist, clinical psychologist, optometrist, orthopedist, neurologist, psychiatrist, chiropractor, or osteopath practicing within the scope of his or her practice as defined by state law. The term includes a chiropractor only to the extent that reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist and subject to regulation by the Mayor.

Recurrence of disability – means a disability that reoccurs within one (1) year after the date wage loss compensation terminates or, if such termination is appealed, within one (1) year after the date of the final order issued by a judicial entity, caused by a spontaneous change in a medical condition which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.

Recurrence of medical condition -- means a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no accompanying work stoppage. Continuous treatment for the original condition or injury is not considered a "need for further medical treatment after release from treatment," nor is an examination without treatment.

Traumatic injury -- means a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including physical stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected.

Temporary partial disability payment (TPD) -- indemnity compensation payable to a claimant, who has a wage earning capacity and has not reached maximum medical improvement, calculated pursuant to Section 2306 of the Act and § 130 of this chapter.

Temporary total disability payment (TTD) -- indemnity compensation payable to a claimant, who has a complete loss of wage earning capacity and has not reached maximum medical improvement, calculated pursuant to Section 2305 of the Act and § 129 of this chapter.

Treating physician -- the physician, as defined in Section 2301 of the Act, who provided the greatest amount of treatment and who had the most quantitative and qualitative interaction with the employee or claimant.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2018-056
August 9, 2018

SUBJECT: District Government Response to Certain First Amendment Activities Scheduled to Occur on August 12, 2018

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as the Mayor of the District of Columbia by section 422 of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 792, Pub. L. 93-198, D.C. Official Code § 1-204.22 (2016 Repl.), it is hereby **ORDERED** that:

1. This Order is issued to address certain First Amendment activities scheduled to occur on Sunday, August 12, 2018, in and around downtown.

2. The District of Columbia Emergency Operations Center (EOC) shall be activated on Sunday, August 12, 2018, at Level Two to coordinate logistical and resource support necessary for critical incident responses. All relevant District agencies shall designate personnel to staff the EOC until its activation is ended. The EOC activation level may be increased, if needed, by the Director of the Homeland Security and Emergency Management Agency.

3. District agency directors may authorize overtime for activities directly related to the District's response to the scheduled First Amendment activities.

4. District agency directors may authorize temporary personnel assignments within District agencies as needed to assist in the District's response to the scheduled First Amendment activities.

5. The Department of Consumer and Regulatory Affairs and the District Department of Transportation shall suspend all building permits and all public space work permits, respectively, on Sunday, August 12, 2018, between the hours of 6:00 a.m. and 11:59 p.m. for any buildings, streets, or adjacent sidewalks within the area bounded by the following streets:
   a. Beginning at Washington Circle, NW;
   b. Northeast on New Hampshire Avenue, NW, to Dupont Circle, NW;
   c. Southeast on Massachusetts Avenue, NW, to Mount Vernon Square, NW;
   d. South on 9th Street, NW;
   e. West on Constitution Avenue, NW;
   f. North on 23rd Street, NW;
   g. Northwest on Virginia Avenue, NW;
   h. Northeast on New Hampshire Avenue, NW; and

i. Ending at Washington Circle.

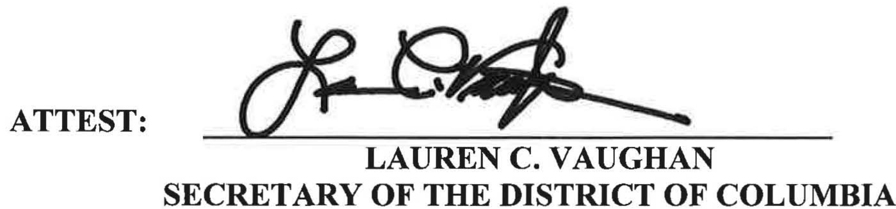
6. The Metropolitan Police Department and the District Department of Transportation may close streets and adjacent sidewalks on Sunday, August 12, 2018, as needed to protect public safety.

7. Based on public safety considerations, the Metropolitan Police Department and the District Department of Transportation may restrict parking on Sunday, August 12, 2018 in areas where First Amendment activities are scheduled to occur. Notice of such restrictions shall be made by the posting of emergency no parking signs.

8. District agency directors are authorized to activate, implement, and coordinate any applicable mutual aid agreements between the District of Columbia and federal, state, or local jurisdictions, as needed to assist in the District's response to the scheduled First Amendment activities.

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

MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

BRIYA PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Briya PCS requests proposals for the following:

- **Play Space Construction Services**

Full RFP document available by request. Proposals shall be emailed **as PDF documents** no later than 5:00 PM on Tuesday, August 28, 2018. Contact: bids@briya.org

OFFICE OF THE CHIEF FINANCIAL OFFICER
Office of Revenue Analysis

District of Columbia Motor Fuel Tax Remains Unchanged Effective April 1, 2018

Pursuant to D.C. Official Code § 47-2301, the District of Columbia is required to levy and collect a tax on motor vehicle fuels equal to 8 percent of the average wholesale price of a gallon of regular unleaded gasoline. The average wholesale price is to be calculated semi-annually and in no case shall the price computed be less than $2.94. The computed average wholesale price should also not vary by more than 10 percent from the prior period's average price. The average wholesale price is computed by using the monthly Regular Gasoline Wholesale/Resale Price by Refiners provided by the Energy Information Administration for the Central Atlantic (PADD 1B) region for the six month periods ending in June and December each year.

For the six-month period ending December 31, 2017, the computed average wholesale price of a gallon of gasoline was less than $2.94. Accordingly, the tax, computed at 8 percent of the $2.94 minimum price, remains at 23.5 cents per gallon for the period of April 1, 2018 through September 30, 2018.

CITY ARTS AND PREP PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

City Arts + Prep PCS solicits proposals for the following:

- **General Contractor**

Proposals and requests for the full RFP should be emailed to bids@cityartspcs.org no later than 5:00 P.M., Tuesday, August 28, 2018.

D.C. CRIMINAL CODE REFORM COMMISSION

NOTICE OF PUBLIC MEETING

WEDNESDAY, SEPTEMBER 5, 2018 AT 10:00 AM
441 4TH STREET N.W., ROOM 1112, WASHINGTON, D.C., 20001

D.C. Criminal Code Reform Commission
441 Fourth Street, NW, Suite 1C001S, Washington, D.C. 20001
(202) 442-8715 www.ccrc.dc.gov

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, September 5, 2018 at 10am. The meeting will be held in Room 1112 of the Citywide Conference Center on the 11th Floor of 441 Fourth St., N.W., Washington, DC. The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, http://ccrc.dc.gov/page/ccrc-meetings. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or richard.schmechel@dc.gov.

MEETING AGENDA

I. Welcome and Announcements.

II. Discussion of Draft Reports and Memoranda Currently Under Advisory Group Review:

(A) First Draft of Report #23, *Disorderly Conduct and Public Nuisance;*
(B) First Draft of Report #24, *Failure to Disperse and Rioting;*
(C) First Draft of Report #25, *Merger.*

III. Adjournment.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

ANNOUNCES AUGUST 30, 2018 PUBLIC MEETING FOR THE UNIFORM PER STUDENT FUNDING FORMULA (UPSFF) WORKING GROUP

The Office of the State Superintendent of Education is convening a Uniform Per Student Funding Formula (UPSFF) Working Group pursuant to section 112(c) of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective March 26, 1999 (D.C. Law 12-207; D.C. Official Code § 38-2911(c)).

A public meeting for the UPSFF Working Group will be held as follows:

3:30 p.m. – 5:00 p.m.
Thursday August 30, 2018
1050 First St. NE, Washington, DC 20002
Conference Room 324 (Mary Church Terrell)

For additional information, please contact:

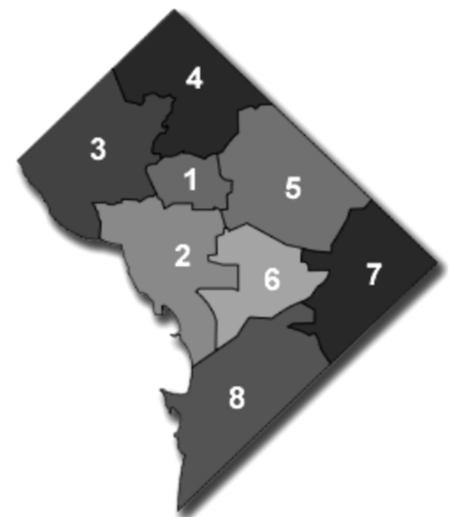
Ryan Aurori, Special Assistant for Budget and Finance
Office of the Chief of Staff
Office of the State Superintendent of Education
1050 First St. NE, Third Floor
Washington, DC 20002
(202) 899-6098
Ryan.Aurori@dc.gov

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION SUMMARY
As Of July 31, 2018

WARD	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	45,644	2,920	621	166	195	11,349	**60,895**
2	30,613	5,696	241	183	161	10,702	**47,596**
3	38,333	6,316	371	157	150	10,946	**56,273**
4	49,253	2,241	534	104	164	8,867	**61,163**
5	52,912	2,356	585	138	236	9,557	**65,784**
6	55,417	7,307	535	275	247	13,663	**77,444**
7	48,190	1,325	436	66	170	6,794	**56,981**
8	46,601	1,406	448	51	195	7,297	**55,998**
Totals	366,963	29,567	3,771	1,140	1,518	79,175	**482,134**
Percentage By Party	**76.11%**	**6.13%**	**.78%**	**.24%**	**.31%**	**16.42%**	**100.00%**

DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF
VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS
AS OF THE END OF JULY 31, 2018

COVERING CITY WIDE TOTALS BY:
WARD, PRECINCT AND PARTY



ONE JUDICIARY SQUARE
1015 HALF STREET, SE SUITE 750
WASHINGTON, DC 20003
(202) 727-2525
http://www.dcboe.org

D.C. BOARD OF ELECTIONS

MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

WARD 1 REGISTRATION SUMMARY

As Of July 31, 2018

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
20	1,601	31	7	3	6	282	**1,932**
22	3,809	386	17	13	14	988	**5,237**
23	2,904	216	41	13	14	784	**3,972**
24	2,658	246	27	18	11	769	**3,729**
25	3,857	434	48	18	15	1,085	**5,457**
35	3,646	213	48	17	9	847	**4,780**
36	4,246	253	52	11	21	1,006	**5,589**
37	3,560	167	44	11	22	840	**4,644**
38	2,945	137	45	15	12	746	**3,900**
39	4,155	185	69	13	16	934	**5,372**
40	3,836	181	80	10	18	979	**5,104**
41	3,617	206	72	8	17	1,011	**4,931**
42	1,838	90	26	5	10	460	**2,429**
43	1,835	72	26	5	6	367	**2,311**
137	1,137	103	7	6	4	251	**1,508**
TOTALS	**45,644**	**2,920**	**621**	**166**	**195**	**11,349**	**60,895**

D.C. BOARD OF ELECTIONS

MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

WARD 2 REGISTRATION SUMMARY

As Of July 31, 2018

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
2	891	166	7	9	10	541	**1,624**
3	1,639	373	17	9	11	642	**2,691**
4	1,966	501	8	11	11	730	**3,227**
5	2,093	594	15	17	13	768	**3,500**
6	2,333	826	21	17	16	1,255	**4,468**
13	1,304	237	5	4	5	419	**1,974**
14	2,817	453	27	18	9	937	**4,261**
15	3,000	397	32	20	14	884	**4,347**
16	3,415	428	33	23	16	960	**4,875**
17	4,804	633	29	24	21	1,438	**6,949**
129	2,354	405	12	8	14	899	**3,692**
141	2,437	306	15	11	11	657	**3,437**
143	1,560	377	20	12	10	572	**2,551**
TOTALS	**30,613**	**5,696**	**241**	**183**	**161**	**10,702**	**47,596**

D.C. BOARD OF ELECTIONS

MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

WARD 3 REGISTRATION SUMMARY

As Of July 31, 2018

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
7	1,286	393	13	6	5	557	**2,260**
8	2,441	634	28	6	10	776	**3,895**
9	1,193	488	7	9	9	492	**2,198**
10	1,885	406	18	10	10	689	**3,018**
11	3,388	832	44	34	22	1,222	**5,542**
12	495	181	1	5	4	204	**890**
26	2,893	341	21	9	6	828	**4,095**
27	2,470	246	22	8	2	566	**3,314**
28	2,505	466	42	12	11	758	**3,794**
29	1,320	224	12	7	8	396	**1,967**
30	1,280	206	11	4	6	303	**1,810**
31	2,452	301	17	9	12	570	**3,361**
32	2,774	289	29	6	11	564	**3,673**
33	2,912	275	26	4	5	659	**3,881**
34	3,866	425	39	12	11	1,092	**5,445**
50	2,169	277	17	5	7	502	**2,977**
136	846	79	10	0	2	265	**1,202**
138	2,158	256	14	11	9	503	**2,951**
TOTALS	**38,333**	**6,316**	**371**	**157**	**150**	**10,946**	**56,273**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 4 REGISTRATION SUMMARY
As Of July 31, 2018

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
45	2,329	68	31	8	6	369	**2,811**
46	2,820	101	33	7	14	488	**3,463**
47	3,434	139	42	10	14	740	**4,379**
48	2,803	128	30	7	6	549	**3,523**
49	918	44	13	3	5	205	**1,188**
51	3,375	507	24	8	10	626	**4,550**
52	1,252	145	10	2	5	234	**1,648**
53	1,249	72	21	4	4	243	**1,593**
54	2,366	95	27	4	7	448	**2,947**
55	2,458	82	16	1	13	421	**2,991**
56	3,139	97	36	10	13	638	**3,933**
57	2,455	72	32	6	10	481	**3,056**
58	2,284	59	19	5	5	361	**2,733**
59	2,597	83	27	7	7	411	**3,132**
60	2,166	72	24	5	11	601	**2,879**
61	1,596	57	16	1	5	297	**1,972**
62	3,161	130	22	2	4	384	**3,703**
63	3,742	142	61	3	17	651	**4,616**
64	2,359	63	21	6	6	361	**2,816**
65	2,750	85	29	5	2	359	**3,230**
Totals	**49,253**	**2,241**	**534**	**104**	**164**	**8,867**	**61,163**

D.C. BOARD OF ELECTIONS

MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 5 REGISTRATION SUMMARY
As Of July 31, 2018

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
19	4,435	194	65	14	16	954	**5,678**
44	2,858	232	28	9	19	648	**3,794**
66	4,560	96	44	4	19	607	**5,330**
67	2,885	99	23	3	9	421	**3,440**
68	1,954	163	22	10	7	402	**2,558**
69	2,103	75	21	1	10	294	**2,504**
70	1,464	71	24	0	4	232	**1,795**
71	2,433	72	23	7	9	350	**2,894**
72	4,350	147	36	9	25	729	**5,296**
73	1,964	90	24	6	9	361	**2,454**
74	4,759	264	62	13	23	1,002	**6,123**
75	3,975	224	48	24	22	825	**5,118**
76	1,669	96	21	5	6	386	**2,183**
77	2,918	117	27	4	13	528	**3,607**
78	2,976	97	43	9	13	498	**3,636**
79	2,065	77	24	3	13	386	**2,568**
135	3,083	180	34	13	15	618	**3,943**
139	2,461	62	16	4	4	316	**2,863**
TOTALS	**52,912**	**2,356**	**585**	**138**	**236**	**9,557**	**65,784**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 6 REGISTRATION SUMMARY
As Of July 31, 2018

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	4,427	580	45	27	18	1,234	**6,331**
18	4,818	383	49	20	20	1,101	**6,391**
21	1,189	60	9	6	2	242	**1,508**
81	4,637	376	48	14	19	954	**6,048**
82	2,571	250	27	10	7	598	**3,463**
83	5,510	747	47	33	26	1,429	**7,792**
84	1,963	409	19	7	11	537	**2,946**
85	2,662	488	22	14	7	715	**3,908**
86	2,235	244	24	10	7	435	**2,955**
87	2,680	301	18	3	17	596	**3,615**
88	2,117	303	22	9	6	487	**2,944**
89	2,602	625	25	18	10	763	**4,043**
90	1,582	237	14	6	13	460	**2,312**
91	4,119	419	34	15	21	921	**5,529**
127	4,228	311	46	22	17	880	**5,504**
128	2,465	223	29	12	12	587	**3,328**
130	780	303	6	2	3	262	**1,356**
131	3,127	822	32	32	22	971	**5,006**
142	1,705	226	19	15	9	491	**2,465**
TOTALS	**55,417**	**7,307**	**535**	**275**	**247**	**13,663**	**77,444**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 7 REGISTRATION SUMMARY
As Of July 31, 2018

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
80	1,478	86	21	4	3	283	**1,875**
92	1,590	35	12	1	5	236	**1,879**
93	1,596	40	19	2	8	240	**1,905**
94	1,974	60	18	1	5	277	**2,335**
95	1,672	49	12	1	2	281	**2,017**
96	2,371	61	14	0	11	353	**2,810**
97	1,415	47	16	1	6	212	**1,697**
98	1,927	42	20	5	9	261	**2,264**
99	1,531	52	18	5	7	269	**1,882**
100	2,435	49	15	2	9	295	**2,805**
101	1,595	33	14	5	5	183	**1,835**
102	2,372	54	20	3	13	294	**2,756**
103	3,486	82	42	4	10	494	**4,118**
104	3,136	90	31	3	20	459	**3,739**
105	2,432	72	19	4	9	390	**2,926**
106	2,853	61	23	3	12	387	**3,339**
107	1,774	61	15	1	6	240	**2,097**
108	1,076	31	6	0	2	134	**1,249**
109	973	41	4	1	1	101	**1,121**
110	3,745	101	24	9	10	440	**4,329**
111	2,455	63	34	3	6	392	**2,953**
113	2,212	57	22	3	6	268	**2,568**
132	2,092	58	17	5	5	305	**2,482**
TOTALS	**48,190**	**1,325**	**436**	**66**	**170**	**6,794**	**56,981**

D.C. BOARD OF ELECTIONS

MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

WARD 8 REGISTRATION SUMMARY

As Of July 31, 2018

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
112	2,225	59	15	0	10	321	**2,630**
114	3,606	139	42	4	24	619	**4,434**
115	2,828	69	25	4	11	607	**3,544**
116	4,159	103	43	4	15	634	**4,958**
117	2,115	47	19	3	9	331	**2,524**
118	2,786	77	29	3	15	406	**3,316**
119	2,766	112	34	3	15	455	**3,385**
120	1,988	41	15	2	4	261	**2,311**
121	3,441	79	27	5	8	467	**4,027**
122	1,825	47	22	1	8	258	**2,161**
123	2,381	173	26	11	20	404	**3,015**
124	2,643	70	23	1	8	366	**3,111**
125	4,540	104	37	3	16	711	**5,411**
126	3,909	138	48	6	17	723	**4,841**
133	1,310	45	8	0	1	177	**1,541**
134	2,220	50	25	0	5	283	**2,583**
140	1,859	53	10	1	9	274	**2,206**
TOTALS	**46,601**	**1,406**	**448**	**51**	**195**	**7,297**	**55,998**

D.C. BOARD OF ELECTIONS

MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION ACTIVITY

For voter registration activity between 6/30/2018 and 7/31/2018

NEW REGISTRATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Beginning Totals	**365,719**	**29,587**	**3,781**	**1,122**	**1,524**	**79,310**	**481,043**
Board of Elections Over the Counter	10	0	0	0	1	4	**15**
Board of Elections by Mail	7	0	0	0	1	3	**11**
Board of Elections Online Registration	310	28	3	3	3	79	**426**
Department of Motor Vehicle	36	1	1	0	2	21	**61**
Department of Disability Services	0	0	0	0	0	0	**0**
Office of Aging	1	0	0	0	0	0	**1**
Federal Postcard Application	0	0	0	0	0	0	**0**
Department of Parks and Recreation	0	0	0	0	0	0	**0**
Nursing Home Program	0	0	0	0	0	0	**0**
Dept. of Youth Rehabilitative Services	0	0	0	0	0	0	**0**
Department of Corrections	0	0	0	0	0	0	**0**
Department of Human Services	0	0	0	0	0	0	**0**
Special / Provisional	0	0	0	0	0	0	**0**
All Other Sources	2,983	110	19	10	1	318	**3,441**
+Total New Registrations	**3,333**	**139**	**23**	**13**	**8**	**424**	**3,938**

ACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Reinstated from Inactive Status	366	15	3	0	0	66	**450**
Administrative Corrections	1	0	0	1	1	0	**2**
+TOTAL ACTIVATIONS	**367**	**15**	**3**	**1**	**1**	**66**	**452**

DEACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Changed to Inactive Status	66	8	0	0	0	15	**89**
Moved Out of District (Deleted)	2	0	0	0	0	0	**2**
Felon (Deleted)	0	0	0	0	0	0	**0**
Deceased (Deleted)	243	20	5	0	0	27	**295**
Administrative Corrections	2,628	105	16	10	2	206	**2,967**
-TOTAL DEACTIVATIONS	**2,939**	**133**	**21**	**10**	**2**	**248**	**3,353**

AFFILIATION CHANGES	DEM	REP	STG	LIB	OTH	N-P	
+ Changed To Party	681	96	29	22	15	195	
- Changed From Party	-198	-137	-44	-7	-28	-572	
ENDING TOTALS	**366,963**	**29,567**	**3,771**	**1,140**	**1,518**	**79,175**	**482,134**

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its August 8, 2018 meeting in relocating Precinct #8, Ward 3 Polling Place.

The public is advised that the proposed voting area for Precinct #8 will be changed from**:**

Palisades Neighborhood Library
4901 V Street, N.W.
"Multi-Purpose Room"

and moved to:

Palisades Recreation Center
5200 Sherier Place, N.W.
"Gymnasium"

The relocation was proposed because the Board learned that the facility would be available for use on the dates requested due to completed renovations.

Please note that the relocation will be effective beginning with the upcoming November 6, 2018, Mayoral General Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Tuesday, September 4, 2018** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, September 5, 2018**.** The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board's final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its August 8, 2018 meeting in relocating Precinct #14, Ward 2 Polling Place.

The public is advised that the proposed voting area for Precinct #14 will be changed from**:**

The Whittemore House
1526 New Hampshire Avenue, NW
"Ballroom"

and moved to:

M.A.A. Carriage House Meeting Space ("MAA")
1781 Church Street, NW
"Meeting Space"

The relocation was proposed because the Board learned that the facility would be available for use on the dates requested.

Please note that the relocation will be effective beginning with the upcoming November 6, 2018, Mayoral General Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Tuesday, September 4, 2018** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, September 5, 2018**.** The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board's final action.

For further information, members of the public may contact the Board of Elections at 727-2525

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its August 8, 2018 meeting in relocating Precinct #33, Ward 3 Polling Place.

The public is advised that the proposed voting area for Precinct #33 will be changed from**:**

St. Paul's Lutheran Church
4900 Connecticut Avenue, N.W.
"Church Hall/Multi-Purpose Room"

and moved to:

Murch Elementary School
4810 36th Street, N.W.
"Cafeteria"

The relocation was proposed because the Board learned that the facility would be available for use on the dates requested due to completed renovations.

Please note that the relocation will be effective beginning with the upcoming November 6, 2018, Mayoral General Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Tuesday, September 4, 2018** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, September 5, 2018**.** The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board's final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its August 8, 2018 meeting in relocating Precinct #86, Ward 6 Polling Place.

The public is advised that the proposed voting area for Precinct #86 will be changed from**:**

Eliot-Hine Middle School
1830 Constitution Avenue, N.E.
"Multi-Purpose Room"

and moved to:

Mount Moriah Baptist Church
1636 East Capitol Street, N.E.
"Multi-Purpose Room"

The relocation was proposed because the Board learned that the facility would not be available for use on the dates requested due to scheduled renovation of the facility.

Please note that the relocation will be effective beginning with the upcoming November 6, 2018, Mayoral General Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Tuesday, September 4, 2018** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, September 5, 2018**.** The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board's final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its August 8, 2018 meeting in relocating Precinct #93, Ward 7 Polling Place.

The public is advised that the proposed voting area for Precinct #93 will be changed from**:**

Houston Elementary School
1100 50th Place, N.E.
"Multi-Purpose Room"

and moved to:

Deanwood Recreation Center
1350 49th Street, N.E.
"Multi-Purpose Room"

The relocation was proposed because the Board learned that the facility would not be available for use on the dates requested due to scheduled renovation of the facility.

Please note that the relocation will be effective beginning with the upcoming November 6, 2018, Mayoral General Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Tuesday, September 4, 2018** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, September 5, 2018**.** The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board's final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its August 8, 2018 meeting in relocating Precinct #105, Ward 7 Polling Place.

The public is advised that the proposed voting area for Precinct #105 will be changed from**:**

C.W. Harris Elementary School
301 53rd Street, S.E.
"Multi-Purpose Room"

and moved to:

Benning Park Recreation Center
5100 Southern Avenue, S.E.
"Multi-Purpose Room"

The relocation was proposed because the Board learned that the facility would not be available for use on the dates requested due to scheduled renovation of the facility.

Please note that the relocation will be effective beginning with the upcoming November 6, 2018, Mayoral General Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Tuesday, September 4, 2018** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, September 5, 2018**.** The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board's final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its August 8, 2018 meeting in relocating Precinct #116, Ward 8 Polling Place.

The public is advised that the proposed voting area for Precinct #116 will be changed from**:**

THEARC East
1901 Mississippi Avenue, S.E.
"Community Room/Auditorium"

and moved to:

THEARC West
1801 Mississippi Avenue, S.E.
"Black Box Theatre"

The relocation was proposed due to limited space at the current site and the completed renovations at the new site.

Please note that the relocation will be effective beginning with the upcoming November 6, 2018, Mayoral General Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Tuesday, September 4, 2018** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, September 5, 2018**.** The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board's final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

ELSIE WHITLOW STOKES COMMUNITY FREEDOM PUBLIC CHARTER SCHOOL

NOTICE OF INTENT TO AWARD A SOLE SOURCE CONTRACT
Maya Angelou Public Charter School

Building and School Operations

Elsie Whitlow Stokes Community Freedom Public Charter School (EW Stokes PCS) intends to enter into a sole source contract with Maya Angelou PCS for building and school operation services. The cost of service will be over $50,000 per school year. EW Stokes PCS is co-locating with Maya Angelou PCS in 5600 East Capitol Street, NE Washington, DC 20019. This contract will allow building and school operation services to be shared with Maya Angelou PCS during the term of the lease.

The primary contact for inquiries about this award is the EW Stokes Procurement Team. For further information regarding this notice contact procurement@ewstokes.org no later than 12:00 pm August 28, 2018.

This notice of intent is not a request for quotes. A determination not to compete the proposed procurement based upon responses to this notice is solely within the discretion of EW Stokes PCS.

ELSIE WHITLOW STOKES COMMUNITY FREEDOM PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Elsie Whitlow Stokes PCS invites all interested and qualified vendors to submit proposals for the below services. Proposals are due no later than 12 PM, August 28, 2018. The RFP with bidding requirements and supporting documentation can be obtained by contacting the Procurement Team at mailto:procurement@ewstokes.org

Advertising and Marketing Services, Assessment and Instructional Data Support and Services, Insurance, Classroom Furniture, Fixtures, and Equipment, Computer Hardware and Software, Building Maintenance and Construction, Computers, Curriculum Materials, Information Technology Equipment and Services, Instructional Support Services, IT Supplies, Janitorial Supplies/Services, Outdoor/Play space Furniture, Fixtures and Equipment, Printer and Copier Services, School Supplies, Special Education and Therapeutic Services, Special Education Assessment and Textbooks, Transportation Services, Translation and Interpretation Services, Education Consultants, School Supplies, Office Supplies, General Contracting Services

DEPARTMENT OF ENERGY AND ENVIRONMENT

PUBLIC NOTICE

Notice is hereby given that, pursuant to 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue permits (Nos. 7174-A1, 7175-A1, and 7176-A1) to the U.S. General Services Administration to construct and operate two 3,500 kWe Cummins emergency generator sets and one 2,500 kWe Caterpillar emergency generator set (listed below), all with associated Selective Catalytic Reduction (SCR), Diesel Oxidation Catalyst (DOC), and Diesel Particulate Filter (DPF) systems (hereafter referred to in combination as "add-on emission control systems"), to be located at the Saint Elizabeths West Campus, 2701 Martin Luther King Jr., Ave. SE, Washington DC. The contact person for the facility is Gaftie Marlow Jr., Project Manager, at (202) 380-8511.

The following emergency generator sets are to be permitted:

Equipment Location	Generator Name	Generator Model	Generator Output (kWe)	Engine Size (hp)	Fuel Type	Permit Number
Central Utility Plant 2	Emg Gen 1	C3500 D6e	3,500	5,051	No. 2 Fuel Oil	7174-A1
Central Utility Plant 2	Emg Gen 2	C3500 D6e	3,500	5,051	No. 2 Fuel Oil	7175-A1
Central Utility Plant 2 Roof	Emg Gen 4	2500DQKAN	2,500	3,640	No. 2 Fuel Oil	7176-A1

Estimated maximum emissions from the units are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)		
	Each 5,051 hp Engine	The 3,640 hp Engine	Total
Particulate Matter (PM)	0.07	0.05	0.19
Carbon Monoxide (CO)	7.26	5.23	19.75
Oxides of Nitrogen (NO_x)	1.60	1.16	4.36
Volatile Organic Compounds (VOC)	0.40	0.31	1.11
Oxides of Sulfur (SO_x)	0.02	0.01	0.05

The proposed emission limits are as follows:

a. During startup[1], emissions from each of the generator sets shall not exceed those found in the following table (Table 1) as measured using the procedures set forth in 40 CFR 89, Subpart E

[1] For purposes of these permits, startup shall be defined as the period of time from the time the engine is turned on to the time the add-on emission control systems activate.

for NMHC, NOx, and CO and 40 CFR 89.112(c) for PM [40 CFR 60.4205(b), 40 CFR 60.4202(a), and 40 CFR 89.112(a)-(c)]:

Table 1: Pollutant Emission Limits (g/kWm-hr) during Startup		
NMHC+NOx	CO	PM
6.4	3.5	0.20

b. At all times the generator sets are operated, outside of startup periods, emissions shall not exceed those found in the following table (Table 2) as measured using the procedures set forth in 40 CFR 1039, Subpart F [20 DCMR 201]:

Table 2: Pollutant Emission Limits (g/kWm-hr) during Steady State Operation			
NOx	NMHC	CO	PM
0.67	0.19	3.5	0.03

c. Visible emissions shall not be emitted into the outdoor atmosphere from the generators, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].

d. In addition to Condition II(c), exhaust opacity, measured and calculated as set forth in 40 CFR 86, Subpart I, shall not exceed [40 CFR 60.4205(b), 40 CFR 60.4202(a), and 40 CFR 89.113]:

   1. 20 percent during the acceleration mode;

   2. 15 percent during the lugging mode; and

   3. 40 percent during the peaks in either the acceleration or lugging modes. *Note that this condition is streamlined with the requirements of 20 DCMR 606.1.*

e. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

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

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

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

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

No comments or hearing requests submitted after September 17, 2018 will be accepted.

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

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF PUBLIC MEETING

DCA Airplane Noise Assessment Study

The District Department of Energy and Environment (the Department) is hosting an informational public meeting to present their assessment and technical analyses of airplane noise impacts related for flight path changes at the Ronald Reagan Washington National Airport (DCA). The DCA Airplane Noise Project will conclude on September 30, 2018. The District originally initiated the DCA Airplane Noise Assessment Study in fiscal year 2017. The purpose of this meeting is to present to the public and answer any questions regarding the reports and findings of the assessment, and recommendations by the project team.

This notice of public meeting is not being posted as an actual Request for Information (RFI) at this time, nor does it constitute a Request for Proposal (RFP) or Request for Applications (RFA) or a promise to issue an, RFI, RFP or RFA in the future. Respondents/Attendees are advised that DOEE will not pay for any information or administrative costs incurred preparing comments in response to this notice; all costs associated with attending this meeting or responding to this notice will be solely at the interested party's expense. Not submitting comments does not preclude participation in any future RFI, RFP or RFA.

PUBLIC MEETING DATE: Thursday, September 20, 2018
TIME: 6:30 PM onwards
PLACE: Georgetown Day School, 4530 MacArthur Blvd NW, Washington, DC 20007

A person may send their comments by:

Email to alexandra.catena@dc.gov with "**DCA Airport Airplane Noise Assessment Study**" in the subject line.

Write the Department at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Alexandra Catena RE: **DCA Airport Airplane Noise Assessment Study**" on the outside of the envelope.

The deadline for comments is at the conclusion of the public meeting. All persons present at the public meeting who wish to be heard may testify in person. All presentations shall be limited to three (3) minutes. Persons are urged to submit duplicate copies of their written statements.

Persons may also submit written testimony by email, with a subject line of "DCA Airplane Noise Assessment Study", to alexandra.catena@dc.gov . Comments clearly marked "DCA Airplane Noise Assessment Study" may also be hand delivered or mailed to the Department's offices at the address listed above. All comments must be received no later than the conclusion of the public meeting on Thursday, September 20, 2018.

DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Social Work ("Board") hereby gives notice of a cancellation of a regular meeting and a special meeting, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, D.C. Official Code § 3-1204.05 (b)) (2016 Repl.).

The Board's upcoming meeting, scheduled for Monday, August 27, 2018 from 10:00 AM to 1:00 PM is cancelled. The next meeting will be held as scheduled on Monday, September 24, 2018, from 10:00 AM to 1:00 PM. The meeting will be open to the public from 10:00 AM until 10:30 AM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Act of 2010, D.C. Official Code § 2-574(b), the meeting will be closed from 10:30 AM to 1:00 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

Additionally, the Board will meet in a special session on Tuesday, September 25, 2018, to conduct a hearing on the matter of its Notice of Intent to Deny a license application. The hearing is open to the public in accordance with D.C. Official Code § 2-509(a).

The meetings will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health Events link at http://doh.dc.gov/events for additional information.

D.C. HOMELAND SECURITY AND EMERGENCY MANAGEMENT AGENCY

NOTICE OF CLOSED MEETING

Homeland Security Commission

August 20, 2018

2:30 p.m. - 4:30 p.m.

441 4th Street, NW

Washington, D.C. 20001

Room 1113 on Floor 11 South

On August 20, 2018 at 2:30 p.m., the Homeland Security Commission (HSC) will hold a closed meeting pursuant to D.C. Code § 2-575(b), D.C. Code § 7-2271.04, and D.C. Code § 7-2271.05, for the purpose of discussing the annual report.

The meeting will be held at 441 4th Street, NW, Washington D.C. 20001, in room 1113 on floor 11 in the south building.

For additional information, you may contact Jon Stewart, Regional Programs Coordinator, by phone at 202-430-7110 or by email at jonathan.stewart@dc.gov.

Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	)	
American Federation of Government Employees, AFL-CIO Local 2798 Petitioner	)	PERB Case No. 18-RC-01
	)	Opinion No. 1670
and	)	
Health and Emergency Preparedness and Response Administration	)	
Respondent	)	

DECISION ON UNIT DETERMINATION AND DIRECTION OF ELECTION

On January 12, 2018, American Federation of Government Employees, Local 2798 ("AFGE Local 2798") filed a "Recognition Petition for Health Emergency Preparedness and Response Administration" ("Petition"), seeking to represent the following proposed bargaining unit for the purpose of collective bargaining:

> All professional and non-professional employees of the Health Emergency Preparedness and Response Administration excluding: all management officials, supervisors, confidential employees, employees engaged in personnel work other than in a purely clerical capacity, and employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1979, D.C. Law 2-139.[1]

As required by PERB Rule 502.1(d), the Petition was accompanied by a roster of the Petitioner's officers and a copy of Petitioner's constitution and bylaws. In addition, the Petitioner submitted evidence of the employees' showing of interest in having Petitioner as their exclusive representative for collective bargaining.

[1] Petition at 1-2.

On February 13, 2018, pursuant to PERB Rule 502.3, the Health and Emergency Preparedness and Response Administration ("HEPRA") submitted a list of employees. On May 21, 2018, HEPRA filed amended comments which stated that it did "not see any issues in dispute in relation to AFGE 2978's petition to represent the non-supervisory positions in HEPRA that would need to be resolved by means of a hearing."[2] Pursuant to PERB Rule 502.4, the Board determined that the Union met its showing of interest, and as required by PERB Rule 502.6, a notice of the recognition petition was issued March 29, 2018, for conspicuous posting for fourteen (14) consecutive days where employees in the proposed unit were located. No comments or requests for intervention were received by the Board.

The Comprehensive Merit Personnel Act, as codified in section 1-617.09(a) of the D.C. Official Code, requires that a community of interest exist among employees for a unit to be found appropriate by the Board for collective bargaining over terms and conditions of employment. An appropriate unit must also promote effective labor relations and efficiency of agency operations.

After reviewing the Petition, the Board finds that a community of interest exists among the employees in the proposed bargaining unit and recognition of the unit would promote effective labor relations and efficiency of agency operations. In addition, there is no other labor organization currently representing this group of employees. Therefore, the Board finds that the proposed bargaining unit constitutes an appropriate unit under the Comprehensive Merit Personnel Act.

As a result, the Board orders an election be held to determine the will of the eligible employees in the unit described above to be represented by AFGE, Local 2798 or no representative. Since this bargaining unit contains professionals and nonprofessionals, the ballots for the professional employees must be in accordance with PERB Rule 510.5. The rule states that when an election involves a bargaining unit containing professionals and nonprofessionals, all professional employees shall be given two ballots; one for indicating whether they desire a combined professional/nonprofessional unit and a second for indicating the choice of representative, if any. The Board finds that an on-site ballot election is appropriate in this case.

ORDER

IT IS HEREBY ORDERED THAT:

1. The following unit is an appropriate unit for collective bargaining over terms and conditions of employment:

    All professional and non-professional employees of the Health Emergency Preparedness and Response Administration excluding: all management officials, supervisors, confidential employees, employees engaged in personnel work other than in a purely clerical capacity, and employees

[2] Amended Comments at 2.

engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1979, D.C. Law 2-139.

2. An on-site ballot election shall be held in accordance with the provisions of D.C. Official Code § 1-617.10 and Board Rules 510, 511, 513, 514, and 515 in order to determine whether a majority of eligible employees in the above-described unit desire to be represented for the bargaining on terms and conditions of employment by either the American Federation of Government Workers, Local 2798 or no union.

3. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairperson Charles Murphy and Board Members Mary Anne Gibbons, Ann Hoffman, Barbara Somson, and Douglas Warshof.

Washington, D.C.

June 20, 2018

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 18-RC-01, Op. No. 1670 was transmitted to the following parties on this the 26th day of June, 2018.

Rushab Sanghvi
American Federation of Government
Employees, AFL-CIO, District 14
80 M Street, SE
Suite 340
Washington, D.C. 20003

Michael D. Levy
Office of Labor Relations
and Collective Bargaining
441 4th Street, NW
Suite 820 North
Washington, D.C. 20001

/s/ Merlin M. George
Public Employee Relations Board
1100 4th Street, SW
Suite E630
Washington, D.C. 20024
Telephone: (202) 727-1822

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA

RECOMMENDATIONS FOR APPOINTMENTS AS NOTARIES PUBLIC

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after September 15, 2018.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4th Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on August 17, 2018. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

D.C. Office of the Secretary **Effective: September 15, 2018**
Recommendations for Appointments as DC Notaries Public **Page 2**

Last Name	First Name	Address	Zip
Adams	Deborah A.	Arent Fox, LLP 1717 K Street, NW	20006
Alarcon	Kevin Y.	Wells Fargo Bank 3325 14th Street, NW	20010
Argente	Liezl C.	Kass Legal Group, PLLC 4301 Connecticut Avenue, NW, Suite 434	20008
Barr	Romaine	Arnold & Porter Kaye Scholer, LLP 601 Massachusetts Avenue, NW	20004
Beynum	Kimberly T	Self 612 Galveston Street, SE	20032
Blincoe	Michele W.	Supreme Court of the United States One First Street, NE	20543
Boyd	Nicole	Birchstone Moore, LLC 5335 Wisconsin Avenue, NW, Suite 640	20015
Boyette	Kirstie	National Cooperative Business Association CLUSA International 1775 Eye Street, NW, 8th Floor	20006
Brown	Jazmyn	Capital One Bank 5714 Connecticut Avenue, NW	20015
Brown	Jermaine	The UPS Store 455 Massachusetts Avenue, NW	20001
Browne	Elizabeth P.	Horst Frisch, Incorporated 2450 N Street, NW, Suite 310	20037
Chatterjee	Abhishek	HSBC Bank 1401 I Street, NW, Suite 110	20005
Cheek	Patrick J.	Maurice Walters Architect 400 7th Street, NW, Suite 502	20004
Clark	Tranell	Bank of America 201 Pennsylvania Avenue, SE	20003

Clones	Ivonne	Citibank 5700 Connecticut Avenue, NW	20015
Clougherty	Catherine Lu	DC Scores 1140 Connecticut Avenue, NW	20036
Coley	Lawrence N.	One Source Process Inc. 1133 13th Street, NW, Suite C-4	20005
Crymes	Michele D.	Self 3327 B Street, SE	20019
D'Amato	Andrea M.	Self (Dual) 2112 R Street NW, Apartment B	20008
Daniels	Annie	Self 725 Crittenden Street, NE	20017
Dansby	Olivia	Self 27 Sheridan Street. NW	20011
Davis	Thomas M.	The UPS Store 4401-A Connecticut Avenue, NW	20008
Dimond	Katherine	Capital City Real Estate, LLC 1515 14th Street, NW, Suite 201	20005
Dodson	Tamika R.	Office of the People's Counsel 1133 15th Street, NW, Suite 500	20005
Faust	Cherelle	CoStar Group 1331 L Street, NW	20005
Flucker	Erica Y.	Self 5028 Ivory Walters Lane, SE	20019
Foster	Timothy William	Bank of America 700 13th Street, NW	20005
Garvin	Tamra	Grand Bazaar Management Services, LLC 2425 Tracy Place, NW	20008
Georgia	Christina Helene	DCI Consulting Group, Inc. 1920 I Street, NW	20006

D.C. Office of the Secretary **Effective: September 15, 2018**
Recommendations for Appointments as DC Notaries Public **Page 4**

Glacken	Shane M.	Bank of America 1090 Vermont Avenue, NW	20005
Goodwin	Brooke N.	Self 110 Michigan Avenue, NE, Apt 32F	20017
Groton	Kirsten J.	DCI Consulting Group, Inc. 1920 I Street, NW	20006
Guzman	Elida	Wells Fargo Bank, NA 1700 Pennsylvania Avenue, NW	20006
Haddad	Soraya	Outten & Golden, LLP 601 Massachusetts Avenue, NW, 2nd Floor 200 West Suite	20001
Harriott	Claude	Bank Of America 888 17th Street, NW	20006
Hays	Cindy Shelton	Self 147 12th Street, SE	20003
Hersh	Zackery C.	Chemonics International 1717 H Street, NW	20006
Hider	Anthony	Watergate West, Inc. 2700 Virginia Avenue, NW	20037
Hill	Michele D.	Self 1419 Duncan Street, NE	20002
Hill	Tiphanie C.	Davis Wright Tremaine 1919 Pennsylvania Avenue, NW, Suite 800	20006
Johnson Jr	Benjamin F	Johnson Field Service 3209 14th Street, NE	20017
Johnson Jr	Robert L.	U.S House of Representatives Office of the Chief Administrative Officer HT-3 Capitol Building	20515
Jones	Marcy S.	Council on Competitiveness 900 17 Street, NW, Suite 700	20006

Ledet	Laura E.	Hall Render Killian Heath & Lyman 1425 K Street, NW, Suite 650	20005
Lemon	Chrys D.	McIntyre & Lemon, PLLC 1015 15th Street, NW, Apt 1025	20005
Lippincott IV	William C.	Fort Myer Construction Corporation 2237 33rd Street, NE	20018
Lopez	David J.	One Source Process Inc. 1133 13th Street, NW, Suite C-4	20005
Major	Lynsey	Outten & Golden, LLP 601 Massachusetts Avenue, NW, 2nd Floor 200 West Suite	20001
Martin	Matthew James	Bromberg, Kohler Maya & Maschler, PLLC 2011 Pennsylvania Avenue, NW, 5th Floor	20006
McDonald	Cordaryl	The UPS Store 611 Pennsylvania Avenue, SE	20003
McGrath	Amanda C.	Self 1110 Staples Street, NE, Apt 2	20002
McNair	Shane Michael	Loeb & Loeb, LLP 901 New York Avenue, NW, Suite 300 East	20001
Mitchell	Annette	Arnold & Porter Kaye Scholer, LLP 601 Massachusetts Avenue, NW	20004
Mohamed	Nasma Abdalla	PNC Bank 1405 P Street, NW	20005
Newman	Sharon Denise	United States Attorney's Office 555 4th Street, NW	20001
Nicholson	Cheryl	Derenberger & Page Associates 1430 S Street, NW	20009
Noriega	Brian	Wells Fargo 2901 M Street, NW	20007

D.C. Office of the Secretary **Effective: September 15, 2018**
Recommendations for Appointments as DC Notaries Public **Page 6**

Ocnean	Radu	Watergate West, Inc. 2700 Virginia Avenue, NW	20037
Okunlola	Jade J.	Reading Partners DC 500 Penn Street, NE	20002
O'Neill	Mary Catherine	Merrill Lynch 1152 15th Street, NW	20005
Peterson	Tegan	D.C. Law Students in Court 4340 Connecticut Avenue, NW, #214	20008
Pickerall	Sari C.	Federal Election Commission 1050 First Street, NE	20463
Queen	DeVaughn	DC Housing Authority 1133 North Capitol Street, NE	20002
Radcliffe	Alexander T.	Distributed Sun, LLC 601 13th Street, NW, Suite 450 South	20005
Ramsey	Barbara J.	Clark Hill, PLC 1001 Pennsylvania Avenue, NW, Suite 1300 South	20004
Rast	Bridgette Lynn	Planet Depos 1100 Connecticut Avenue, NW, Suite 950	20036
Raze	Judy L.	Zuckert, Scoutt & Rasenberger, LLP 888 17th Street, NW, Suite 700	20006
Rodgers	Denesia Dalia	Self 1523 Tanner Street, SE	20020
Ronan	Thomas Joseph	Planet Depos 1100 Connecticut Avenue, NW, Suite 950	20036
Rong	Charles	Center for Global Development 2055 L Street, NW, 5th Floor	20036
Santos	Tanisha	Williams & Connolly, LLP 725 12th Street, NW	20005

Scott	Catherine L.	Stinson Leonard Street, LLP 1775 Pennsylvania Avenue, NW, Suite 800	20006
Shelton	Josette R.	Self 1301 Delaware Avenue, SW, #N503	20024
Singleton	Tia Lydawn	American Forests 1220 L Street, NW	20005
Tanudjaja	Greta	HS Solutions 4201 Connecticut Avenue, NW, #650	20008
Terrell-Baker	Amani	Urban Adventures Companies 1612 U Street, NW	20009
Tootla	Rania	Outten & Golden, LLP 601 Massachusetts Avenue, NW, 2nd Floor 200 West Suite	20001
Torra	Mireya	Berman and Company 1090 Vermont Avenue, NW, Suite 800	20005
Treagy	Carrie	Skadden, Arps, Slate, Meagher & Flom 1440 New York Avenue, NW	20005
Vanhook-Hannon	Latoya	Legal Counsel for the Elderly 601 E Street, NW	20049
Waters	Karen Patricia	The Chavers Firm 5335 Wisconsin Avenue, NW, Suite 440	20015
Weiss	Jonathan	Skadden Arps Slate Meagher & Flom, LLP 1440 New York Avenue, NW	20005
Welsh Jr.	David	PNC Financial Services 1201 Wisconsin Avenue, NW	20007
Whitaker	Marcus I	The ONE Street Company 1725 I Street, NW, Suite 125	20006
Whitehead	Debra Ann	Self 1750 P Street, NW, Apartment 203	20036

Williams	Dalerie C.	Self 3642 Suitland Road, SE	20020
Wiltshire	Ana G.	Construction & Masters Laborers' Local Union 11 5201 First Street, NE	20011
Zagorin	Oliver	One Source Process Inc. 1133 13th Street, NW, Suite C-4	20005
Zhao	Junyu	National Cooperative Business Association CLUSA International 1775 Eye Street, NW, 8th Floor	20006

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE OF FUNDING AVAILABILITY (NOFA)

Made in DC

The Department of Small and Local Business Development (DSLBD) is soliciting applications from eligible applicants to create a plan for a Made in DC store in Ward 7 or Ward 8. **The submission deadline is Tuesday, August 21, 2018 at 4:00 p.m.** DSLBD will award **one grant of up to $330,000.**

The purpose of this grant is to stimulate development of a store, maker space, and/or incubator which promotes those businesses participating in the Made in DC program. The **grant performance period is** October 1, 2017 through September 30, 2018.

Eligible Applicants: Eligible applicants are businesses or nonprofit organizations in possession of a valid DC business license.

The **Request for Application** (RFA) includes instructions and guidance regarding application preparation. DSLBD will post the RFA on or before **Friday, August 17, 2018** at www.dslbd.dc.gov. Click on the *Our Programs* tab, then *Neighborhood Revitalization*, and then *Solicitations and Opportunities* on the left navigation column.

Application Process: Interested applicants must complete an online application on or before **Tuesday, August 21, 2018 at 4:00 p.m.** DSLBD will not accept applications submitted via hand delivery, mail or courier service. Late submissions and incomplete applications will not be forwarded to the review panel. Instructions and guidance regarding the application can be found in the Request for Applications (RFA), which is available at: https://dslbd.dc.gov/service/current-solicitations-opportunities.

Selection Process: DSLBD will select grant recipients through a competitive application process. All applications from eligible applicants that are received before the deadline will be forwarded to a review panel to be scored based on the selection criteria. The Director of DSLBD will make the final determination of grant awards. Grantees will be selected by August 31, 2018.

Funding for this award is contingent on continued funding from the DC Council. The RFA does not commit the Agency to make an award.

DSLBD reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.

All applicants must attest to executing DSLBD grant agreement as issued (sample document will be provided with the online application) and to starting services on October 1, 2018.

For More Information:
Questions may be sent via email to Christina Holliman, Made in DC Manager, at the Department of Small and Local Business Development at christina.holliman@dc.gov.

THE NEXT STEP PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Compensation Study Services

The Next Step Public Charter School Solicits Proposals for a Compensation Study/Salary Services for the 2018-2019 school year (July 1, 2018 – June 30, 2019).

The Request for Proposals (RFP) specifications such as scope and responsibilities can be obtained on Friday, August 17, 2018 from Taunya Melvin, TNSPCS Chief Operations Officer via email listed below.

Bids must be received by Friday, September 14, 2018 midnight (EST) at the email address listed below. Any bids not addressing all areas as outlined in the Compensation Study Services (RFP) will not be considered.

SUBMITT BIDS electronically to: **rfp@nextsteppcs.org**

DISTRICT DEPARTMENT OF TRANSPORTATION

Meeting Notice:
Major Crash Review Task Force

The Major Crash Review Task Force will be hold the following meetings in 2018:

Date	Time	Location	Room Number
August 29, 2018	3:00 PM – 5:30 PM	441 4th St. NW Washington, DC 20001	1112
September 26, 2018	3:00 PM – 5:30 PM	441 4th St. NW Washington, DC 20001	1114
October 31, 2018	3:00 PM – 5:30 PM	441 4th St. NW Washington, DC 20001	1114
November 28, 2018	3:00 PM – 5:30 PM	441 4th St. NW Washington, DC 20001	1112
December 19, 2018	3:00 PM – 5:30 PM	441 4th St. NW Washington, DC 20001	TBD

Each meeting will take place at 441 4th St. NW, Washington, DC 20001, on the 11th floor, in the room listed above. The location is nearest to the Judiciary Square Metro station on the red line of the Metro. The initial and concluding portions of the meeting are open to the public. Due to the sensitive nature of personal information discussed during the detailed review of major crashes, the crash review portion of the meeting is not open to the public. The draft agenda for meetings is available below. If you have any questions about the task force or its meetings, please contact vision.zero@dc.gov via e-mail or (202) 741-5960 via phone.

Draft Agenda

Public Portion of Meeting

I. Welcome and Introductions
II. Confirm any new Voting Members or Alternate Members
  a. Vote on any new non-voting members
  b. Sign non-disclosure agreements
III. Reading of minutes

Closed Portion of Meeting

IV. Review of Major Crashes

Public Portion of Meeting

V. New Business
VI. Adjournment

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ይህ ሰነድ ጠቃሚ መረጃ ይዟል። በአማርኛ እርዳታ ከፈለጉ ወይም ስለዚህ ማስታወቂያ ጥያቄ ካለዎት በ 202-741-5960 ይደውሉ። የትኛውን ቋንቋ እንደሚናገሩ ለደንበኞች አገልግሎት ተወካይ ይንገሩ። ያለምንም ክፍያ አስተርጓሚ ይመደብልዎታል። እናመሰግናለን።

重要通知
本文件包含重要資訊。如果您需要用（中文）接受幫助或者對本通知有疑問，請電洽 202-741-5960。請 告訴客戶服務部代表您所說的語言，會免費向您提供口譯員服務。謝謝！

AVIS IMPORTANT
Ce document contient des informations importantes. Si vous avez besoin d'aide en Français ou si vous avez des questions au sujet du présent avis, veuillez appeler le 202-741-5960. Dites au représentant de service quelle langue vous parlez et l'assistance d'un interprète vous sera fournie gratuitement. Merci.

안내
이 안내문은 중요한 내용을 담고 있습니다. 한국어로 언어 지원이 필요하시거나 질문이 있으실 경우 202-741-5960 로 연락을 주십시오. 필요하신 경우, 고객 서비스 담당원에게 지원 받고자 하는 언어를 알려주시면, 무료로 통역 서비스가 제공됩니다. 감사합니다.

AVISO IMPORTANTE
Este documento contiene información importante. Si necesita ayuda en Español o si tiene alguna pregunta sobre este aviso, por favor llame al 202-741-5960. Infórmele al representante de atención al cliente el idioma que habla para que le proporcione un intérprete sin costo para usted. Gracias.

THÔNG BÁO QUAN TRỌNG
Tài liệu này có nhiều thông tin quan trọng. Nếu quý vị cần giúp đỡ về tiếng Việt, hoặc có thắc mắc bề thông báo này, xin gọi 202-741-5960. Nói với người trả lời điện thoại là quý vị muốn nói chuyện bằng tiếng Việt để chúng tôi thu xếp có thông dịch viên đến giúp quý vị mà không tốn đồng nào. Xin cảm ơn.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19124-A of MR 622 EYE STREET Land LLC and ACY and YL CHENG LLC[1], pursuant to 11 DCMR Subtitle Y, § 705.1, for a two-year time extension of BZA Order No. 19124 approving a variance from the closed court width and area requirements under § 776, and a special exception from the penthouse setback requirements under §§ 411 and 777.1, to allow the construction of a new mixed-use residential building in the DD/C-3-C (now D-5-R) District at premises located on Square 453, Lots 40, 50, 815-819, 821, 835, and portions of a public alley to be closed.[2]

Hearing Dates (19124): December 8, 2015 and May 24, 2016
Decision Dates (19124): February 2, March 8, May 24, and September 20, 2016
Final Date of Order (19124): September 28, 2016
Time Extension Decision: July 25, 2018

SUMMARY ORDER ON MOTION TO EXTEND THE VALIDITY OF BZA ORDER NO. 19124

The Underlying BZA Order

On September 20, 2016, the Board of Zoning Adjustment (the "Board") approved the Applicant's request for a variance from the closed court width and area requirements under § 776, and a special exception from the penthouse setback requirements under §§ 411 and 777.1 under the 1958 Regulations[3], to allow the construction of a new mixed-use residential building in the

[1] At the time that BZA Order No. 19124 was reviewed and approved, the "Applicant" in the case was known as Eye Street JV LLC, and was authorized by the then current owners of the various lots within the site to file and process the BZA application. Since that time, the current Applicant for this application has purchased and is now the owner of all the lots within the site. (Exhibit 3.)

[2] Following approval of BZA Order No. 19124, portions of the public alley system in Square 453 were closed and assigned Assessment and Taxation ("A&T") lot numbers, such that the closed north-south portion of the public alley system in Square 453 was assigned A&T Lot 843 and the closed east-west portion of the public alley system in Square 453 was assigned A&T Lot 844. The closed portions of the public alley were always included in the underlying BZA application. (Exhibit 3.)

[3] The 1958 Zoning Regulations were in effect when BZA Case No. 19124 was heard and decided by the Board. The 1958 Zoning Regulations were repealed and replaced in their entirety by the 2016 Zoning Regulations on September 6, 2016. Pursuant to Subtitle A § 106 of the 2016 Zoning Regulations, the construction authorized by BZA Order No. 19124 is vested and is subject only to the provisions of the 1958 Zoning Regulations. (Exhibit 3.)

DD/C-3-C (now D-5-R) District[4] at premises located on Square 453, Lots 40, 50, 815-819, 821, 835, and portions of a public alley to be closed (the "Subject Property" or "Site"). The Application was granted on September 20, 2016, and the Board issued its written order, No. 19124 (the "Order") on September 28, 2016. Pursuant to 11 DCMR § 3125.9 in the 1958 Zoning Regulations (now Subtitle Y § 604.11 of the 2016 Regulations), the Order became final on September 28, 2016 and took effect ten days later. Under the Order and pursuant to § 3130.1 of the 1958 Regulations (now Subtitle Y § 702.1 of the 2016 Regulations), the Order was valid for two years from the time it was issued -- until September 28, 2018.

Motion to Extend

On June 26, 2018, the Applicant submitted an application for a time extension requesting that the Board grant a two-year extension of BZA Order No. 19124. This request for extension is pursuant to Subtitle Y § 705 of the 2016 Zoning Regulations, which permits the Board to extend the time periods in Subtitle Y § 702.1 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval.

In its request for a two-year extension, the Applicant stated that the time extension is needed to accommodate a delay in obtaining final building permit application plans for the project approved in BZA Order No. 19124 despite its good faith efforts to do so, due to the existence of litigation and associated opposition to the project that required all development work at the site to be suspended for over a year, and as a result of the litigation, an inability to obtain project financing.

Pursuant to Subtitle Y § 705.1(a), the Applicant shall serve on all parties to the application and all parties shall be allowed 30 days to respond. Pursuant to Subtitle Y § 705.1(b), the Applicant shall demonstrate that there is no substantial change in any of the material facts upon which the Board based its original approval of the application. Finally, under Subtitle Y § 705.1(c), good cause for the extension must be demonstrated with substantial evidence of one or more of the following criteria: (1) an inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control; (2) an inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable control; or (3) the existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control.

The Board finds that the motion has met the criteria of Subtitle Y § 705.1 to extend the validity of the underlying order. Pursuant to Subtitle Y § 705.1(a), the record reflects that the Applicant served the parties to the original application, including Advisory Neighborhood Commission

[4] The zone districts were renamed in the 2016 Zoning Regulations. Thus, the DD/C-3-C District is now the D-5-R District under the 2016 Regulations. This is reflected on the Zoning Map. This change in nomenclature has no effect on the vesting or validity of the original application.

("ANC") 2C, as well as the Office of Planning. (Exhibit 3.) ANC 2C was the only party to the application in BZA Case No. 19124.

The Applicant also requested a waiver from Subtitle Y § 705.1(a) to enable the Board to consider this application at its last meeting before its summer recess on July 25, 2018, which was 29 days from the date of the filing, instead of the 30 days required by Subtitle Y § 705.1(a). In its waiver request, the Applicant stated that it would work with the ANC to request that they submit their report on the time extension application prior to the July 25 Board meeting, so that by that date all parties to the case would have responded. The Chair of the Board granted the waiver request. (Exhibit 4.)

The ANC submitted a report of support for the time extension request on July 20, 2018. The ANC's report indicated that at a regularly scheduled, duly noticed public meeting of the ANC on July 9, 2018, with a quorum present, the ANC voted 3-0-0 to support the request for a two-year time extension for the project. (Exhibit 6.)

The Office of Planning ("OP") submitted a report, dated July 18, 2018, recommending approval of the request for the time extension. (Exhibit 5.)

As required by Subtitle Y § 705.1(b), the Applicant demonstrated that there has been no substantial change in any of the material facts upon which the Board based its original approval in Order No. 19124. There have also been no substantive changes[5] to the Zone District classification applicable to the Site or to the Comprehensive Plan affecting the Site since the issuance of the Board's order that would affect the application.

To meet the burden of proof for good cause required under Subtitle Y § 705.1(c), the Applicant provided a statement and other evidence regarding factors causing a delay in obtaining a building permit and obtaining project financing. As detailed in the affidavit signed by F. Russell Hines, President of Monumental Realty, which is an entity related to the Applicant and other owners of lots that together make up the site of the project, the Applicant has been unable to submit final building permit application plans for the project approved in BZA Order No. 19124, despite its good faith efforts to do so, due to the existence of litigation and associated opposition to the project that required all development work at the Site to be suspended for over a year, and as a result of the litigation, an inability to obtain project financing. As set forth in the affidavit, the project involved several public review processes and approvals, including the subject BZA application, approval by the Mayor's Agent for Historic Preservation (the "Mayor's Agent"), and approval by the Council of the District of Columbia ("D.C. Council") to close portions of the public alley system in Square 453. (Exhibits 3 and 3C.)

[5] Although the zone districts were renamed in the 2016 Zoning Regulations, this change in nomenclature does not constitute a substantive change as contemplated by Subtitle Y § 705.1(b), and has no effect on the vesting or validity of the original application.

The Applicant demonstrated good cause under Subtitle Y § 705.1(c)(1) by its inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control by documenting its attempt to secure equity financing in 2016, prior to 1.5 years of litigation concerning the decision of the Mayor's Agent. The litigation impaired the project's viability and ability to secure equity investment or financing. (Exhibits 3 and 3C.)

The Applicant also demonstrated good cause under Subtitle Y § 705.1(c)(2) by its inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that were beyond the applicant's reasonable control. The Applicant documented that during the litigation, it proceeded with an alley closing application, which was recorded August 24, 2017. However, the Applicant was unable to complete construction drawings and file for a building permit until the litigation was settled and the Applicant could be certain of what aspects of the proposed demolition and construction would or would not be permitted. (Exhibits 3 and 3C.)

Finally, the Applicant also demonstrated good cause under Subtitle Y § 705.1(c)(3) by showing the existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's control. The Applicant documented the delays caused by the litigation and how it slowed down the overall process. (Exhibits 3 and 3C.)

The Applicant stated that since the issuance of the Order, the Applicant had been diligently working to resolve the litigation, obtain financing, and to move forward to finalize the plans for improvements to the Subject Property. The Applicant stated that throughout the litigation process, the Applicant engaged in lengthy negotiations with the District of Columbia Preservation League ("DCPL"), which is the organization that filed an appeal of the Mayor Agent's Order to the D.C. Court of Appeals and also participated in opposition to the alley closing application, and was finally able to reach a settlement on March 30, 2017, wherein DCPL agreed to dismiss its appeal of the Mayor's Agent Order. That case was dismissed on April 11, 2017. Upon reaching the agreement in early spring 2017, the alley closing case was able to proceed. Pursuant to the "Closing of a Public Alley in Square 453 S.O. 14-17847, Act of 2016", effective April 1, 2017 (D.C. Law 21-0231, 64 DCR 3404), the D.C. Council found that the subject portion of the public alley system in Square 453 was unnecessary for alley purposes and ordered it closed with title to the closed portion of the public alley vesting in the owners of the abutting lots. The alley closing was recorded in the Office of the Surveyor on August 24, 2017. (Exhibits 3 and 3C.)

As a result of the Mayor's Agent litigation and the prolonged alley closing process, the Applicant was unable to proceed with preparing construction drawings and had to suspend all development work at the Site. Further, due to the ongoing litigation, the Applicant has been unable to secure project financing despite its best efforts to do so. The Applicant indicated that it had engaged a broker familiar with placement of equity financing for mixed use projects in the Washington, D.C. region, but despite multiple solicitations to equity sources over the past two years, the

efforts have been unsuccessful in securing project financing. The sourcing of financing has been impeded by the uncertainties created by the litigation. (Exhibit 3C.)

Given the totality of the conditions and circumstances described above and after reviewing the information that was provided, the Board finds that the Applicant satisfied the "good cause" requirement under Subtitle Y § 705.1(c), specifically meeting the criteria for Subtitle Y § 705.1(c)(1), (2), and (3). The Board finds that the delays in the Applicant being able to obtain a building permit and project financing because of the ongoing Mayor's Agent litigation and the prolonged alley closing process constitutes good cause and is beyond the Applicant's reasonable control and that the Applicant demonstrated that it has acted diligently, prudently, and in good faith to proceed towards the implementation of the Order.

Having given the written reports of the ANC and OP great weight, the Board concludes that extension of the approved relief is appropriate under the current circumstances and that the Applicant has met the burden of proof for a time extension under Subtitle Y § 705.1.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

Pursuant to 11 DCMR Subtitle Y § 702, the Board of Zoning Adjustment hereby **ORDERS APPROVAL** of a two-year time extension of Order No. 19124, which Order shall be valid until **September 28, 2020**, within which time the Applicant must file plans for the proposed project with the Department of Consumer and Regulatory Affairs for the purpose of securing a building permit.

VOTE: 4-0-1 (Frederick L. Hill, Lesylleé M. White[6], Lorna L. John, and Robert E. Miller[7] to APPROVE; Carlton E. Hart, abstaining.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: August 3, 2018

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

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[6] Board member White read the record of this case in order to participate in this vote.

[7] Mr. Miller who was the Board member representing the Zoning Commission read the record of this case in order to participate in this vote.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Order No. 19169-C of Birchington, LLC[1], pursuant to 11 DCMR Subtitle Y § 704, for a modification of significance to the relief approved by BZA Order No. 19169 to include special exceptions from the loading requirements of Subtitle C § 901.1, and from the access requirements of Subtitle C § 904.2, to construct a hotel in the D-4-R Zone at premises 303-317 K Street N.W. (Square 526, Lots 20, 21, 804, 805, 824, 825, and 829).

> The original application (No. 19169) was pursuant to the Zoning Regulations of 1958[2], and as amended, pursuant to 11 DCMR § 3103.2, for variances from the rear yard requirements under § 774.1, the off-street parking requirements under § 2101.1, and the loading requirements under § 2201.1, to construct a hotel and apartment building in the DD/DD-HPA/C-2-C District (now D-4-R District) at premises 303-317 K Street N.W. (Square 526, Lots 20, 21, 804, 805, 824, 825, and 829).

HEARING DATE (Case No. 19169):	February 9, 2016
DECISION DATE (Case No. 19169):	February 23, 2016
FINAL ORDER ISSUANCE DATE (Case No. 19169):	February 29, 2016
TIME EXTENSION ORDER (Case No. 19169-A)	March 28, 2018
MODIFICATION HEARING DATE:	July 25, 2018
MODIFICATON DECISION DATE:	July 25, 2018

SUMMARY ORDER ON REQUEST FOR MODIFICATION OF SIGNIFICANCE

BACKGROUND

On February 23, 2016, in Application No. 19169, the Board of Zoning Adjustment ("Board" or "BZA") approved the self-certified request by 311 K Street, LLC, the original applicant to this case which has been succeeded in interest by Birchington, LLC, the current applicant (the "Applicant") for area variances from the rear yard requirements under § 774.1, the off-street parking requirements under § 2101.1, and the loading requirements under § 2201.1, to construct a hotel and apartment building in the DD/DD-HPA/C-2-C District (now D-4-R District). The Board issued Order No. 19169 on February 29, 2016. The approval in Case No. 19169 was

[1] Birchington, LLC, the Applicant for the modification of significance herein, is the successor in interest to the original Applicant in Case No. 19169, which was 311 K Street, LLC.

[2] This and all other references to the relief granted in Order No. 19169 are to provisions that were in effect the date the Application was heard and decided by the Board of Zoning Adjustment (the "1958 Regulations"), but which were repealed as of September 6, 2016 and replaced by new text (the "2016 Regulations"). New zone names also went into effect on September 6, 2016. The zone name of the property was DD/DD-HPA/C-2-C at the time of the original approval and is now D-4-R. The repeal of the 1958 Regulations has no effect on the validity of the Board's original decision or the validity of Order No. 19169.

subject to the approved plans at Exhibit 41 in the record of Case No. 19169 and three conditions, namely:

1. The Applicant shall limit the financial incentive as part of the TDM plan to bikeshare and carshare memberships only.

2. The Applicant shall provide a minimum of eight short-term bicycle spaces.

3. The Applicant shall amend the Loading Management Plan to require any delivery using a truck 20 feet in length or shorter to use the on-site delivery space.

Subsequently, in BZA Case No. 19169-A, the Board approved a two-year time extension of the validity of Order No. 19169 on March 28, 2018, whereby that order would remain valid until February 29, 2020. Order No. 19169-A was issued on March 29, 2018.

On February 13, 2018, the Applicant submitted a request for a Modification of Consequence to the Board for the approval in Case No. 19169. (Exhibits 1-3C in the record of Case No. 19169-B.) Subsequently, on March 12, 2018, the Applicant withdrew its request for a Modification of Consequence, indicating that it would be filing a new modification application after it further refined the project. (Exhibit 5 in the record of Case No. 19169-B.)

MOTION FOR MODIFICATION OF SIGNIFICANCE

On May 17, 2018, the Applicant submitted a request for a Modification of Significance to the relief previously approved by the Board in Order No. 19169. (Exhibits 1-4 in the record of Case No. 19169-C.) As heretofore discussed, the Applicant is the successor in interest to the original applicant and this is the same Property for which the Board approved variance relief in Order No. 19169.

In Case No. 19169, the Board approved, with three conditions, area variances, pursuant to the 1958 Regulations, from the rear yard requirements under § 774.1, the off-street parking requirements under § 2101.1, and the loading requirements under § 2201.1 for one 30’ berth, to construct a hotel and apartment building in the DD/DD-HPA/C-2-C District (now D-4-R District). The Board issued Order No. 19169 granting that relief. That order became effective on February 29, 2016. (Exhibit 3A.)

Subsequently, in BZA Case No. 19169-A, the Board approved a two-year time extension of the validity of Order No. 19169 and issued Order No. 19169-A on March 29, 2018. (Exhibit 3C.)

In the present case, Case No. 19169-C, the Applicant is now requesting special exceptions from the loading requirements of Subtitle C § 901.1 for two 30’ berths, and from the access requirements of Subtitle C § 904.2, to construct a hotel in the D-4-R Zone, as the project has changed from one to construct a hotel and apartment building to one for a hotel only. The zoning

relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibits 8 (revised) and 6 (original).)[3]

The Merits of the Request for Modification of Significance

Pursuant to Subtitle Y § 704.1, any request for a modification that does not meet the criteria for a minor modification or modification of consequence[4] requires a public hearing and is a modification of significance. The Applicant's request complies with 11 DCMR Subtitle Y § 704, which provides the Board's procedures for considering requests for modifications of significance.

In the current case, the Applicant submitted an application for new special exception relief from the loading requirements of Subtitle C § 901.1, and from the access requirements of Subtitle C § 904.2, to construct a hotel in the D-4-R Zone. The Applicant is now proposing an all-hotel project, which necessitates additional loading relief under the 2016 Regulations. Accordingly, the Applicant has requested this Modification of Significance to allow for special exception relief pursuant to Subtitle C § 909.2 from the requirement for two, additional on-site 30'-loading berths in addition to the one 30' berth approved in Order No. 19169 and Subtitle C § 909.3 from the requirement for 12% maximum slope for driveways. These areas of relief have been identified in the Revised Self-Certification Form at Exhibit No. 8. Since additional relief was being requested to that previously approved in Case No. 19169, the case met the definition of a modification of significance and a public hearing was held.

Pursuant to Subtitle Y § 704.6, a public hearing on a request for a modification of significance shall be focused on the relevant evidentiary issues requested for modification and any condition impacted by the requested modification. Pursuant to Subtitle Y § 704.7, the scope of a hearing conducted pursuant to Subtitle Y § 704.1 is limited to the impact of the modification on the subject of the original application, and does not permit the Board to revisit its original decision. Pursuant to Subtitle Y § 704.8, a decision on a request for modification of plans shall be made by the Board on the basis of the written request, the plans submitted therewith, and any responses thereto from other parties to the original application. Finally, pursuant to Subtitle Y § 704.9, the filing of any modification request under this section does not act to toll the expiration of the underlying order and the grant of any such modification does not extend the validity of any such order.

Notice. Pursuant to Subtitle Y §§ 704.4, and 704.5, all requests for modifications of significance must be served by the moving party on all parties in the original proceeding at the same time that the request is filed with the Board. The Applicant served the Office of Planning ("OP"), the

[3] The original self-certification request (Exhibit 6) included relief under the 1958 Regulations but was revised to instead request relief under the 2016 Regulations. In correspondence dated July 11, 2018, the Zoning Administrator confirmed that the loading relief requested in the revised self-certification (Exhibit 8) could be approved by a special exception pursuant to Subtitle C § 909.2. (Exhibit 37.)

[4] See, Subtitle Y §§ 703.3 and 703.4.

Department of Transportation ("DDOT"), the affected Advisory Neighborhood Commission ("ANC"), ANC 6E, and the affected Single Member District ANC Commissioner 6E07 when the current application was filed. (Exhibits 3.)

Also, pursuant to Subtitle Y § 400.4, the Office of Zoning provides notice upon its acceptance on behalf of the Board of an application requiring a public hearing to the applicant, the affected ANC, the affected Single Member District ANC Commissioner, OP, DDOT, and the Councilmember for the ward within which the property is located. Pursuant to Subtitle Y § 402.1, the Board also provides notice of the public hearing to the applicant, the affected ANC, the affected Single Member District ANC Commissioner, all owners of property within 200 feet of the subject property, any leaseholders on the subject property, OP and all other appropriate government agencies, and the Councilmember for the ward within which the property is located.

Proper and timely notice of the application was provided to ANC 6E, the only other party to Application No. 19169, the ANC Commissioner for Single Member District 6E07, OP, DDOT, the Ward Councilmember for the Property, and the Council Chairman and the At Large Councilmembers. Also, notice of the public hearing was provided to the Applicant, ANC 2E, all owners of property within 200 feet of the subject property, and the Ward Councilmember. (Exhibits 18-30.)

Reports. ANC 6E submitted a report dated June 20, 2018, in support of the application for a modification. The ANC report indicated that at a regularly scheduled, properly noticed public meeting on June 5, 2018, at which a quorum was present, the ANC voted 6:0:0 to support the relief requested in this application. (Exhibit 31.)

OP submitted a timely report, dated July 13, 2018, recommended approval of the requested special exceptions as a Modification of Significance. In its report, OP asked the Applicant to supply additional drawings of the street-facing facades and provide additional information about the compliance of the revised penthouse with relevant zoning regulations. (Exhibit 38.)

DDOT submitted a report dated June 29, 2018, stating that it had no objection to the granting of the request. (Exhibit 35.)

Burden of Proof. As directed by 11 DCMR Subtitle X § 901.2 and Subtitle Y § 704, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for special exceptions and a modification of significance. With its application, the Applicant submitted the required documents in conjunction with the application, including a statement demonstrating how the application meets the burden of proof for the special exception relief from the loading requirements of Subtitle C § 901.1, and from the access requirements of Subtitle C § 904.2 and for a Modification of Significance. (Exhibits 3, 9, 34, and 41.) The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking a special exception from 11 DCMR Subtitle C §§ 901.1 and 904.2, the Applicant has met the burden of proof under 11 DCMR Subtitle X § 901.2, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board also concludes that in seeking a modification of significance to Case No. 19169, the Applicant has met its burden of proof under 11 DCMR Subtitle Y § 704.

As noted, the only parties to the case were the ANC and the Applicant. Accordingly, a decision by the Board to grant the request would not be adverse to any party and therefore an order containing full finding of facts and conclusions of law need not be issued pursuant to D.C. Official Code § 2-509(c) (2012 Repl.). Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application for modification of significance of the Board's approval in Application No. 19169-C is hereby **GRANTED.**

In all other respects, Order No. 19169 remains unchanged.

VOTE ON ORIGINAL APPLICATION ON FEBRUARY 23, 2016: 3-0-2
(Frederick L. Hill, Robert E. Miller (by absentee ballot), and Jeffrey L. Hinkle (by absentee ballot), to APPROVE; Marnique Y. Heath not participating or voting; one Board seat vacant.)

VOTE ON MODIFICATION OF SIGNIFICANCE ON JULY 25, 2018: 5-0-0
(Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, Lorna L. John, and Robert E. Miller to APPROVE.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: August 7, 2018

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Order No. 19748-A of Acton Academy Foundation, as amended[1], pursuant to 11 DCMR Subtitle Y § 703, for a modification of consequence to a condition regarding the student drop-off and pick-up plan approved by BZA Order No. 19748 to permit a private school in the R-17 Zone at premises 2430 K Street N.W. (Square 28, Lots 172 and 846).

> The original application (No. 19748) was pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the use requirements of Subtitle U § 203.1(l), and the private school requirements of Subtitle X § 104, to permit a private school in the R-17 Zone at premises 2430 K Street N.W. (Square 28, Lots 172 and 846).

HEARING DATE (Case No. 19748): May 16, 2018
DECISION DATE (Case No. 19748): May 16, 2018
ORDER ISSUANCE DATE (19748): May 17, 2018
MODIFICATON DECISION DATE: July 25, 2018

SUMMARY ORDER ON REQUEST FOR MODIFICATION OF CONSEQUENCE

BACKGROUND

On May 16, 2018, in Application No. 19748, the Board of Zoning Adjustment ("Board" or "BZA") approved the request by Acton Academy Foundation (the "Applicant") for a special exception under the use requirements of Subtitle U § 203.1(l), and the private school requirements of Subtitle X § 104, to permit a private school in the R-17 Zone at premises 2430 K Street N.W. (Square 28, Lots 172 and 846). The approval was subject to five conditions. In the original case, the affected Advisory Neighborhood Commission ("ANC"), ANC 2A, submitted a report in support of the application. (Exhibit 40 in Case No. 19748.)

The Board issued Order No. 19748 on May 17, 2018. (Exhibit 3A in Case No. 19748-A.[2])

MOTION FOR MODIFICATION OF CONSEQUENCE

Preliminary Matters. On July 11, 2018, the Applicant submitted a request to modify the approval of Application No. 19748, to make a change to the approved drop-off and pick-up plan for the approved private school use that was approved by BZA Order No. 19748. The Applicant submitted the request as a Minor Modification but asked that the Board consider the request as a Modification of Consequence, if the Board finds that such relief is required. (Exhibits 1-7.)

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[1] The application was amended from a minor modification request to one for a modification of consequence.

[2] The exhibits cited in this order from here on are to the record of Case No. 19748-A.

A "minor modification" means a modification that does not change the material facts upon which the Board based its original approval of the application. (11-Y DCMR § 703.3.) A "modification of consequence" means a proposed change to a condition cited by the Board in the final order, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Board. (11-Y DCMR § 703.4.) Neither of these processes require the holding of a public hearing. A decision on a request for a minor modification or a modification of consequence shall be made by the Board on the basis of the written request, the plans submitted therewith, and any responses thereto from other parties to the original application. (11-Y DCMR § 703.12.)

Based on the foregoing and with advice from the Office of the Attorney General ("OAG"), the Board determined that the Applicant's request in this case would be more appropriately classified as a Modification of Consequence. In its report recommending approval of the modification, the Office of Planning ("OP") also agreed that "[g]iven that the modification specifically proposes to modify a condition, the request would appear to be more appropriately processed as a modification of consequence." (Exhibit 9.) In its deliberations, the Board determined that the request should be classified as a modification of consequence, as it met the definition of Subtitle Y § 703.4.

Merits of the Modification of Consequence. In the original order dated May 17, 2018, the Board granted a special exception under the use requirements of Subtitle U § 203.1(l), and the private school requirements of Subtitle X § 104, to permit a private school in the R-17 Zone. The approval was subject to five conditions:

1. Drop-off and pick-up of children shall be administered per the plan provided in Exhibit 42D and the accompanying narrative at Exhibit 42, subject to DDOT's concurrence.
2. Up to eight off-street parking spaces shall be provided for faculty and staff use on Lot 846.
3. The Applicant shall be limited to 24 morning vehicle trips. In the event the site generates more than 24-inbound morning vehicle trips, the Applicant shall coordinate with DDOT to develop and implement TDM strategies.
4. The number of students shall not exceed 60.
5. The number of faculty and staff shall not exceed 8.

In its modification request, the Applicant requested a modification to modify Condition No. 1 in Order No. 19748 to reference a revised drop-off/pick-up plan exhibit number. The language would be revised to read as follows:

1. Drop-off and pick-up of children shall be administered per the plan provided in Exhibit 3B, subject to DDOT's concurrence.

In the modification request, the Applicant stated that the modification was needed to allow 10-minute parking in an affiliated parking lot behind a church while children are walked to the school, instead of having vehicles queue in the alley, i.e. Snows Court, while waiting for school

staff to accompany the children. The change is needed to address concerns raised by the District of Columbia Fire and EMS Department ("FEMS") after the case was approved that the queuing could potentially impede emergency access in Snows Court. The rationale for the updated drop-off/pick-up plan is that it would reduce the potential for queuing in Snows Court as parents wait in their cars to drop off their children with the school staff. According to the Applicant, the revised plan would ensure that Snows Court would remain clear for emergency access, as the parents would be parking their cars and escorting their children to the school entrance, rather than dropping them off and picking them up from their cars in the alley. (Exhibit 3.)

The Applicant's request complies with 11 DCMR Subtitle Y § 703.4, which defines a modification of consequence as a "proposed change to a condition cited by the Board in the final order, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Board." In the application herein, the Applicant is requesting a modification of consequence to the Order because with this modification, the Applicant is requesting to modify Condition No. 1 pertaining to the drop-off/pick-up plan to change the reference to the Exhibit number referenced in the condition to that with the revised plan. (Exhibits 3-3C.)

Pursuant to Subtitle Y §§ 703.8-703.9, the request for a modification of consequence shall be served on all other parties to the original application and those parties are allowed to submit comments within ten days after the request has been filed with the Office of Zoning and served on all parties. The Applicant provided proper and timely notice of the request for modification of consequence to Advisory Neighborhood Commission ("ANC") 2A, the only other party to Application No. 19748. ANC 2A submitted a report stating its support for the modification. The ANC's report indicated that at a duly noticed, regular public meeting on July 18, 2018, at which a quorum was present, the ANC voted unanimously (7-0-0) to recommend approval of the modification. (Exhibit 10.)

The Applicant also served its request on OP. OP submitted a report dated July 23, 2018, recommending the Board approve the modification requested by the Applicant. (Exhibit 9.) DDOT did not submit a report.

A statement in opposition from the West End Citizens Association ("WECA") was submitted to the record. (Exhibit 8.)

On July 25, 2018, the Board deliberated on and approved the modification request.

As directed by 11 DCMR Subtitle Y § 703.4, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a modification of consequence. Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking a modification of consequence to the approval in Case No. 19748, the Applicant has met its burden of proof under 11 DCMR Subtitle Y § 703, that the proposed modification has not changed any material facts upon which the Board based its decision on the underlying application that would undermine its approval.

As noted, the only parties to the case were the ANC and the Applicant. Accordingly, a decision by the Board to grant the request would not be adverse to any party and therefore an order containing full finding of facts and conclusions of law need not be issued pursuant to D.C. Official Code § 2-509(c) (2012 Repl.). Therefore, pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application for modification of consequence of the Board's approval in Application No. 19748-A is hereby **GRANTED SUBJECT TO MODIFICATION OF CONDITION NO. 1 TO READ AS FOLLOWS:**

1. Drop-off and pick-up of children shall be administered per the plan provided in Exhibit 3B, subject to DDOT's concurrence.

In all other respects, Order No. 19748 remains unchanged.

VOTE ON ORIGINAL APPLICATION ON MAY 16, 2018: 4-0-1
(Frederick L. Hill, Lesylleé M. White, Carlton E. Hart, and Anthony J. Hood, to APPROVE; Lorna L. John, not present or voting.)

VOTE ON MODIFICATION OF CONSEQUENCE ON JULY 25, 2018: 4-0-1
(Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, and Robert E. Miller to APPROVE; Lorna L. John, abstaining.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: August 3, 2018

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19772 of 1729 T Street TF LLC, as amended1 pursuant to 11 DCMR Subtitle X, Chapter 10, for variances from the closed court requirements of Subtitle F § 202.1, the floor area ratio requirements of Subtitle F § 302.1, the lot occupancy requirements of Subtitle F § 304.1, and the Inclusionary Zoning unit proportionality requirements of Subtitle C § 1005.1, to construct a five-unit apartment house in the RA-2 Zone at premises 1729 T Street, N.W. (Square 151, Lot 15).

HEARING DATES: June 13, 2018 and July 25, 2018
DECISION DATE: July 25, 2018

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 7 – Self-Certification form; Exhibit 48 – Post-hearing Statement.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 2B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2B, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on May 9, 2018, at which a quorum was present, the ANC voted 9-0-0 to support the application. (Exhibit 33.)

The Office of Planning ("OP") submitted a timely report, dated June 1, 2018, recommending approval of the lot occupancy and court relief, but denial of relief from the floor area ratio

[1] The Applicant amended the application at the July 25, 2018 continued hearing by adding a variance from the Inclusionary Zoning unit proportionality requirements of Subtitle C § 1005.1. (See Exhibit 48 – Applicant's Post-Hearing Statement.) The Board accepted the amendment and the caption has been changed accordingly.

("FAR") requirements. (Exhibit 41.) After the hearing on June 13, 2018, the Applicant amended the application to opt in to the Inclusionary Zoning ("IZ") program (pursuant to Subtitle C § 1001.2(e)) which increases the matter of right FAR from the underlying 1.8 to 2.16, and decreases the amount of FAR relief needed, and proposed, in this application. In providing the IZ unit, the Applicant requested an additional variance from the proportionality requirements of Subtitle C § 1005.1, to allow the IZ unit to be a studio rather than a two-bedroom unit. OP filed a supplemental report dated July 18, 2018, and presented testimony at the July 25, 2018 hearing, recommending approval of the amended application. (Exhibit 50.)

The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 36.)

One letter of support was submitted into the record from the 1731 T Street NW Condo Association. (Exhibit 46.) Testimony was presented by adjacent neighbors - a resident at 1725 T Street and a representative of the 1731 T Street Condo Association - both of whom were generally in support of granting the zoning relief. (See comments at Exhibit Nos. 53 and 51 respectively.)

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for area variances from the closed court requirements of Subtitle F § 202.1, the floor area ratio requirements of Subtitle F § 302.1, the lot occupancy requirements of Subtitle F § 304.1, and the Inclusionary Zoning unit proportionality requirements of Subtitle C § 1005.1, to construct a five-unit apartment house in the RA-2 Zone. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be averse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking variances from 11 DCMR Subtitle F §§ 202.1, 302.1, and 304.1, and Subtitle C § 1005.1, the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 52 – PRESENTATION FOR BZA CASE NO. 19772, 1729 T STREET NW (JULY 25, 2018).PDF.**

VOTE: **5-0-0** (Frederick L. Hill, Peter G. May, Lesylleé M. White, Lorna L. John, and Carlton E. Hart to APPROVE).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: August 3, 2018

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT

DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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